AMENDED
FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Agnieszka Pieta
DOCKET NO.: 10-01967.001-R-1
PARCEL NO.: 03-16-109-028

The parties of record before the Property Tax Appeal Board are Agnieszka Pieta, the appellant, 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:	$20,140
IMPR.:	$20,895
TOTAL:	$41,035

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story dwelling of brick and frame construction containing 1,217 square feet of living area.[1] The dwelling was constructed in 1956 or is 54 years old. Features of the home include a crawl-space foundation and a detached two-car garage of 440 square feet of building area.[2] The property has an 11,250 square foot site and is located in Wood Dale, Addison Township, DuPage County.

The appellant's appeal is based on overvaluation of the subject property as of the assessment date of January 1, 2010. In support of this argument, the appellant submitted data related to a recent purchase of the subject property, data on four suggested comparable sales and an appraisal of the subject property along with a brief discussing the evidence. Each contention will be considered herein.

[1] The appellant's appraiser reports a dwelling size of 1,269 square feet with a schematic drawing to support the contention. Both the appellant and the board of review reported a dwelling size of 1,217 square feet. The Board finds that the slight variance in dwelling size is not critical to a determination of the subject's correct assessment, but for purposes of this decision the size reported by the appellant and assessor have been utilized.
[2] The appellant's appraiser reported the subject dwelling enjoys central air conditioning whereas neither the appellant nor the assessing officials noted this feature in the subject dwelling.

In Section IV – Recent Sale Data of the Residential Appeal petition and in an accompanying brief, the appellant indicated that the subject property was purchased in October 2009 for a price of $110,000. The appellant reported the subject property was sold by the owner, Robert Mikulski. The appellant further reported that the property was advertised for sale in the Multiple Listing Service, but provided no length of such marketing and provided no copy of the listing sheet. The parties to the transaction were not related and the appellant reported expending $5,000 in renovations before occupying the property in November 2009. The appellant also submitted a copy of the Settlement Statement disclosing a sales price of $110,000 which also revealed there were no sales commissions paid as part of the transaction.

The appellant also completed Section V of the appeal petition with information on four comparable sales of properties, where comparable #1 is also sale #1 in the appraisal report. The comparables are either in the same block as the subject or up to 1.3-miles from the subject property. The parcels range in size from 7,500 to 14,742 square feet of land area. The lots are improved with either one-story, 1.5-story or two-story dwellings of brick or frame construction. The homes range in age from 51 to 68 years old. The dwellings range in size from 528 to 1,498 square feet of living area and two of the comparables have partial unfinished basements. Each property also has a garage ranging in size from 352 to 480 square feet of building area. The properties sold from March 2009 to August 2010 for prices ranging from $83,000 to $115,000 or from $55.41 to $160.98 per square foot of living area, including land.

The appellant's appraisal estimates the subject property had a market value of $100,000 as of November 19, 2010. The appraisal was prepared by Carlo Salamanca, a State of Illinois Certified Residential Real Estate Appraiser. In estimating the market value of the subject property, the appraiser developed the cost and the sales comparison approaches to value.

The appraiser reported the subject had a sale that was recorded in February 2010 for $110,000 "by owner with no MLS [Multiple Listing Service] marketing." The appraiser also considered market conditions and prepared a Market Conditions Addendum to the Appraisal Report not that currently there were twelve pending sales with a median value of $231,000 and an average market time of 290 days.

Under the cost approach, the appraiser estimated the subject had a site value of $50,000. The appraiser estimated the replacement cost new of the improvements to be $143,805 using local builder's data. The appraiser estimated physical depreciation to be $37,800 using the age/life method resulting in a depreciated improvement value of $106,005. The appraiser also estimated the site improvements had a value of $12,000. Adding the various components, the appraiser estimated the subject property had an

estimated market value of $168,000 under the cost approach to value.

Using the sales comparison approach, the appraiser provided information on six comparable sales, one of which was pending. The comparables were described as one-story dwellings of brick, frame or frame and masonry construction that ranged in size from 1,026 to 1,766 square feet of living area. The dwellings range in age from 37 to 73 years old. Three of the comparables include a full basement, two of which include finished area and one of these also has a bathroom. Each dwelling has central air conditioning and five of the comparables have a one-car or a two-car garage. The comparables have sites ranging in size from 7,400 to 22,199 square feet of land area. The comparables sold from April to October 2010 for prices ranging from $87,000 to $139,900 or from $55.98 to $136.35 per square foot of living area, including land.

The adjustments were briefly discussed in the report including that quality of construction related to the amount of brick versus frame exterior construction and land size related to frontage. After making adjustments to the comparables for the pendency of the sale and/or for differences from the subject the appraiser estimated the comparables had adjusted prices ranging from $82,910 to $106,200 or from $52.74 to $98.63 per square foot of living area, including land. Based on this data the appraiser estimated the subject had an estimated value under the sales comparison approach of $100,000 or $82.17 per square foot of living area, including land.

In reconciling the two approaches to value the appraiser gave most weight to the sales comparison approach to value and estimated the subject property had a market value of $100,000 as of November 19, 2010.

In the brief, the appellant listed three additional addresses with a sale date, a sale price and proximity to the subject, but provided no other substantive details as to the improvements on these properties such as design, age and dwelling size for a true comparison of similarities and/or dissimilarities to the subject property. As such, the Board has not analyzed these three sales because the appellant provided insufficient evidence for comparison.

Based on this evidence, the appellant requested a reduction in the subject's assessment at one-half of the current 2010 land, improvement and total assessments or a total of $41,035. This reduction would reflect a market value of approximately $123,105 or $101.15 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $82,070 was disclosed. The subject's assessment reflects a market value of $246,605 or $202.63 per square foot of living area, including land, when applying the 2010 three year average median level of

assessment for DuPage County of 33.28% as determined by the Illinois Department of Revenue.

In support of the subject's assessment the board of review submitted Exhibit 1 consisting of a memorandum and spreadsheet prepared by Dawn Aderholt of the Addison Township Assessor's Office. As to the purchase of the subject property, the assessor's office contends the purchase was "from the neighbor as a cash sale" and a mortgage was later taken out on the property. As such, the assessor contends "this purchase would not be considered arm's length due to the purchase made by an adjacent owner."

As to the appraisal report, the assessor's office contends that the gross adjustments that range from 20.8% to 51.2% "are indicative that the comparables may not be comparable." The assessor further asserts such adjustments are "excessive." Sales #1, #4, #5 and #6 are reportedly "out of the area" with citation to a map, although no map was provided with the submission by the assessor. The assessor also wrote "majority of sales were stressed sales."

The assessor provided information on six comparable sales, one of which is located in the same neighborhood code assigned by the assessor as the subject property. The parcels range in size from 4,125 to 9,450 square feet of land area. The lots are improved with one-story dwellings of brick construction that range in size from 1,188 to 1,363 square feet of living area. The dwellings were constructed from 1964 to 1985. Features of the comparables include a full basement, three of which include some finished area. Five of the comparables have central air conditioning and three have a fireplace. Each comparable has a garage ranging in size from 262 to 576 square feet of building area. The comparables sold from February 2009 to September 2010 for prices ranging from $207,000 to $245,000 or from $156.23 to $206.23 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 a reduction in the subject's assessment is warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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); 86 Ill.Admin.Code §1910.63(e). 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 appellant met this burden of proof and a reduction in the subject's assessment is warranted.

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). For purposes of the sale of the subject property, both the appellant's appraiser and the board of review contend that the property was not exposed on the open market prior to its sale. Since the appellant failed to provide evidence of the listing of the property and failed to rebut the contention after receiving the board of review's evidence, the Property Tax Appeal Board finds the best evidence in the record is that the sale of the subject property in October 2009 was not openly advertised in the open market place prior to its sale and thus, this reported sale of the subject property cannot be deemed conclusive as to the property's estimated market value.

Next, the Board has given little weight to the four comparable sales presented by the appellant. Comparables #2 and #3 differed from the subject by being two-story and 1.5-story dwellings, respectively, as compared to the subject's one-story design in addition to the fact that each of these homes have a partial basement which is not present in the subject property. The appellant's comparable #4 consists of a dwelling that is less than one-half the size of the subject home and therefore is also not a suitable comparable to the subject. As one sale is insufficient to establish overvaluation and since appellant's comparable sale #1 was utilized by the appraiser, this property will be addressed in consideration of the entire appraisal report. Additionally, the Property Tax Appeal Board has given little weight to the six comparable sales presented by the board of review as overall the dwellings are substantially newer than the subject and the dwellings each feature a full basement whereas the subject has a crawl-space foundation. Thus, the Board finds that the sales presented by the board of review were all substantially superior to the subject in age and foundation. These characteristics of the comparables presented by the board of review would justify a greater value than the subject property and cannot be deemed to be adequately similar to the subject without substantial downward adjustments for these differences. Finally, the Board notes that the subject's estimated market value of $246,605 or $202.63 per square foot of living area, including land, is above all of the sales presented by the board of review in terms of overall price and at the high end of the range on a per-square-foot basis, despite the subject's crawl-space foundation, purported lack of central air conditioning according to the records of the assessing officials and the

subject's greater overall age to these suggested comparable sales.

Considering the entirety of this record, the Board finds the best evidence of market value to be the appraisal of the subject property submitted by the appellant along with some consideration to the purchase price which was proximate in time to the assessment date of January 1, 2010. The appellant's appraiser developed the cost and sales comparison approaches to value and gave most weight to the sales comparison approach. The sales utilized by the appraiser were similar to the subject in size, style, exterior construction, features, age and land area. While the appraisal has a valuation date of November 2010, which is 11 months after the valuation date at issue of January 1, 2010, the Property Tax Appeal Board finds the appellant's appraisal is supportive evidence of overvaluation in the record. Both the purchase price and the appraised value are below the market value reflected by the assessment. In addition, the appellant reported expending $5,000 in renovations after purchase and before occupying the subject property. As a consequence, the renovations presumably increased the property's value slightly as of the assessment date of January 1, 2010.

The Property Tax Appeal Board has examined all of the information submitted by both parties and finds the evidence supports a reduction in the assessed valuation of the subject property commensurate with the appellant's request.

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.

Chairman

Member

Member

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: June 21, 2013

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.