



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

APPELLANT: Larry Swets
DOCKET NO.: 08-02955.001-R-1
PARCEL NO.: 03-08-112-012

The parties of record before the Property Tax Appeal Board are Larry Swets, 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: \$68,090
IMPR.: \$4,760
TOTAL: \$72,850

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story dwelling of frame construction. The home contains 1,144 square feet of living area and features a full basement, a fireplace, and a detached one-car garage. The property is located in Itasca, 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 September 2008 for a price of \$205,000. The appellant indicated the subject property was sold by John Hisker, the owner, the parties to the transaction were not related, and the seller's mortgage was not assumed. The appellant also submitted a copy of the closing statement dated September 5, 2008 disclosing a sales price of \$205,000 or \$179.20 per square foot of living area including land.

Based on this evidence the appellant requested the subject's assessment be reduced to \$72,847 or a market value of approximately \$218,541.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$102,670 was disclosed. The subject's assessment reflects a market value of approximately \$308,596 or \$269.75 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 stating "According to Addison Township Assessor's Office, the Appellant did not submit the necessary evidence for them to consider a reduction in assessment based on the recent sale." The board of review then provided Exhibit 1, a memorandum from Dawn Aderholt, of Addison Township, wherein she stated:

The appellant purchased this home in September 2008, 9 months after the January 1 assessment date. The Respa statement submitted by Gary Whalen for the BOR hearing was incomplete. I informed him I would review the sale for the 2009 year if all required documentation was brought to our office. As of this date [memo dated June 23, 2010] we have not received any further documentation. No seller costs or signatures have been provided.

Also attached was a copy of the Real Estate Transfer Declaration for the subject parcel's sale in September 2008 indicating the property had not been advertised for sale, the buyer was an adjacent property owner, and the full actual consideration was \$205,000.

Based on the foregoing data, the board of review requested confirmation of the subject's estimated market value as reflected by its 2008 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 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 September 2008, nine months after the assessment date at issue of January 1, 2008, for a price of \$205,000. The board of review's responsive evidence contested the arm's length nature of the sale transaction because

the transfer declaration did not indicate the property was advertised for sale and was purchased by an adjacent property owner, but the board of review did not provide any substantive evidence to support its estimated market value of the subject property as of January 1, 2008 of \$308,596 based on its assessment.

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). In the absence of any substantive evidence to the contrary, based on the foregoing record the Board finds the September 2008 sale price of the subject property is the only evidence in the record of the subject's market value.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of approximately \$205,000 on January 1, 2008. The subject's assessment reflects an estimated market value of approximately \$308,596 or \$269.75 per square foot of living area including land, which is higher than its September 2008 sale price. Therefore a reduction in accordance with the appellant's request on this record is warranted.

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

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: August 19, 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.