



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

APPELLANT: Joe Fontana
DOCKET NO.: 10-00800.001-R-1
PARCEL NO.: 14-31-203-026

The parties of record before the Property Tax Appeal Board are Joe Fontana, the appellant, by attorney Clyde B. Hendricks, Peoria, and the Peoria 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 Peoria County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 2,880
IMPR: \$ 18,520
TOTAL: \$ 21,400

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story dwelling of frame construction that was built in 1952 and contains 864 square feet of living area. Features include central air conditioning and an 280 square foot garage. The property is located in the City of Peoria Township, Peoria County.

The appellant submitted evidence before the Property Tax Appeal Board claiming the market value of the subject property is not accurately reflected in its assessed valuation. In support of the overvaluation argument, the appellant submitted a Multiple Listing Service sheet (herein after MLS) and a Real Estate Transfer Declaration with respect to the sale of the subject property. The appellant also completed Section IV of the residential appeal petition. The MLS sheet purportedly shows the subject property was offered for sale at a listing price of \$25,000 and there was no sign on the property for advertisement. The evidence revealed that the subject property was purchased in March 2009 for \$25,250 and \$3,900 was spent on renovations prior to occupancy for total cost of \$26,150. The sale was not between family or related parties. The MLS sheet indicated the subject property was advertised for sale for only 4 days prior to the

sale. Line 8 of the Illinois Real Estate Transfer Declaration (PTAX-203) declares that the subject property was not advertised for sale.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$10,000, which reflects a market value of \$30,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$21,400 was disclosed. The subject's assessment reflects an estimated market value of \$64,594 or \$74.76 per square foot of living area including land using Peoria County's 2010 three-year median level of assessments of 33.13%.

In support of the subject's assessment, the board of review submitted property record cards and an analysis of six suggested comparable sales. The comparables are located in the subject's neighborhood code as assigned by the local assessor. The comparables consist of one-story frame dwellings that were built from 1951 to 1954. Five comparables have central air conditioning and all the comparables have attached or detached garages that range in size from 280 to 432 square feet. The dwellings contain 864 or 872 square feet of living area. The comparables sold from June 2008 to February 2010 for prices ranging from \$60,000 to \$78,000 or from \$69.44 to \$89.45 per square foot of living area including land. 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 Board further finds no reduction in the subject's assessment is warranted.

The appellant argued the subject property's assessment was not reflective of fair market value based on its March 2009 sale price of \$25,250. The board of review submitted six suggested comparable sales to support its assessment of the subject property. 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 most credible evidence contained in this record does demonstrate the subject is overvalued by a preponderance of the evidence.

The Board finds the arm's-length nature of the subject's transaction to be suspect. The MLS sheet disclosed that the subject sold for an amount slightly higher than its suggested listing price after purportedly being exposed to the market for only 4 days, which the Board finds are atypical considerations for real estate transactions in Illinois without further explanation. In this context, the Board finds the authenticity of the MLS sheet associated with the subject property is

questionable given the Real Estate Transfer Declaration recorded with the sale of the subject property. Line 8 of the declaration indicates that the subject property was not advertised for sale, which is a key element of consideration to determine whether a particular property's transaction was arm's-length. The Board finds the Real Estate Transfer Declaration calls into question the arms-length nature of the transaction and the credibility of the evidence submitted by the appellant. Thus, Board has no confidence with respect to the reported purchase price of the subject property since the appellant presented contradictory evidence with respect to whether the subject property was advertised for sale or exposed to the open market. As a result, the Board gave little weight to the subject's transaction for market value consideration. The Board hereby takes notice of the Real Estate Transfer Declaration provides in pertinent part:

Any person who willfully falsifies or omits any information required in this declaration shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses. Any person who knowingly submits a false statement concerning the identity of the grantee shall be guilty of a Class C misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses.

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). 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)

Illinois Courts has 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). Recognized sources further demonstrate the fact a property must be advertised or exposed in the open market to be considered an arm's-length transaction that is reflective of fair market value. Black's Law Dictionary (referencing Bourjois, Inc. v. McGowan and Lovejoy v. Michels (citation omitted)), states:

"the price a property would command **in the market**"
(Emphasis added).

This language shows a property must be publicly offered for sale in the market to be considered indicative of fair market value. The Board finds there are other credible sources that specify a property must be advertised for sale in the open market to be considered an arm's-length transaction. The Dictionary of Real Estate Appraisal [American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983)], provides in pertinent part:

The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell **in a competitive market** under all conditions requisite to fair sale; The property is **exposed for a reasonable time on the open market**.

Additionally, the Property Assessment Valuation, 2nd edition, states: Market value is the most probable price, expressed in terms of money, that a property would bring if **exposed for sale in the open market** (Emphasis added) in an arm's-length transaction between a willing seller and a willing buyer; a reasonable time is allowed for **exposure to the open market**. (Emphasis added). (International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996)).

With the credibility of an arm's-length transaction diminished in this appeal, Illinois courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989). The Board finds the board of review submitted information for six suggested comparable sales. The Board gave little weight to comparable sales 4, 5 and 6. These sales occurred in 2008, which are less reliable indicators of market value as of the subject's January 1, 2010 assessment date. The Board finds comparables 1, 2 and 3 are most similar to the subject in location, age, style, size, features and sold more proximate to the subject's January 1, 2010 assessment date. They sold from April 2009 to February 2010 for prices ranging from \$60,000 to \$78,000 or from \$69.44 to \$89.45 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$64,594 or \$74.76 per square foot of living area including land, which falls within the range established by the most similar comparable sales contained in the record. After considering adjustments to the most similar comparables for any differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is supported by a preponderance of the most credible market value evidence contained in the record. Therefore, no 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: April 19, 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.