



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

APPELLANT: Home Buyers LLC
DOCKET NO.: 09-00970.001-R-1
PARCEL NO.: 23-15-05-114-048-0000

The parties of record before the Property Tax Appeal Board are Home Buyers LLC, the appellant, by attorney Lauren Cooper of Worsek & Vihon, in Chicago, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$6,282
IMPR.: \$23,798
TOTAL: \$30,080

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of one-story frame dwelling that contains 988 square feet of living area and was built in 1942. The subject has a concrete slab foundation, central air conditioning and a 440 square foot detached garage. The subject property is located in Crete Township, Will County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted a settlement statement and a Multiple Listing Service sheet. The documents reveal the subject property sold in May 2007 for \$90,250. The property was originally listed with an asking price of \$125,500. Furthermore, in Section IV of the appeal petition, the appellant reports that the sale was between unrelated parties; the subject property sold through GT Realty LLC with agent Mark Groble; and the subject property was advertised in the Multiple Listing Service for 223 days. The original listing price was also reduced to \$99,900 prior to the sale. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$30,080 to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal." The subject's final assessment is \$34,929.¹ The subject's total assessment as shown on the final decision reflects an estimated market value of \$104,797 or \$106.07 per square foot of living area including land using the statutory level of assessment of 33.33%.

In its response to the appeal, the board of review submitted a memorandum from the Crete Township Assessor who claimed the subject's sale was "invalid" because the seller was a financial institution/mortgage corporation under a special warranty deed, which makes the sale "invalid" based on Department of Revenue criteria. The assessor noted the Multiple Listing Service sheet states "corporate owned property, sold as is, no termite, no disclosure provided by seller. Buyer responsible for any/all inspections, compliances, and escrows as needed" and the subject's sale was a cash transaction. The assessor acknowledged the subject property was listed for sale at \$125,000 in a down market, even in a stress situation.

In support of the subject's assessment, the assessor submitted three suggested comparable sales located from two to four blocks from the subject, but in different subdivisions than the subject. The comparables consist of one-story dwellings of frame or brick construction that were built from 1958 to 1963. Comparable #1 has a full unfinished basement and comparables #2 and #3 have concrete slab foundations. They have garages ranging in size from 352 to 528 square feet. Comparable #1 has a fireplace. The dwellings range in size from 1,040 to 1,225 square feet of living area. The comparables sold in January or February of 2008 for prices ranging from \$120,000 to \$169,000 or from \$127.73 to \$223.64 per square foot of living area including land.

Next in the grid analysis, the assessor adjusted the comparables for differences when compared to the subject in dwelling size, foundation type and amenities such as fireplaces, garages, decks, porches and patios. No adjustment was made for age differences. The adjustments resulted in adjusted sale prices range from \$120,102 to \$170,326 or from \$107.92 to \$163.78 per square foot of living area including land. The assessor contends the subject's estimated market value as reflected by its assessment of \$104,797 or \$106.07 per square foot of living area including land is supported by the comparable sales.

¹ The Notes on Appeal indicates a final total assessment of \$30,080, however, this is not what was shown on the Final Decision issued January 20, 2010. Furthermore, the Property Tax Appeal Board takes notice that the Attorney General of the State of Illinois has asserted that a county board of review may not alter an assessment once its decision has been properly appealed to the Property Tax Appeal Board, nor may it alter an assessment by certificate of error or by any other procedure after the Property Tax Appeal Board has rendered its decision. 1977 Ill.Atty.Gen.Op. 188 (October 24, 1977), 1977 WL 19157 (Ill.A.G.)

Based on this evidence, the board of review requested confirmation of the subject's 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 this appeal. The Board further finds a reduction in the subject's assessment is warranted.

The appellant argued the subject property is overvalued. When market value is the basis of the appeal, the value 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 appellant has met this burden.

The Illinois Supreme Court has 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). 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 finds there is persuasive evidence in this record indicating the subject's sale was an arm's-length transaction. The appellant completed the appeal petition indicating the sale was between un-related parties and the subject property sold through GT Realty LLC after being listed for sale in the open market through the Multiple Listing Service for 223 days. There was no direct evidence indicating the buyer or seller was under duress to complete the transaction or that they were not acting in their own best interests. The initial listing price for the subject property was \$125,500, which was reduced to \$99,900. The sale occurred on May 30, 2007 for \$90,250. Based on this record, the Board finds the best evidence of the subject's fair market is its May 2007 sale price for \$90,250, which is considerably less than the subject's estimated market value of \$104,797 as reflected by its assessment. Therefore, a reduction in the subject's assessment is warranted.

The Board gave little weight to the evidence prepared by the assessor that was submitted by the board of review. With respect to the subject's sale price, the assessor inferred the subject's sale was not an arm's-length transaction, characterizing the sale as "invalid." The assessor claimed the subject's sale was "invalid" because the seller was a financial institution/mortgage corporation under a special warranty deed, which makes the sale invalid based on Department of Revenue criteria. The Board finds

the Department of Revenue criteria regarding the definition of an "invalid" sale was not submitted for the Board's consideration. More importantly, just because the seller may have been a financial institution/mortgage corporation using a special warranty deed as an instrument of conveyance does not preclude the transaction from being arm's-length. Fair cash value is 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).

The Board finds subject's sale price is further supported by the Multiple Listing Sheet indicating the subject property would be sold as is with no disclosure provided by seller with the buyer responsible for any/all inspections, compliances, and escrows as needed. Furthermore, the assessor acknowledged the subject property was listed for sale at \$125,000 in a down market, which was reduced to \$99,900 before the property ultimately sold for \$90,250 after 223 days on the open market.

The Board also gave less weight to the comparable sales submitted by the board of review as persuasive indicators of value for the subject property. Although described as being located in close proximity to the subject, the comparables are located in different subdivisions than the subject. Additionally, all the comparables are considerably newer in age than the subject. Finally, comparable #1 has a full basement and is of brick exterior construction unlike the subject's concrete slab foundation and frame exterior construction.

Based on this analysis, the Property Tax Appeal Board finds the appellant has demonstrated the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the subject's assessment as established by the board of review is incorrect and a 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mark Morris

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: July 20, 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.