



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

APPELLANT: Glenn Davis
DOCKET NO.: 09-03988.001-R-1
PARCEL NO.: 06-05-401-003

The parties of record before the Property Tax Appeal Board are Glenn Davis, the appellant, by attorney Kelly A. Helland, of Law Offices of Daniel J. Kramer in Yorkville; and the Kendall 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 **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$44,720
IMPR.: \$0
TOTAL: \$44,720

Subject only to the State multiplier as applicable.

ANALYSIS

The subject consists of a 31,557 square foot parcel of vacant land located in Oswego, Na-Au-Say Township, Kendall County.

The appellant contends overvaluation based on the recent sale of the subject property. The appellant submitted a settlement statement for two parcels from July 2009 indicating the contract sales price was \$165,000. The appellant also submitted a real estate contract indicating the purchase price was \$85,000. In Section IV of the Appeal Form, Recent Sale Data, the appellant indicated the property was not advertised for sale and was sold by owner, not by a realtor. The appellant did not submit a Real Estate Transfer Declaration. Based on this record, the appellant requested the subject's assessment be reduced to \$28,333 which would reflect a market value of approximately \$85,000 at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$44,720 was disclosed. The subject's total assessment reflects an estimated market value of \$133,852 or \$4.24 per square foot of land area, using the 2009 three-year median level of assessments for Kendall County of 33.41% as determined by the Illinois Department of Revenue.

In support of the subject's assessment, the board of review submitted a grid analysis of four comparable vacant properties and a map of the subject and the comparables. Two of the four comparable properties are located in the same subdivision as the subject. The four properties range in size from 30,632 to 41,936 square feet of land area. These properties sold for prices ranging from \$143,000 to \$177,500 or from \$4.23 to \$5.09 per square foot of living area¹. 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 Property Tax Appeal Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal, the value must be proven 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). Proof of market value may consist of an appraisal of the subject property, a recent sale of the subject property or comparable sales. (86 Ill.Admin.Code 1910.65(c)). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). After an analysis of the evidence in the record, the Board finds no reduction in the subject's assessment is warranted.

The Board finds the appellant's settlement statement and real estate contract are conflicting, with one indicating the property sold for \$165,000 and one listing the sale price as \$85,000. No explanation of this discrepancy was provided by the appellant. The Board further finds the appellant disclosed the property was not advertised for sale and was sold by owner and not through a realtor. Without being advertised for sale, the Board finds this sale was not an arm's length transaction.

Illinois Courts have 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 appellant's appeal petition clearly establishes that the subject property was not advertised for sale. Thus, the general public

¹ The board of review did not disclose the sale dates of the properties.

did not have the same opportunity to purchase the subject property at any negotiated sale price.

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 force 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.

The board of review submitted four comparable sales in close proximity to the subject. No sale dates were submitted by the board of review for the comparables. These comparables ranged in price from \$143,000 and \$177,500 or from \$4.23 to \$5.09 per square foot of land area. The subject's assessment of \$44,720 reflects an estimated market value of \$133,852 or \$4.27 per square foot of land area, which is within the range established by these similar comparable properties on a square foot basis. This value is supported by the settlement statement which indicates the subject sold for \$165,000 in July 2009. Based on this evidence and the fact that there are two lots on the settlement statement, the Board finds a reduction in the subject's assessment is not 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: May 18, 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.