



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

APPELLANT: Jeffery A Boomershine
DOCKET NO.: 08-03760.001-R-1
PARCEL NO.: 16-01-179-011

The parties of record before the Property Tax Appeal Board are Jeffery A Boomershine, 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.: \$46,457
TOTAL: \$65,981

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story single-family frame dwelling that was constructed in 2003. The home contains 2,832 square feet of living area and features a full unfinished basement and a three car garage. The property is located in Marengo, Riley Township, McHenry 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 April 2008 for a price of \$198,500. The appellant indicated the subject property was sold by JP Morgan Chase, the property was advertised on the open market through the Multiple Listing Service for 96 days and the sale involved Realtor Bill Peck of Coldwell Banker. Furthermore, the parties to the transaction were not related. The appellant also submitted a closing settlement statement and photographs.

The appellant testified that when he purchased the home, it was basically in a "ready to move in" state, excepting some carpet

cleaning and replacement of a garage door remote. The appellant did not repaint the home until two years after he moved in.

The appellant also submitted four comparable sales for consideration. These properties are located within 1,500 feet of the subject and are two-story dwellings of frame construction. The properties range in age from four to seven years old and contain from 2,832 to 3,530 square feet of living area. One of the comparables has a partial basement and three have a full basement. Each comparable has air-conditioning and a fireplace. The homes sold from March 2008 to March 2009 for prices ranging from \$180,000 to \$215,000 or from \$50.99 to \$72.39 per square foot of living area, including land. Based on this evidence the appellant requested the subject's assessment be reduced to \$66,166.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$81,659 was disclosed. The subject's assessment reflects a market value of approximately \$245,665 or \$86.75 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 letter from the local township assessor, along with Transfer Declaration sheets, multiple listing sheets and a detailed sales grid analysis depicting three comparable sales. In the letter, the township assessor outlined three reasons to reject the subject's sale price as reflective of market value: (1) the appellant purchased the property as a result of a foreclosure sale; (2) The purchase price was below all other sales in the subject's neighborhood during 2007 and 2008; and (3) based on comparable sales, the subject's sale in 2008 is not indicative of the subject true market value.

The grid analysis depicts three sales located in the subject's neighborhood. One of the properties was also used by the appellant as a comparable. These properties were described as two-story dwellings of frame construction that were each five years old. Each home has a partial or full basement with two having a walk-out basement. Each home has air-conditioning, a fireplace and a two or three-car garage. Each comparable contained 2,832 square feet of living area. They sold between October 2007 to June 2008 for prices ranging from \$240,000 to \$252,000 or from \$84.75 to \$89.16 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 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 this 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). 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 April 2008 for a price of \$198,500. The board of review's evidence contested the arm's-length nature of the sale of the subject property as it was sold as a result of a foreclosure.

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 April 2008 sale for \$198,500. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale utilizing 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 subject's multiple listing sheet and the appellant's appeal petition clearly establish that the subject property was advertised for sale for 96 days. 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**.

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 sale transaction. The board of review provided three comparable sales, however, two of the three sales were less than the subject's market value as reflected in its assessment. The Board finds these sale comparables do not overcome the arm's length nature of the subject's sale transaction.

Since the appellant presented evidence showing the subject property was advertised for sale and exposed to the open market through the MLS in an arm's-length transaction, the Property Tax Appeal Board finds the subject's April 2008 sale price of \$198,500 was reflective of its market value.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$198,500 on January 1, 2008. The subject's assessment reflects an estimated market value of approximately \$245,665, which is substantially higher than its April 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.