



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

APPELLANT: Marilyn Little
DOCKET NO.: 08-04310.001-R-1
PARCEL NO.: 14-29-126-009

The parties of record before the Property Tax Appeal Board are Marilyn Little, 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: \$30,735
IMPR.: \$60,010
TOTAL: \$90,745

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel is improved with a two-story dwelling of frame exterior construction that contains 2,542 square feet of living area. The dwelling is 32 years old. The property has a partial basement of which 75% has been finished, central air conditioning, a fireplace and an attached two-car garage. The property is located in Crystal Lake, Nunda Township, McHenry County.

The appellant initially submitted a residential appeal contending overvaluation based on a recent purchase of the subject property along with a request for an extension of time to submit evidence. With the subsequent evidence filing, the appellant marked the basis of appeal as "recent appraisal," but then submitted information in Section IV of the appeal form regarding the recent purchase along with supporting documentation related to the purchase. No complete appraisal report was presented as evidence.

The appellant indicated on the appeal form that the subject property was purchased in February 2008 for a price of \$273,000 from WMC Mortgage Corp., As Trustee. The parties to the

transaction were not related. Agent Connie Ritchie from ReMax Suburban was involved in the transaction and the property was advertised for sale through the Multiple Listing Service. No additional monies were expended for renovation prior to the date of occupancy of April 15, 2008. The copy of the Settlement Statement reiterated the reported purchase price and date of purchase from the seller. The PTAX-203 Illinois Real Estate Transfer Declaration likewise reiterated the contract price and confirmed the property was advertised for sale, although it was noted that the seller was a financial institution. The appellant also provided an 11-page minimized version of the sale contract which reflected the purchase price of \$273,000 in February 2008.

Also included in the documentation was one Addendum page purportedly from an appraisal which, among other things, sets forth the twelve month listing history of the subject property. The property was reportedly listed from May 18, 2007 to August 7, 2007 for \$498,750, reduced to \$469,000 and cancelled. The subject was relisted in October 2007 for \$360,000, reduced to \$292,900 and listed under contract January 10, 2008 for \$273,000. The author of the addendum further noted that assessor's records indicated a sheriff's deed was recorded in July 2007 and a prior sale occurred in February 2005 for \$339,000.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$81,900 which would reflect a market value of approximately \$245,700.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$123,030 was disclosed. The subject's assessment reflects an estimated market value of approximately \$370,126 utilizing the 2008 three-year median level of assessments for McHenry County of 33.24% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)). In support of the subject's assessment, the board of review submitted letters from the Nunda Township Assessor along with five pages from an appraisal of the subject property including the same addendum page previously presented by the appellant.

In the letters, the assessor noted the subject's January 2008 sale for \$273,000 was due to foreclosure. The assessor also reported the property entered the foreclosure process in 2006 and had a Sheriff's Deed in July of 2007. The portion of the appraisal attached reportedly indicates "a comparable adjusted sale price range between \$393,350 and \$303,450, with a median value of \$376,925." In reconciliation, the portion of the appraisal submitted reveals an estimated market value conclusion of \$275,000 for the subject as of January 29, 2008. In the addendum, the appraiser wrote, "All of the Comparables support Subject's contract price and indicate that the Subject property's contract price is well below market value. The Subject property was a foreclosure and not judged to be an 'arms length transaction.'"

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 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. The evidence disclosed that the subject sold in January/February 2008 for a price of \$273,000. The information provided by the appellant indicated the sale had the elements of an arm's length transaction and the sale occurred shortly after the assessment date at issue of January 1, 2008. The board of review's responsive evidence noted the subject had been in foreclosure and justified the estimated market value based on the subject's assessment with adjusted sale prices in an appraisal of the subject property.

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 light of this holding, the comparable sales submitted by the board of review were given less weight.

The Board finds the best evidence of the subject's fair market value in the record is the January/February 2008 sale for \$273,000. 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. The record evidence establishes that the subject property was advertised for sale for an asking price as high as \$498,750 in May 2007 until it was eventually reduced to \$292,900 later in 2007 resulting in the contract price of \$273,000 in January 2008. 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 a reasonable period of time at various prices until it sold to the appellant for \$273,000. 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 \$273,000.

Furthermore, the Board finds there is no substantive evidence in the record that the sale price was not reflective of the subject's market value. The appraiser's summary statement that the "contract price is well below market value" is insufficient

to overcome the other record evidence of the subject's actual sale price of \$273,000.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$273,000 as of on January 1, 2008. The subject's assessment reflects an estimated market value of approximately \$370,126, which is substantially higher than its arm's-length 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 assessment 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

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.