



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

APPELLANT: Dane Eggertsen
DOCKET NO.: 09-00717.001-R-1
PARCEL NO.: 13-006-009-51

The parties of record before the Property Tax Appeal Board are Dane Eggertsen, the appellant, and the Schuyler 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 **Schuyler** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$4,588
IMPR.: \$27,962
TOTAL: \$32,550

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 7.35-acres of land area is improved with a 1.5-story single family dwelling of frame exterior construction that contains 2,040 square feet of living area. The dwelling is 21 years old. The dwelling features a partial basement which is partially finished, central air conditioning, a fireplace and a detached two-car garage. The property also has a 336 square foot shed, an open frame porch and a deck. The subject is located in Rushville, Woodstock Township, Schuyler County.

The appellant submitted a residential appeal contending overvaluation based on the recent purchase price of the subject property. In support of this argument, the appellant indicated on the appeal form that the subject property was purchased in March 2009 for a price of \$100,000 from seller Wells Fargo Bank. The appellant indicated the subject property was sold through a Realtor with Corbin Real Estate using agent Ken Corbin. Also the property was advertised on the open market for over one year using the Multiple Listing Service and local newspaper.

The appellant further reported that \$2,000 was spent for renovations before occupying the property in May 2009. In a

letter, the appellant stated that the house and deck were in poor condition, the water was turned off and the furnace had to be replaced.

The appellant also submitted a copy of the Contract To Purchase For Residential Real Estate reflecting the purchase price of \$100,000 along with Addendum "A"; the PTAX-203 Illinois Real Estate Transfer Declaration reflecting the purchase price of \$100,000, that the seller was a financial institution but also that the property was advertised for sale; and a copy of the Settlement Statement disclosing a sales price of \$100,000 with a settlement date of March 23, 2009.

Based on this evidence, the appellant requested that the subject's assessment be reduced to \$33,333 to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject of \$38,249 was disclosed. The subject's assessment reflects an estimated market value of approximately \$117,508 when applying the 2009 three year median level of assessments for Schuyler County of 32.55%. (86 Ill.Admin.Code §1910.50(c)(1)).

In response to the appeal, the board of review presented a memorandum outlining the evidence which consists of an appraisal of the subject property the appellant presented to the Supervisor of Assessments along with three additional sales to support the assessment of the subject property. The board of review also contends that the sale of the subject was an acquisition made through foreclosure proceedings, the seller was a financial institution and "does not represent a true arms length transaction."

As to the appraisal, the board of review contends the appraised value of \$119,000 as of February 17, 2009 is greater than the subject's estimated market value of \$114,747 as reflected by its assessment (\$38,249 x 3). The board of review pointed out that the comparable sales in the report were within 9.12-miles of the subject and "all line, net and gross adjustments were within acceptable limits and the comparables bracketed the subject in square footage." The appraisal was prepared for the lender/client Farmers State Bank of Astoria for the purposes of a refinance transaction. The appraiser wrote in pertinent part, "The subject has been listed as an REO property with no published listing data found. Under this condition the list price and list date are not published and undetermined." The appraiser relied primarily upon the sales comparison approach to value in which he analyzed three sales of a two-story and two, one-story dwellings.

To further support the subject's estimated market value as reflected by its assessment, the board of review submitted three sales that were located either 5 or 8.6-miles from the subject. The comparable parcels range in size from 5 to 9.5-acres of land area and are improved with 1.5-story frame dwellings. The homes

range in age from 4 to 9 years old and range in size from 2,072 to 2,482 square feet of living area. Two of the comparables had unfinished basements and one had a crawl-space foundation. Each home has central air conditioning and a garage ranging in size from 624 to 864 square feet of building area. One comparable has a fireplace and one comparable has a shed. In addition, each homes has a deck, porch and/or patio. The comparables sold between March 2006 and January 2007 for prices ranging from \$155,000 to \$185,000 or from \$71.83 to \$88.56 per square foot of living area, land included.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant reported that board of review comparable #2 not only sold in January 2007 for \$183,500, but also sold in June 2009 for \$121,619, sold in May 2010 for \$75,000 and sold in July 2010 for \$140,000. As to the nature of the transaction to purchase the subject property, the appellant contends that there were offers and counteroffers until the seller accepted the appellant's "offer to purchase this home for more than any other potential buyer was willing to pay."

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 subject's assessment should be reduced based on the purchase price of the subject contained in the record. The evidence disclosed that the subject was purchased in March 2009 for a price of \$100,000 or \$49.02 per square foot of living area, land included. The information provided by the appellant indicated the sale had the elements of an arm's length transaction, in that it was listed on the open market and the parties to the transaction were unrelated. Moreover, the sale occurred only about three months after the assessment date at issue. The board of review's responsive evidence summarily contested the arm's-length nature of the sale of the subject property because it was sold due to a foreclosure action and the seller was a financial institution. The record also contains six sales presented by the board of review in support of the subject's estimated market value as reflected by its assessment.

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 March 2009 sale for \$100,000. 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 local newspaper along with having a Realtor involved. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value at the time of sale.

The appellant's appeal petition clearly establishes that the subject property was advertised for sale for over a 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.

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 provided no substantive evidence to dispute the arm's length nature of the sale transaction. The board of review provided six comparable sales in total. Three of the sales were in an appraisal and differed from the subject in design and yet no adjustments were made for that design difference. The Board has given less weight to the appraisal since those sales differed from the subject. The board of review also presented three additional sales of 1.5-story dwellings, however, each of these homes was newer than the subject dwelling. Moreover, these three sales occurred between March 2006 and January 2007 for prices ranging from \$155,000 to \$185,000, but these sales were more distant in time to the assessment date of January 1, 2009 than the sale date of the subject property and are each substantially higher than the subject's estimated market value as reflected by its assessment. In summary, the Board finds these three most similar sale comparables presented by the board of review neither support the subject's estimated market value nor do they overcome the arm's length nature of the subject's sale transaction as displayed in this record.

Since the appellant presented evidence showing the subject property was advertised for sale and exposed to the open market through the MLS and local newspaper in an arm's-length transaction, the Property Tax Appeal Board finds the subject's March 2009 sale price of \$100,000 was reflective of its market value.

Based on the foregoing analysis, the Property Tax Appeal Board further finds the subject's assessment reflects an estimated market value of approximately \$117,508, which is higher than its March 2009 sale price. Therefore a reduction is warranted. Since the fair market value of the subject has been established, the Board finds that the 2009 three-year median level of assessment for Schuyler County of 32.55% 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: November 30, 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.