



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

APPELLANT: Daniel Salisbury
DOCKET NO.: 09-04720.001-R-1
PARCEL NO.: 09-05-376-013

The parties of record before the Property Tax Appeal Board are Daniel Salisbury, the appellant, by attorney Donald T. Rubin of Rubin & Norris, in Chicago, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$28,331
IMPR: \$152,763
TOTAL: \$181,094

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 11,392 square feet of land area is improved with a two-story single family dwelling of frame and brick exterior construction that contains 3,752 square feet of living area. The dwelling is 10 years old and features a full unfinished basement, central air conditioning, a fireplace and a three-car garage. The property is located in South Elgin, St. Charles Township, Kane County.

The appellant through legal counsel submitted a residential appeal contending overvaluation. To support the market value argument, counsel for the appellant submitted "unofficial" copies of a Warranty Deed and Mortgage on the subject property obtained from the Kane County Recorder's website. The Warranty Deed document reflects conveyance of the property on October 15, 2010. The document also depicts a Real Estate Transfer Tax of 750.00. In addition, the appellant's counsel provided a copy of a recorded mortgage document reflecting a loan/mortgage amount of \$400,000.

Counsel also provided printouts from Redfin.com and Zillow.com both depicting that the subject sold in October 2010 for \$500,000.

Based on the foregoing evidence, the appellant requested the subject's assessment be reduced to \$166,650 to reflect the sale price of approximately \$500,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$181,094 was disclosed. The subject's assessment reflects a market value of approximately \$543,663 or \$144.90 per square foot of living area, including land, when applying the 2009 three year median level of assessments as determined by the Illinois Department of Revenue for Kane County of 33.31%. (86 Ill.Admin.Code §1910.50(c)(1))

To support the subject's estimated market value as reflected by its assessment, the board of review submitted a grid analysis with descriptions on four suggested comparable properties, three of which included sales data and one of which was presented for purposes of equity. The Property Tax Appeal Board finds that submission of equity evidence in response to the appellant's market value argument is not responsive and the board of review's additional equity comparable will not be further addressed herein.

The three sales comparables were two-story dwellings of frame and brick exterior construction that were 7 or 8 years old. The homes range in size from 3,525 to 3,591 square feet of living area with basements, one of which included finished area, central air conditioning, a fireplace, and a garage ranging in size from 667 to 748 square feet of building area. These comparables sold between October 2006 and June 2008 for prices ranging from \$530,000 to \$621,000 or from \$150.35 to \$172.93 per square foot of living area, land included.

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 the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

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 not overcome this burden.

The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the seller 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). Furthermore, 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 evidence in this record fails to indicate the circumstances surrounding the subject's sale transaction. There is no indication whether the sale was a voluntary sale where the seller was ready, willing, and able to sell but not compelled to do so, and the buyer was ready, willing and able to buy but not forced to do so. There is no data as to whether the parties to the transaction were related or not. Furthermore, this Board has no confidence in the purchase price(s) detailed in the evidence in this record as presented by the appellant. The appellant did not provide a Real Estate Transfer Declaration or Settlement Statement regarding the transaction. Most importantly, the Property Tax Appeal Board finds there is no independent credible evidence showing the subject property was listed or exposed for sale in the open market for a reasonable amount of time prior to its reported October 2010 sale, which does not meet one of the key fundamental elements of an arm's-length transaction. Based on all of these enumerated factors, the Board finds there is insufficient evidence in the record regarding the subject's purported October 2010 sale to ascertain whether it was an arm's-length transaction so as to be considered indicative of the subject's fair cash value as of January 1, 2009.

The Property Tax Appeal Board further finds the board or review submitted three suggested comparable sales with varying degrees of similarity and dissimilarity when compared to the subject. The comparables sold from October 2006 and June 2008 for prices ranging from \$530,000 to \$621,000 or from \$150.35 to \$172.93 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$543,663 or \$144.90 per square foot of living area including land. After considering any necessary adjustments to the comparables for differences when compared to the subject, the Board finds the subject's assessed valuation is supported.

Based on this analysis, the Property Tax Appeal Board finds the appellant has not proven that the subject property is overvalued by a preponderance of the evidence. Thus, the Board finds the subject's assessment as established by the Kane County 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.

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: February 22, 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.