



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

APPELLANT: Azeem & Tabassum Haleem
DOCKET NO.: 09-04778.001-R-3
PARCEL NO.: 08-27-103-003

The parties of record before the Property Tax Appeal Board are Azeem & Tabassum Haleem, the appellants, by attorney Terrence J. Benshoof, Glen Ellyn, Illinois; and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$340,280
IMPR.: \$117,050
TOTAL: \$457,330

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single family dwelling of brick exterior construction that contains 6,684 square feet of living area and was built in 1960. Features of the home include central air conditioning, two fireplaces, three-car garage and a full walkout basement with partial finish. The subject has an approximate 4.55 acre site. The subject property is located in Naperville, Lisle Township, DuPage County.

Tabassum Haleem appeared represented by counsel contending overvaluation as the basis of the appeal. In support of this argument the appellants submitted a settlement statement revealing the subject property was purchased for \$1,375,000 in October 2009. The appeal petition indicates that the subject property was advertised for sale in the open market and the parties to the transaction were unrelated. The appellants also submitted an appraisal report estimating a fair market value for the subject property of \$1,500,000 as of September 14, 2009. The purpose of the appraisal was for a "purchase transaction."

Tabassum Haleem, appellant, was called as a witness. Haleem testified that she looked for houses sometime in May 2009. In August 2009 her realtor brought the subject property to her attention with the listing price of \$1,450,000. The appellants put a bid in on the house of \$1,050,000. The seller counter-offered at \$1,400,000. A final sales price of \$1,375,000 was reached. Following the purchase an appraisal was completed in the amount of \$1,500,000, which is greater than their contract price of \$1,375,000. The appellants closed on the property on October 2, 2009. The witness testified she did not know the seller, was not related to the seller, and there were no agreements to rebate or return any money to the seller. Haleem further testified subject's purchase was not the result of a short sale, foreclosure, tax sale or bankruptcy. Haleem also stated that approximately \$5,000 to \$5,500 was spent on improvements to the property such as removing carpet and tiling the floor. Based on this evidence the appellants requested a reduction the subject's assessment, commensurate with the subject's recent sale price of \$1,375,000.

The board of review's representative questioned the appellants' attorney about the appraiser not being present to give testimony.

Under cross-examination, Haleem testified the subject property had been on and off the market in 2006 and 2007 and was relisted in August 2009.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$853,470 was disclosed. The subject's total assessment reflects an estimated market value of \$2,566,055 or \$383.91 per square foot of living area when applying the 2009 three year average median level of assessments for DuPage County of 33.26%. The board of review submitted an Addendum to Board of Review Notes on Appeal. The board of review also submitted a grid analysis marked as Exhibit #1, which was prepared by the Lisle Township Assessor's Office.¹ The assessor detailed the appellants' appraiser's comparable sales and provided eight additional comparable sales. Also included were copies of the property record cards for all the comparables used by the parties.

The assessor's office submitted information on eight comparable properties in which five of these were sales to demonstrate the subject's assessment was reflective of market value. The comparables were improved with single family dwellings that were built from 1989 to 2008. All of the comparables have central air conditioning, two to seven fireplaces, basements, with one unfinished; and garages ranging from 879 to 1,511 square feet of building area. The comparables ranged in size from 5,885 to

¹ The board of review also submitted, without leave from the Property Tax Appeal Board, additional rebuttal evidence. This additional evidence consisted of an appraisal in the amount of \$2,000,000 as of May 5, 2009. The Board gave this evidence no weight in its analysis as it was untimely filed without leave from the Board and was not supported and/or addressed at hearing by the board of review.

7,894 square feet of living area and are situated on lots that range in size from 1.18 to 5.00 acres of land area. Comparables 1, 3, 4, 5 and 8 sold from July 2004 to September 2008 for prices ranging from \$1,020,000 to \$4,950,000 or from \$157.26 to \$647.14 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

The board of review's representative called as its witness Steve Arling the main deputy assessor for Lisle Township. Arling testified that he did not prepare the evidence in this case. Arling testified that the appellants comparables from the appraisal sold from \$251.51 to \$344.47 per square foot, including land and the subject sold for \$205.72 per square foot including land. Arling testified that the assessor's office found two sales in 2008 and they sold for \$346.55 and \$647.14 per square foot including land. Arling also testified that after talking with the seller, that she was motivated. The appellant's attorney objected to hearsay and the objection was sustained.

Under cross-examination, Arling testified that a sales price is an opinion by the buyer and seller. Arling stated that he agreed that assessments are supposed to be made with a valuation for fair cash value purposes. Arling also agreed that the definition of fair cash value is the price that is arrived at by a willing buyer and seller with neither having the compulsion to buy or sell. Arling testified that he agreed that there was no evidence of any compulsion on the part of the buyer or seller in this case. Arling then agreed that the sales price would fit the definition of fair cash value as far as he knew. Arling also admitted that the assessor's office has no evidence that this transaction was not fair cash value.

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 a reduction in the subject property's assessment is warranted.

The appellants argued the subject property was 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 appellants have met this burden of proof.

The appellants submitted a closing statement showing the subject property was purchased in October 2009 for \$1,375,000. The appellant also submitted an appraisal estimating the subject's fair market value, of \$1,500,000 as of September 2009. The board of review submitted eight suggested comparables with five being comparable sales to support its assessment of the subject property.

The Property Tax Appeal Board finds the best evidence of the subject's fair market value in this record is the subject's October 2009 purchase price of \$1,375,000. 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 this record shows the appellants purchased the subject property for \$1,375,000 in October 2009. The appellant testified that the parties were not related, the subject property was exposed on the open market and the transaction was not the result of a short sale, foreclosure, tax sale or bankruptcy. The Board finds this record is void of any evidence showing the subject's sale was not an arm's-length transaction. The subject's assessment reflects an estimated market value of \$2,566,055, which is considerably greater than the arm's-length sale price. The Board also finds the appraisal supports the sale price of \$1,375,000 in October 2009.

The Board gave less weight to the five comparable sales submitted by the board of review. Comparables 1, 2 and 5 sales occurred from 2004 to 2007. The Board finds the dated sales are less indicative of the subject's fair market value as of January 1, 2009 assessment date. Comparable 3 is superior in building size and garage size when compared to the subject property. Comparable 4 is inferior in building size and finished basement when compared to the subject. Finally, all the comparables are significantly younger than the subject dwelling.

Based on this record, the Board finds 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: 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.