FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Ozcan Yabukoglu
DOCKET NO.: 08-02908.001-R-1
PARCEL NO.: 03-22-412-013

The parties of record before the Property Tax Appeal Board are Ozcan Yabukoglu, the appellant, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$46,190
IMPR.:	$166,740
TOTAL:	$212,930

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story brick single-family dwelling that was constructed in 1991. The home contains 5,611 square feet of living area and features a full unfinished basement, central air conditioning, a fireplace, and an attached 980 square foot garage. The property is located in Bensenville, Addison Township, DuPage County.

The appellant submitted a residential appeal contending overvaluation based on a recent sale of the subject property. In support of this argument, the appellant indicated on the appeal form that the subject property was purchased in May 2008 for a price of $640,000. The appellant indicated the subject property was sold by Compass Properties through use of Realtor Melody McCracken of Century 21 Castles by King and the property was advertised on the open market through the Multiple Listing Service for 108 days. Furthermore, the parties to the transaction were not related. The appellant also submitted a copy of the Multiple Listing Service sheet displaying an original asking price of $800,000 and a closing statement dated May 28, 2008 disclosing a sales price of $640,000 or $114.06 per square foot of living area including land.

Based on this evidence the appellant requested the subject's assessment be reduced to $213,333 or a market value of approximately $640,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $306,370 was disclosed. The subject's assessment reflects a market value of approximately $920,860 or $164.12 per square foot of living area including land when applying the 2008 three-year median level of assessments for DuPage County of 33.27%.

The board of review submitted a memorandum from the township assessor who acknowledged that the subject property was purchased "5 months after the January 1 assessment date." The assessor further reported:

> The property had a sheriffs deed recorded on it dated December, 2007. The loan servicer then sold the property to the appellant. The subject had a sale prior to the foreclosure on 10/2006 for $1,000,000. The policy of this office has been not to reduce to sale price if the property was bought in Foreclosure or then sold as a "bank owned" property.

The board of review also submitted a copy of the subject's Multiple Listing Service sheet displaying an asking price of $800,000. Based on the foregoing evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

After reviewing the record 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 the record supports a reduction in the subject's assessment.

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). The Board finds the evidence in the record supports a reduction in the subject's assessment.

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 $640,000. The information provided by the appellant indicated the sale had the elements of an arm's length transaction and the sale occurred only five months after the assessment date at issue of January 1, 2008. The board of review's responsive evidence contested the arm's-length nature of the sale of the subject property as it was sold by a "loan servicer." The board of review presented no substantive evidence to support the

implication that the sale was under duress or in some manner a compulsory sale due to the sale by a loan servicer. Moreover, the board of review provided no market value evidence to otherwise support the subject's estimated market value as reflected by its assessment.

Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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 of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code Sec. 1910.65(c)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment if reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Our supreme court has at least indicated that a sale of property during the tax year in question is a "relevant factor" in considering the validity of an assessment. [citations omitted]. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

The Property Tax Appeal Board finds the best evidence of the subject's fair market value in the record is the May 2008 sale for $640,000. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale in the Multiple Listing Service and involved a Realtor. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value. The original listing price of $800,000 is also less than the subject's estimated market value as reflected by its assessment. The Board further finds that the board of review did not adequately contest the arm's-length nature of the subject's sale. Thus, based on the foregoing facts, the Property Tax Appeal Board finds the subject's May 2008 sale price of $640,000 was reflective of market value.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of $640,000 on January 1, 2008. The subject's assessment reflects an estimated

market value of approximately $920,860, 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 DuPage County of 33.27% 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.

Chairman

Member

Member

Member

Member

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: July 22, 2011

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.