



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

APPELLANT: John Arient
DOCKET NO.: 08-03558.001-R-1
PARCEL NO.: 16-01-104-017

The parties of record before the Property Tax Appeal Board are John Arient, 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: \$19,524
IMPR.: \$65,238
TOTAL: \$84,762

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel is improved with a two-story frame exterior constructed single family dwelling built in 2002. The dwelling contains 3,612 square feet of living area with a full walkout-style basement which is partially finished, central air conditioning and a three-car 560 square foot garage. The subject property is located in Marengo, Riley Township, McHenry County.

The appellant's appeal contends the market value of the subject property is not accurately reflected in its assessed valuation. In support of this market value contention, the appellant submitted data on the recent purchase of the subject and an appraisal of the subject property.

In response to the appeal, the board of review submitted evidence and proposed an assessment reduction to \$92,616 for a market value of approximately \$277,875. The appellant was informed of this proposed assessment reduction and rejected the same along with requesting a decision be issued on the evidence in the record. This decision is based on the evidence of record presented by both parties.

The appellant reported in Section IV of the Residential Appeal form that the subject property was purchased in April 2008 for a price of \$255,000. The appellant indicated the subject property was sold by Mortgage Guaranty Insurance Corp., the property was advertised on the open market through the Multiple Listing Service for 354 days and the sale involved Realtor Jackie Reed of Re/Max Unlimited Northwest. Furthermore, the parties to the transaction were not related, the property was sold in settlement of a foreclosure action and the property was occupied on April 9, 2008. The appellant also submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration which reiterated the purchase price and that the property was advertised for sale or sold using a real estate agent, although it was noted that the seller was a financial institution. Also submitted was a copy of the Multiple Listing Service sheet revealing an original list price of \$294,900. Lastly, in a cover letter, the appellant reported he bid on the property three different times and finally once the asking price was lowered to \$259,000 on March 6, 2008, the appellant's offer was accepted.

The appellant also submitted an appraisal prepared by real estate appraiser Michael R. McDermid of MAC & Associates estimating the subject property had a market value of \$260,000 as of March 14, 2008. The stated purpose of the appraisal was for a "purchase transaction" and the appraisal was performed for a lender, Professional Mortgage Partners, in Downers Grove. The appraiser also reported the subject's March 2008 contract price of \$255,000 in the report along with a notation that the subject had been listed from November 2006 to June 2007 for \$417,200 and was reduced to an asking price of \$329,900 and from August 2007 to October 2007 there was an asking price of \$292,125. Lastly, the appraiser reported that the "current" listing began in December 2007 for \$294,900 and was reduced to \$259,900. Acknowledging the subject was a bank-owned property, in an addendum the appraiser wrote in pertinent part that the property was initially significantly overpriced and, after some price reductions, some cosmetic issues became an obstacle. The home was then painted and new carpet and wood laminate flooring were installed.

The appraiser utilized a cost approach to value estimating the subject had a market value of \$309,388. The appraiser also used the sales comparison approach analyzing three suggested comparable sales located between 0.05 and 0.27 of a mile from the subject property. The comparables consist of two-story frame dwellings that were 4 or 6 years old. The comparables range in size from 2,600 to 3,502 square feet of living area. Each comparable has a full walkout-style unfinished basement, central air conditioning, a fireplace and a two-car or three-car garage. The comparables sold between October 2007 and February 2008 for prices ranging from \$240,000 to \$299,800 or from \$84.75 to \$94.42 per square foot of living area including land.

In comparing the comparable properties to the subject, the appraiser made adjustments for view, room count, dwelling size,

lack of basement finish, garage size and other amenities. The appraiser discussed the view adjustment because the comparables enjoy the measure of privacy due to backing to a nature area which is not enjoyed by the subject. The analysis resulted in adjusted sales prices for the comparables ranging from \$254,500 to \$289,300 or from \$82.61 to \$101.08 per square foot of living area land included. From this process, the appraiser estimated a value for the subject by the sales comparison approach of \$260,000 or \$71.98 per square foot of living area including land.

In reconciling the two value conclusions, the appraiser gave primary consideration to the sales comparison approach as it best measures the buyer/seller actions in the market.

Based on the foregoing, the appellant requested a reduction in the subject's total assessment to \$78,001 which would reflect a market value of approximately \$234,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject of \$94,927 was disclosed. The final assessment of the subject property reflects a market value of \$285,581 or \$79.06 per square foot of living area including land using the 2009 three-year median level of assessments for McHenry County of 33.24%. (86 Ill.Admin.Code §1910.50(c)(1)).¹

In support of the subject's estimated market value based on its assessment, the board of review submitted a letter and one comparable sale. In the letter, the board of review contended that the appellant's appraisal was "for financing of the short sale." The board of review further contended that the best sale comparable from the appraisal was #3 along with a suggested sale presented by the board of review due to size and design similarities. Furthermore, the author of the letter contended that dwelling size adjustments in the appraisal were \$25 per square foot and should have been \$40 per square foot. Other chosen adjustments were also criticized in the letter including number of bathrooms and garage stalls. The board of review contends that once the appraisal is adjusted in a different manner, the adjusted sales prices would be different.

The author of the letter also reported "average sales prices for 2008 & 2007 in this area was \$267,679 for 2008 it was \$255,688 those were based upon mainly smaller homes." Adjusting for size, the author contended would result in about \$299,000. The suggested comparable sale presented by the board of review was a two-story frame dwelling that was 6 years old. The home contains 3,502 square feet of living area and features a full unfinished walkout-style basement, central air conditioning, a fireplace and a three-car garage. This property sold in December 2007 for \$299,800 or \$85.61 per square foot of living area including land.

¹ The proposed assessment reduction of \$92,616 would reflect an estimated market value of approximately \$278,628 using the same formula.

Based upon the foregoing evidence, the board of review requested a slight reduction in the subject's 2009 estimated market value.

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 this appeal. The Board further finds that a reduction in the subject's assessment is warranted.

The appellant argued that the subject's assessment was not reflective of 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 §1910.65(c). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted.

The appellant submitted evidence of the April 2008 purchase price of the subject property for \$255,000 and the appellant submitted an appraisal of the subject property with a final value conclusion as of March 2008 of \$260,000. The board of review noted the subject was a 'short sale' and criticized the adjustments made in the appraisal. With the criticisms to the adjustment process along with an additional unadjusted sale comparable, the board of review contended the subject property had a market value of approximately \$278,628 as reflected by the proposed reduced total assessment of \$92,616.

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 appellant's appeal petition and the appraisal clearly establish that the subject property was advertised for sale for

about one year. Thus, the general public had the same opportunity to purchase the subject property at any negotiated sale price. 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.** [Emphasis added.]

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 Property Tax Appeal Board finds the subject was exposed on the open market for nearly one year at various prices until it sold to the appellant for \$255,000. Giving primary weight to the sale of the subject property, the Property Tax Appeal Board finds that the subject property had a market value as of January 1, 2008 of \$255,000.

Based upon the market value determination as stated above, the Property Tax Appeal Board finds that a reduction is warranted. Since market value has been established, the three-year median level of assessments for McHenry County for 2008 of 33.24% shall be applied.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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 28, 2012

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.