



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

APPELLANT: Gary Furniss
DOCKET NO.: 08-06668.001-R-1
PARCEL NO.: 46-073-10

The parties of record before the Property Tax Appeal Board are Gary Furniss, the appellant, by attorney Ryan M. Furniss of The Furniss Law Firm, LLC, in St. Louis; and the Pike 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 Pike County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$1,730
IMPR: \$1,310
TOTAL: \$3,040

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 7,200 square foot parcel improved with a 572 square foot garage. The garage was built in 1950, with a new roof and exterior paint added by the appellant after being purchased in November 2007. The property is located in Barry, Pike County, Illinois.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant completed Section IV of the residential appeal petition disclosing the subject property sold in November 2007 for \$2,750. The appeal petition lists the seller as William W. Watson, which was further substantiated by a copy of the appellant's Warranty Deed. The appeal petition indicates the subject property sold by owner, but was not advertised for sale.

The appellant also submitted an appraisal prepared by Gary Nation. The appraisal report conveys an estimated market value for the subject property of \$3,000 as of July 14, 2009. The

appraisal report presented by the appellant is comprised of a sales comparison section, a reconciliation section, a photograph section and a location map.

Under the sales comparison approach to value, the appraiser utilized three suggested comparable sales located from 0.29 to 0.63 of a mile from the subject property. The comparables have reported lot sizes ranging from 7,800 to 31,363 square feet of land area. The comparables sold from June 2008 to May 2009 for prices ranging from \$1,250 to \$9,000 or from \$0.16 to \$0.38 per square foot of land area. The appraiser made no adjustments to the comparables for differences to the subject in size.

A cost section was not included, however, under reconciliation, the appraiser notes: "After considering the sales from the past 15 months and the price compared to the size of each lot. I estimate the site value at 35 cent per square foot and rounded to 2,500, the block garage is 22 x 26 in fair condition with the roof recently replaced. This building has some value as storage but is limited by size and condition. Estimated replacement minus depreciation value at \$500."

In summary, the appraiser estimated the subject's site value is \$2,500 plus the building value of \$500 as of July 14, 2009. This equates to a land value of \$0.35 per square foot of land and \$0.87 per square foot of building area.

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$905.00.

The board of review argued the subject's sale was not an arms-length transaction due to not being advertised and therefore is not a reliable indicator of the subject's fair market value. The board of review also argued that the appellant's appraisal was not complete and should be stricken from the record. Furthermore, the appraisal's effective date of July 14, 2009 is not a valid indicator of the subject's market value as of the subject's assessment date of January 1, 2008. Additionally, comparable #1 used in the appraisal was conveyed by a government entity, comparable #2 has an incorrect size and comparable #3 was not advertised.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$3,040 was disclosed. The subject's assessment reflects an estimated market value of \$9,121 using Pike County's 2008 three-year median level of assessments of 33.33%. The subject's estimated market value equates to \$5,191 or \$0.72 per square foot of land area and \$1,310 or \$6.87 per square foot of building area.

In support of the subject's assessed valuation, the board of review submitted a market analysis detailing three suggested comparable sales, their property record cards and real estate transfer declarations for both parties' comparables as well as the subject. The real estate transfer declarations disclose the

subject and appraisal comparables #1 and #3 were not advertised for sale.

The market analysis submitted by the board of review is comprised of three comparable properties located from 0.02 to 0.05 of a mile from the subject property. The comparables range in size from 6,720 to 14,400 square foot of land area. The comparables sold from April 2007 to April 2008 for prices ranging from \$4,000 to \$17,000 or from \$0.60 to \$1.05 per square of land area. As to the subject's garage assessment, the subject's property record card discloses a depreciated cost approach for the garage of \$4,070. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant argued the subject property was purchased on November 7, 2007 for \$2,557.54 plus closing costs and the board of review appraised the property at \$8,970, which is nearly four times the purchase price. In addition, the appellant argued that only the board of review's comparable #3 is comparable to the subject property in size.

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 Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant argued the subject property's assessment was not reflective of its fair market value based on its November 2007 sale price of \$2,750 and an appraisal of \$3,000 as of July 14, 2009. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant failed to overcome this burden.

The Illinois Supreme Court defined fair cash value as 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 do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428 (1970). In addition, Section 1-50 of the Property Tax Code defines fair cash value as:

The 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 Property Tax Appeal Board finds the subject's sale does not meet at least one of the fundamental requirements to be considered an arm's-length transaction reflective of fair cash value. The Board finds the preponderance of the evidence clearly shows the subject property was not advertised or exposed for sale on the open market. Therefore, the subject's sale price was

given little weight and is not considered indicative of fair market value.

Illinois Courts has stated fair cash value is synonymous with fair market value and is defined as the price a willing buyer would pay a willing seller for the subject property, there being no collusion and neither party being under any compulsion. Ellsworth Grain Company v Property Tax Appeal Board, 172 Ill.App.3d 552, 526 (4th Dist. 1988). Although the appellant's evidence may suggest the subject's transaction was between a willing, knowledgeable buyer and seller, the Board finds the transaction was not advertised for sale in the open market and is not typical of the due course of business and trade. The subject's Real Estate Transfer Declaration submitted by the board of review and the appellant's appeal petition clearing establish that the subject property was not advertised for sale. Thus, the general public did not have 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)). Since the appellant presented no factual evidence showing the subject property was advertised for sale or exposed

to the open market in an arm's-length transaction, the Board gave little weight to the subject's transaction for market value consideration.

Absent an arm-length transaction, Illinois courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989).

As to the appellant's appraisal, the Board finds the report's reconciliation section clearly shows the appraiser estimated the replacement cost of the garage minus depreciation. The support for this cost analysis was either not performed or was not included as evidence. Therefore, the Board gave little weight to the value conclusion arrived at from the report. In reviewing the raw sales data within the report, the Board gave less weight to appraisal comparables #1 and #3. These sales were not advertised, which was evidenced by the real estate transfer declarations submitted by the board of review. Additionally, comparable #3 is considerably larger when compared to the subject. The Board also gave less weight to the appraisal comparables #2 due to its considerably larger size when compared to the subject.

The board of review submitted three sales for the Board's consideration. The Board gave less weight to the board of review's comparable #1 due to its considerably larger size when compared to the subject. The Board finds there are two credible market arm's-length sales contained in this record that were submitted by the board of review probative of the subject's January 1, 2008 assessment date. These properties are located from 0.02 and 0.05 of a mile from the subject property. The comparables are also similar to the subject in size. They sold in August 2007 and April 2008 for prices of \$17,000 and \$4,000 or \$1.05 and \$0.60 per square foot of land, respectively. The subject's land assessment reflects an estimated market value of \$5,191 or \$0.72 per square foot of land area, which is well supported by the best comparable sales in this record. After considering adjustments to these comparables for differences when compared to the subject, the Property Tax Appeal Board finds the subject's land estimated market value as reflected by its assessment is supported. Therefore, no reduction is warranted.

As to the market value of the garage, the Board finds the only credible evidence in this record is the depreciated cost approach depicted on the subject's property record card. Therefore, the Board finds the subject's improvement estimated market value as reflected by its assessment is supported.

In conclusion, the Board finds the evidence in this record does not demonstrate the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the

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subject property's assessment as established by the board of review is correct and no reduction 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

Marko M. Louie

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: January 31, 2013

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.