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

APPELLANT: Ricky Sminchak
DOCKET NO.: 08-04916.001-R-1
PARCEL NO.: 06-03.0-402-017

The parties of record before the Property Tax Appeal Board are Ricky Sminchak, the appellant; and the St. Clair County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***no change*** in the assessment of the property as established by the **St. Clair** County Board of Review is warranted. The correct assessed valuation of the property is:

| | |
|---|---|
| **LAND:** | $3,484 |
| **IMPR.:** | $8,540 |
| **TOTAL:** | $12,024 |

Subject only to the State multiplier as applicable.

## ANALYSIS

The subject property consists of a one-story single family dwelling of frame construction that contains 888 square feet of living area. The dwelling is approximately 53 years old. The dwelling has a concrete slab foundation and central air conditioning. The subject is located in Cahokia, Centreville Township, St. Clair County.

A consolidated hearing was conducted for Docket Nos. 08-04916.001-R-1, 08-04919.001-R-1, 08-04921.001-R-1, 08-04922.001-R-1, 08-04923.001-R-1, 08-04924.001-R-1 and 08-04936.001-R-1.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant provided information on eight comparable sales. The appellant also provided photographs of the subject and for comparables #1 through #7. The comparables were improved with one-story single family dwellings that ranged in size from 864 to 1,305 square feet of living area. The dwellings were constructed from 1956 to 1960 and were of frame or frame and masonry construction. One comparable had a basement with the remainder having slab foundations. Two comparables had central air conditioning and one comparable had a carport. The

comparables sold from June 2007 to December 2008 for prices ranging from $10,000 to $22,000 or from $11.26 to $23.78 per square foot of living area.[1] The appellant testified that he selected the comparables by looking for sales within the subject's subdivision. The appellant testified he drove by the comparables and each was constructed about the same time during the late 1950's. He further testified the majority of the homes are rental properties, similar to what he is appealing. Sminchak testified he did not talk to the buyer or seller associated with any of the comparable sales. The appellant testified he did not examine any of the Illinois Real Estate Transfer Declaration sheets associated with the sales but reviewed the property record cards and assessor printouts that provided information about the sales.

With respect to comparables #1, #2, #3, #4, #5 and #6 each of the printouts indicated that the respective transaction was not a valid sale. The appellant thought these properties may have been involved in a foreclosure/repossession. The appellant did not know how long each property was on the market, the asking price or whether the parties were related. The appellant thought these types of repossession sales were reflective of the market in Cahokia because these were the only types of properties selling. The appellant was of the opinion sale #8 was not a foreclosure.

Based on these sales the appellant requested the subject's assessment be reduced to $4,588, which was based on the average purchase prices of the comparables.

Subsequent to hearing the appellant provided copies of the multiple listing service (MLS) sheets for comparable sales #3, #4, #5, #6, #7 and #8. Each of the documents indicated the property was a "Re-Sale Home." The listing sheets for comparables #3, #5, #6, #7 and #8 indicated that each property was sold "as is." The listing for comparable #4 stated, "seller to make no repairs nor to provide for any inspections." The listing for comparable #6 stated, "Seller to provide no repairs, warranties, guarantees or inspections." The listing for comparable #8 stated, "Being sold AS IS Seller will not participate in any inspections or remedies."

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $12,024 was disclosed. The subject's assessment reflects a market value of $36,000 or $40.54 per square foot of living area, including land, when applying the 2008 three year average median level of assessments for St. Clair County of 33.40%.

[1] The evidence indicated comparable #1 previously sold in August 2006 for a price of $70,000; comparable #3 previously sold in December 2006 for a price of $64,000; comparable #5 previously sold in January 2004 for a price of $60,000; and comparable #6 previously sold in May 2006 for a price of $54,900. The record also disclosed comparable #7 sold on June 12, 2007 for a price of $22,000 and sold again on June 13, 2007 for a price of $18,000.

In support of its contention of the correct assessment the board of review submitted sales data on four comparables. The comparables were composed of one-story dwellings of frame construction built from 1955 to 1971. The dwellings ranged in size from 864 to 925 square feet of living area. Two comparables had slab foundations, one comparable had a crawl space and one comparable had a basement. Three comparables had central air conditioning, one comparable had a garage and one comparable had a carport. The sales occurred from April 2009 to November 2009 for prices ranging from $21,000 to $45,000 or from $22.70 to $52.08 per square foot of living area, including land. Based on these sales the board of review was of the opinion the sales supported the subject's assessment.

The board of review representative testified she also researched the appellant's sales and determined they were not qualified sales because the seller was a bank and they had special warranty deeds. The witness indicated that the appellant's sales were subject to foreclosure and then sold. Based on these facts she was of the opinion the sales were not arm's length sales.

In rebuttal the appellant presented photographs of board of review comparables #1 and #2. The appellant was of the opinion the photograph for board of review comparable #1 depicts an owner occupied home, but he could not swear to that fact, and the photographs of board of review comparable #2 depict a superior home.

Subsequent to the hearing and at the request of the hearing officer, the board of review provided copies of the Illinois Real Estate Transfer Declaration sheets associated with the appellant's and the board of review comparable sales. The transfer declarations for the appellant's comparables indicated that each was advertised for sale but sales #1 through #6 and sale #8 were sold or bought by a financial institution or government agency. Sale #7 sold twice, was advertised for sale and each sale was the fulfillment of installment contracts entered in 2005 and 2007. The transfer declarations disclosed each of the board of review's comparables was advertised for sale and comparables #1 and #2 were fulfillments of installment contracts entered in 2009.

After hearing the testimony 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 appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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 Supreme Court of Illinois 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 to so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). Proof of market value may consist of an appraisal, a recent sale of the subject property, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). 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 comparable sales in this record do not support a reduction in the subject's assessment.

The record contains information on twelve comparable sales submitted by the parties. The Board finds that seven of the sales provided by the appellant were sold by financial institutions as reported on the Illinois Real Estate Transfer Declarations submitted subsequent to the hearing. Additionally, the appellant and the board of review representative testified that the majority of his sales were the result of foreclosures or repossessions. These facts call into question the arm's length nature of the sales and whether or not the purchase prices are indicative of "fair cash value." Furthermore, the copies of the MLS sheets for appellant's comparables #3, #4, #5, #6, #7 and #8 indicated that each sold "as is." There were also comments on some of these sheets that the seller would make no repairs nor provide for any inspections. These facts tend to demonstrate the sales were in poor condition or in a state of disrepair when sold. Due to these considerations the Property Tax Appeal Board gives little weight to these comparable sales submitted by the appellant.

The board of review submitted information on four comparable sales that occurred in 2009. Comparable #4 was significantly newer than the subject being constructed in 1971 and had a basement superior to the subject's slab foundation. The Board gives this sale no weight.

The appellant provided information on one additional sale, identified as comparable sale #7. This property sold twice on June 12, 2007 and June 13, 2007 for $22,000 and $18,000 or for $23.78 and $19.46 per square foot of living area, including land, respectively. The three remaining comparables submitted by the board of review were similar to the subject in age, style and size. Two comparables were superior to the subject with central air conditioning. These properties sold for prices ranging from $21,000 to $45,000 or from $22.70 to $52.08 per square foot of living area, including land. The subject's assessment reflects a market value of $36,000 or $40.54 per square foot of living area, including land, which is within the range established by the best comparable sales in the record. Based on this record the Board finds the appellant did not demonstrate overvaluation by a

preponderance of the evidence and a reduction in the subject's assessment is not justified.

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: May 20, 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.