



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

APPELLANT: Christine Tham
DOCKET NO.: 10-00176.001-R-1
PARCEL NO.: 07-01-26-405-003-0000

The parties of record before the Property Tax Appeal Board are Christine Tham, the appellant, by attorney Edwin M. Wittenstein of Worsek & Vihon, in Chicago, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$28,016
IMPR: \$80,014
TOTAL: \$108,030

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel is improved with a two-story single family dwelling that contains 4,094 square feet of living area. The dwelling is 8 years old and features a basement, central air conditioning, a fireplace and a two-car garage. The property is located in Bolingbrook, Wheatland Township, Will County.

The appellant through legal counsel submitted a residential appeal contending overvaluation based on a recent purchase of the subject property. In support of the appeal, the appellant completed Section IV indicating the subject property was purchased in July 2009 for a price of \$325,000 or \$79.38 per square foot of living area, including land. The appellant indicated the subject property was sold by First Midwest Bank, the parties to the transaction were not related and the property was sold using Meus Realty with agent Ted Meus after having been advertised on the open market with using the Multiple Listing Service for 30 days. The copy of the Settlement Statement also disclosed a sales price of \$325,000.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$108,323 so as to reflect the purchase price at the statutory level of assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$136,166 was disclosed. The subject's assessment reflects an estimated market value of approximately \$409,645 or \$100.06 per square foot of living area, including land, utilizing the 2010 three-year median level of assessments for Will County of 33.24% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

In support of the subject's assessment, the board of review submitted a letter prepared by Kelli Lord, Wheatland Township Assessor along with evidence. The township assessor noted the re-recorded PTAX-203 Illinois Real Estate Transfer Declaration concerning the sale of the subject indicated in Line 10 that the "seller/buyer is a financial institution or government agency." She further noted that the seller was First Midwest Bank "so the basis of reduction due to recent sale is not a valid argument." It is also noted that on Line 7 of the transfer declaration it indicates that the property was advertised for sale.

In a grid analysis, the assessor on behalf of the board of review presented descriptions and sales data on three comparable properties. As part of the grid, it was noted that the subject property sold in July 2009 via "warranty" for \$325,000 or \$79.38 per square foot of living area, including land. The three comparables were located in the same neighborhood code assigned by the assessor as the subject property. The comparables are improved with two-story frame dwellings that range in age from 6 to 8 years old. Each comparable has a basement and a three-car garage. Two comparables have central air conditioning and one has a fireplace. The dwellings each contain 3,930 square feet of living area. These comparables sold between August 2007 and September 2008 for prices ranging from \$415,000 to \$465,000 or from \$105.59 to \$118.32 per square foot of living area, including land.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its 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 supports a reduction in the subject's assessment.

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. 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, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 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 contends the subject's assessment should be reduced based on a recent purchase in July 2009. The evidence disclosed that the subject sold for a price of \$325,000 or \$79.38 per square foot of living area, including land. The information provided by the appellant indicated the sale had the elements of an arm's length transaction and the sale occurred only five months prior to the assessment date at issue of January 1, 2010. The Property Tax Appeal Board finds that the board of review's responsive evidence contesting the validity of the sale because the property was sold by a financial institution is not a reason on this record to disregard the reported sale price.

As a general proposition, except in counties with more than 200,000 inhabitants that classify property for taxation purposes, each tract or lot of property is to be valued at 33 1/3% of its fair cash value. 35 ILCS 200/9-145. Section 1-50 of the 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 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 forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d. 428 (1970). "Fair cash value can only be established where there is an offer, *and* an acceptance, in a *bona fide* transaction." Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 492, 559 (4th Dist. 1988) [emphasis in original]. As further stated in Residential Real Estate Co. v. Property Tax Appeal Board, 188 Ill. App. 3d 232 at 242 (5th Dist. 1989):

A contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value but would be practically conclusive on the issue of whether an assessment was at full value. [citation omitted.] However, the sale price of property does not necessarily establish its value without further information on the relationship of the buyer and seller **and other circumstances**. Citing Ellsworth Grain, *supra*, 72 Ill.App.3d 552. [Emphasis added.]

Black's Law Dictionary (9th ed. 2009) defines "arm's length" as "relating to dealings between two parties who are not related or not on close terms and who are presumed to have roughly equal bargaining power; not involving a confidential relationship."

The concept that a sale price is reflective of 'market value' also includes a number of other factors, including but not limited to, exposure on the open market for a reasonable period of time. See also, Calumet Transfer, LLC v. Property Tax Appeal Board, 401 Ill.App.3d 652 (1st Dist. 2010). In the context of condemnation proceedings and the consideration of comparable sales data to ascertain market value, the Illinois Supreme Court has previously stated:

. . . sales, when made in the free and open market, where a fair opportunity for competition has existed, become material and often very important factors in determining the value of the particular property in question. But it seems very clear that, to have that tendency, they must have been made under circumstances where they are not compulsory, and where the vendor is not compelled to sell at all events, but is at liberty to invite competition among those desiring to become purchasers.

Peoria Gaslight & Coke Co. v. Peoria Terminal Ry. Co., 146 Ill. 372 (1893). On this record, there is no evidence to contradict the assertion made by the appellant that the property was advertised as reported in the appeal petition and in the transfer declaration.

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). In light of this holding, the comparable sales submitted by the board of review have been given less weight. In addition, the Property Tax Appeal Board finds the sales presented by the board of review through the township assessor were less proximate in time to the assessment date than the sale of the subject property which detracts from the reliability of those dated sales as indicators of the estimated market value of the subject property as of January 1, 2010.

In conclusion, the Board finds the best evidence of the subject's fair market value in the record is the July 2009 sale for \$325,000. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale in the Multiple Listing Service and involved a realtor. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the

subject's market value. Thus, based on the foregoing facts and case law, the Property Tax Appeal Board finds the subject's July 2009 sale price of \$325,000 was arm's-length in nature.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$325,000 on January 1, 2010. The subject's assessment reflects an estimated market value of approximately \$409,645, which is higher than its recent arm's-length sale price. Therefore a reduction is warranted. Since the fair market value of the subject has been established, the Board finds that the 2010 three-year median level of assessments for Will County of 33.24% shall apply.

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.

Ronald R. Cuit

Chairman

[Signature]

Member

Member

[Signature]

Member

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: March 22, 2013

[Signature]

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.