



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: John Miller
DOCKET NO.: 08-02455.001-R-1
PARCEL NO.: 06-02-326-011

The parties of record before the Property Tax Appeal Board are John Miller, the appellant; and the McHenry County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$10,823
IMPR.: \$38,622
TOTAL: \$49,445

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a split-level single-family frame and masonry dwelling that was constructed in 2005. The home contains 1,882 square feet of living area and features a 682 square foot basement, central air-conditioning and a garage containing 441 square feet of building area.¹ The property is located in Harvard, Dunham Township, McHenry County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation based on a recent sale of the subject property and comparable sale listings. In support of these arguments, the appellant indicated on the appeal form that the subject property was purchased in May 2008 for a price of \$148,750 at a judicial sale by Deutsche Bank. The appellant testified that the judicial sale was open to the general public. The appellant then purchased the subject from Deutsche Bank in January 2009 for \$137,000. The appellant indicated when he purchased the subject property from Deutsche Bank, the property

¹ The appellant reported the subject contains 1,858 square feet of living area.

was advertised for sale on the open market through the Multiple Listing Service for over 12 months and the sale involved Harding Real Estate and Coldwell Banker Real Estate. Furthermore, the parties to the transaction were not related. The appellant testified that he subsequently spent approximately \$3,000 on painting the subject and yard maintenance after his purchase of the subject.

The three sale listings were described as multi-level frame dwellings that were three or four years old. Each listing contained an unfinished basement and a garage. Three of the sale listings had central air-conditioning. The comparables were listed for prices ranging from \$138,000 to \$149,900. The appellant testified that he utilized a listing sheet to describe the subject's square footage. Based on this evidence the appellant requested the subject's assessment be reduced to \$49,583 or a market value of approximately \$149,166.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$65,011 was disclosed. The subject's assessment reflects a market value of approximately \$195,581 or \$103.92 per square foot of living area including land when applying the 2008 three-year median level of assessments for McHenry County of 33.24%.

The board of review submitted a detailed sales grid analysis depicting five comparable sales. The sales are located in Harvard, Illinois with one sale being located on the same street as the subject. These properties were described as one-story, split-level or two-story dwellings of frame or frame and masonry construction that were built in either 2005 or 2007. Each home has a basement and a garage ranging from 400 to 441 square feet of building area. Four of the properties have central air-conditioning. The properties ranged in size from 1,657 to 2,150 square feet of living area. They sold from October 2005 to August 2008 for prices ranging from \$161,000 to \$241,289 or from \$86.75 to \$135.14 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in this record supports a reduction in the subject's assessment.

The Board initially finds the subject contains 1,882 square feet of living area. The Board finds the subject's property record card is the best evidence in this appeal of the subject's actual size. The appellant did not sufficiently refute this evidence as being in error.

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. When market

value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 86 Ill. Admin. Code Sec. 1910.65(c). The Board finds the appellant has met this burden.

The appellant contends the subject's assessment should be reduced based on the sale of the subject as set forth in the record. The evidence disclosed that the subject sold in May 2008 for a price of \$148,750. The board of review's evidence contested the arm's-length nature of the sale of the subject property as it was purchased by a bank at a judicial sale. The subject was later resold to the appellant in January 2009 for \$137,000.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill. App. 3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill. 2d 158, 161, 226 N.E.2d 265, 267 (1967). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

The Property Tax Appeal Board further finds the best evidence of the subject's fair market value in this record is the May 2008 sale for \$148,750. The Property Tax Appeal Board finds this sale, which occurred five months after the assessment date in question, was not a transfer between family or related parties. The subject property was sold at a judicial sale that was open to the general public and sold to the highest and best bidder. Thus, the general public had the same opportunity to purchase the subject property at its highest bid. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value.

Other recognized sources further demonstrate the fact a property must be advertised or exposed in the open market to be considered an arm's-length transaction that is reflective of fair market

value. Black's Law Dictionary (referencing Bourjois, Inc. v. McGowan and Lovejoy v. Michels (citation omitted)), states:

. . . the price a property would command **in the market**" (Emphasis added). This language suggests a property must be publicly offered for sale in the market to be considered indicative of fair market value.

The Board finds there are other credible sources that specify a property must be advertised for sale in the open market to be considered an arm's-length transaction. The Dictionary of Real Estate Appraisal [American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983)], provides in pertinent part:

The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell **in a competitive market** under all conditions requisite to fair sale; The property is **exposed for a reasonable time on the open market**.

Additionally, the Property Assessment Valuation, 2nd edition, states: Market value is the most probable price, expressed in terms of money, that a property would bring if **exposed for sale in the open market** (Emphasis added) in an arm's-length transaction between a willing seller and a willing buyer; a reasonable time is allowed for **exposure to the open market**. (Emphasis added). (International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996)). The board of review did not provide substantive evidence to dispute the arm's length nature of the sales transactions. The board of review provided five comparable sales that occurred from October 2005 to August 2008. The Board gave three of these sales less weight in its analysis because only two of the sales were similar in design to the subject. One of these two sales occurred in 2005 which is too remote in time to establish the subject's fair market value in 2008. The Board finds the remaining one valid sale does not overcome the arm's length nature of the subject's actual sale transaction.

Since the appellant presented evidence showing the subject property was purchased through a judicial sale and later advertised for sale and exposed to the open market through the MLS in an arm's-length transaction at an even lower sales price, the Property Tax Appeal Board finds the subject's May 2008 sale price of \$148,750 was reflective of its market value on the assessment date in question.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$148,750 on January 1, 2008. The subject's assessment reflects an estimated market value of approximately \$195,581, which is substantially higher than its May 2008 sale price. Therefore a reduction is

warranted. Since the fair market value of the subject has been established, the Board finds that the 2008 three-year median level of assessments for McHenry County of 33.24% shall apply.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Member

Shawn R. Lerbis

Member

Member

Mario M. Louie

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 23, 2011

Allen Castrovillari

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.