



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

APPELLANT: Richard Lewellyan
DOCKET NO.: 09-05022.001-R-2
PARCEL NO.: 05-10-106-007

The parties of record before the Property Tax Appeal Board are Richard Lewellyan, the appellant, by attorney Timothy P. Whelan of Timothy Whelan Law Associates, Ltd., 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: \$24,600
IMPR: \$270,830
TOTAL: \$295,430

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story single family dwelling that contains 4,555 square feet of living area. Features of the home include a full basement that is partially finished, central air conditioning, three fireplaces and a 773 square foot attached garage. The dwelling has a brick, cedar and stone exterior and was constructed in 2007. The property is located in Wheaton, Milton Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant provided evidence that the subject property was purchased in August 2009 for a price of \$430,000. The appellant indicated the seller was American Home Mortgage Servicing, Inc. and the purchasers were Keith and Karen Moutvic.¹ The appellant indicated the parties to the transaction were not related and the property was listed on the open market with a Realtor. The appellant also indicated on the appeal form that \$56,000 was spent on the property before occupying the

¹ The record is not clear when or if the appellant was the owner or taxpayer that is allowed to appeal an assessment before the Property Tax Appeal Board; however, the Notice of Final Decision was sent by the board of review to the appellant, Rick Lewellyan.

property. The appellant also provided a copy of the MLS listing disclosing the property was listed on April 23, 2009, the contract date was May 28, 2009 and the closing date was August 2009. The listing price was \$509,900. The document also indicated the subject property was sold "as is" and further stated that there was no kitchen and that some toilets and vanities were missing. Based on this evidence the appellant requested the subject's assessment be reduced to \$143,333 to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$345,400 was disclosed. The subject's assessment reflects a market value of \$1,038,485 or \$227.99 per square foot of living area, land included.

In support of its contention of the correct assessment the board of review submitted an Addendum to Board of Review Notes on Appeal and Exhibit #1, which was a list of the comparable sales identified by the township assessor's office. The assessor asserted in the submission that the subject property sold out of foreclosure for \$430,000 or \$94.40 per square foot of living area, including land.

The assessor provided information on five comparable sales described as being improved with two-story dwellings of frame or brick construction that ranged in size from 3,726 to 5,536 square feet of living area. The dwellings were constructed from 2007 to 2010. Each comparable has a full basement with three being partially finished, central air conditioning, 1, 2 or 4 fireplaces and an attached garage that range in size from 273 to 1,135 square feet of building area. Comparable C also has a detached garage with 756 square feet of building area. The sales occurred from November 2008 to September 2009 for prices ranging from \$1,100,000 to \$2,000,000 or from \$228.83 to \$361.27 per square foot of living area, including land.

The board of review submission also included a document indicating the deputy assessor recommended reducing the subject's market value by \$149,910 (assessed value \$49,970) to account for the unfinished kitchen and bathrooms that were partially finished. Based on this submission the board of review recommended the subject's assessment be reduced to \$295,430.

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 supports 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. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 $\frac{1}{3}$ % of fair cash value.

(35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he 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 Supreme Court of Illinois has construed "fair cash value" to mean 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). When market value is the basis of the appeal the value of the property 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). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the evidence in the record supports a reduction in the subject's assessment.

The appellant presented information that the property was purchased in June 2009 for a price of \$430,000 or \$94.40 per square foot of living area, including land. The appellant further indicated an additional \$56,000 was expended for renovations prior to occupancy in November 2009. The Board finds the purchase price does not appear to be representative of fair cash value based on the evidence provided by the board of review. First, the board of review indicated the property was purchased out of foreclosure, which was not disputed by the appellant. Being purchased out of foreclosure would indicate there may be elements of duress or compulsion to buy or sell. Second, the board of review provided information on five sales that had varying degrees of similarity with the subject property. These properties sold from November 2008 to September 2009 for prices ranging from \$1,100,000 to \$2,000,000 or from \$228.83 to \$361.27 per square foot of living area, including land. These sales indicate the subject's purchase price of \$430,000 or \$94.40 per square foot of living area, including land, is not indicative of fair cash value for assessment purposes.

The Board finds; however, a reduction in the assessment is warranted based on the deputy assessor's acknowledgement that the subject had an unfinished kitchen and bathrooms that were partially finished.

In conclusion the Board finds a reduction in the subject's assessment is justified.

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: April 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.