



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

APPELLANT: Colleen Clark  
DOCKET NO.: 09-03683.001-R-1  
PARCEL NO.: 10-05-229-005

The parties of record before the Property Tax Appeal Board are Colleen Clark, the appellant, by attorney Curt P. Rehberg, of Curt P. Rehberg and Associates, P.C., in Crystal Lake, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$9,095  
**IMPR:** \$0  
**TOTAL:** \$9,095

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject vacant parcel of 11,214 square feet of land area is located in Spring Grove, McHenry Township, McHenry County.

The appellant through legal counsel contends the subject's assessment is not reflective of its fair market value. In support of this argument, the appellant represented in Section IV of the Residential Appeal petition that the subject property was purchased from Lawrence and Kristine Clark for \$3,500 in August 2009. The appellant further indicated that the property was not advertised for sale, the parties to the transaction were family or related corporations, and the property was sold in settlement of a contract for deed.

In a letter/brief from counsel as to the contention of law asserted in this appeal, counsel stated the subject property was "located in a flood hazard area." In support of this assertion, counsel included a plat of survey. No other submission was made to establish why the assessment of the property was erroneous due to the location of the property.

Based on the foregoing, the appellant requested the subject's assessment be reduced to \$1,426 which would reflect a market value of approximately \$4,278.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$9,095 was disclosed. The subject's assessment reflects an estimated market value of \$27,337 using McHenry County's 2009 three-year median level of assessments of 33.27%.

The board of review submitted data gathered by Carol L. Perschke, McHenry Township Assessor. In a letter, the assessor outlined her assertion that the appellant had failed to supply a contention of law for this appeal. Furthermore, the assessor noted that if appellant or counsel provided "evidence" that the subject parcel was unbuildable, the assessor would recommend a 50% assessment reduction. However, according to the assessor, a parcel's location in a flood hazard "does not disqualify the property from being buildable."

As to the subject's purchase price, the assessor reported the property was purchased from family members, obtained after a foreclosure transaction. Documentation was included to support this sales history.

In conclusion, based on the lack of a properly supported contention of law and no evidence that the parcel is unbuildable, the township assessor contends that the subject's assessment should be upheld.<sup>1</sup>

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 property's assessment is not warranted on this record.

The appellant argued the subject property's assessment was not reflective of its fair market value based on its August 2009 sale price of \$3,500. 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 (3<sup>rd</sup> Dist. 2002). The Board finds the appellant failed to overcome 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

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<sup>1</sup> The Property Tax Appeal Board takes notice that courts have held there is no presumption of correctness accorded to an original assessment or that of a board of review (Western Illinois Power Cooperative, Inc. v. Property Tax Appeal Board, 29 Ill.App.3d 16, 22 (4<sup>th</sup> Dist. 1975)).

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 two of the fundamental requirements to be considered an arm's-length transaction reflective of fair cash value. The Board finds the best evidence in the record clearly shows the subject property was not advertised or exposed for sale on the open market. Thus, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price. Furthermore, the parties to the transaction appear to be related. The appellant reported the parties/corporations were related.

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 no weight to the subject's transaction for market value consideration.

Absent an arm's-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). The Board finds there are no other sales in this record to support the subject's market value as of its January 1, 2009 assessment date.

The appellant through legal counsel submitted the petition asserting the basis of the appeal was a "contention of law." In support of that contention, counsel presented a 'brief' contending that the subject property was located "in a flood hazard area" and provided a plat of survey.

Pursuant to Section 1910.50(d) of the Board's rules:

d) The Property Tax Appeal Board may consider appeals based upon contentions of law. Such contentions of law must be concerned with the correct assessment of the subject property. If contentions of law are raised, the party shall submit a brief in support of his position.

(86 Ill.Admin.Code §1910.50(d)). A contention of law typically involves citation to a statute or legal proposition that supports a change in the subject's assessment. In this matter, no other data was submitted to support the contention that the subject's assessment was erroneous or excessive due to the assertion made in the brief. No citation to law was made to support a

proposition that the property was improperly classified given its location.

In conclusion, the Board finds the evidence in this record does not demonstrate the subject property is overvalued by a preponderance of the evidence or that the property was improperly classified or treated based on a contention of law. Therefore, the appellant has failed to establish that a reduction in the subject's assessment 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

*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: 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.