



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

APPELLANT: Golden Hwang
DOCKET NO.: 10-02002.001-R-1
PARCEL NO.: 15-15-354-021

The parties of record before the Property Tax Appeal Board are Golden Hwang, the appellant, by attorney Ronald M. Justin, of RMR Property Tax Solutions, in Hawthorn Woods, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$10,190
IMPR.: \$34,813
TOTAL: \$45,003

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property¹ is improved with a two-story single-family dwelling of frame construction. The dwelling was constructed in 1927. Features of the home include a detached garage. The property is located in Aurora, Aurora Township, Kane County.

The appellant appeared before the Property Tax Appeal Board through legal counsel contending the subject property was overvalued in light of its recent sale. In support of this market value argument, the appellant's counsel filed a brief citing various Illinois cases along with evidence disclosing the subject property was purchased on May 22, 2009 for a price of \$65,000. The appellant completed Section IV - Recent Sale Data

¹ Descriptive details of the property have been drawn from Multiple Listing Service data sheet submitted by the appellant. The appellant failed to complete Section III - Description of Property. The board of review failed to provide a copy of the subject's property record card (86 Ill.Admin.Code §1910.40(a)).

of the appeal petition disclosing the parties to the transaction were not related and the property was sold using a Realtor firm of Goldtree Realty with agent Ira Mizell. Furthermore, the property had been advertised on the open market with the Multiple Listing Service for 98 days prior to its sale. Among the remarks on the listing sheet is the statement, "In need of repairs and updates."

No witness was presented by the appellant to testify as to the purchase process, negotiations and/or the condition of the subject property at the time of purchase.

In further support of the transaction, the appellant submitted a copy of the Multiple Listing Service sheet which depicted an original asking price of \$86,900 and a listing date of January 16, 2009 and a subsequent price reduction to \$69,900 prior to its sale. The appellant also submitted a copy of the Settlement Statement which reiterated the date of sale and contractual sales price and two commission payments.

Based on this evidence and applicable case law, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review - Notes on Appeal" wherein the subject's total assessment of \$51,242 was disclosed. The subject's assessment reflects a market value of \$153,603, when applying the 2010 three year average median level of assessment for Kane County of 33.36% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review representative Michael Madziarek contended the subject property was sold "as is" and was noted to be in need of repairs and updates such that the condition of the property was probably fairly poor, if not worse. He further noted that the board of review had no additional information regarding the transaction other than what was set forth in the Multiple Listing Service sheet.

In support of the subject's estimated market value as reflected by its assessment, the board of review submitted a copy of a "cancelled" Multiple Listing Service sheet depicting a listing of the subject property on August 28, 2009 for \$134,900 which was cancelled or taken off the market on November 2, 2009. Among the remarks on the document was, "Nicely rehabbed West

Side Home with large kitchen, new appliances, 2 car garage, beautiful yard space and great bedroom configurations."

Also attached to the board of review's submission was a printout depicting that in July 2009 a mortgage in the amount of \$90,025 was issued concerning the subject property.

The board of review did not specifically address nor challenge the subject's sale price.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.²

After hearing the testimony and considering the record, 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. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 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); 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

² Prior to the hearing, the board of review proposed a reduction in the subject's assessment to \$42,866 which would reflect a market value of approximately \$128,598 which had been rejected by the appellant and thus this hearing proceeded. Given the duty of assessing officials to comply with the requirements of the Property Tax Code and assess properties at 33.33% of fair cash value, the Board finds the proposal by the board of review prior to the hearing is tantamount to an admission that the 2010 assessment of the subject property was in error.

construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the preponderance of the evidence supports a reduction in the subject's assessment.

The Board finds the purchase price of \$65,000 is below the market value reflected by the assessment of \$153,603. The appellant provided evidence demonstrating the sale of the subject property on May 22, 2009 for a price of \$65,000 had the elements of an arm's-length transaction. The subject was advertised for sale and the buyer and seller were not related parties. At the time of sale, the subject property was in need of repairs and updating.

The Property Tax Appeal Board also finds the board of review did not present any substantive evidence to challenge the arm's-length nature of the May 2009 transaction. However, to refute the contention that the purchase price of \$65,000 in May 2009 was reflective of market value as of the assessment date of January 1, 2010, the board of review submitted a copy of a listing for the subject property that occurred in August 2009 and reflected the subject property after rehabilitation with an asking price of \$134,900.

Based on the subsequent listing of the subject property which was more proximate in time to the assessment date, the Board gave less weight to the subject's sale price of \$65,000 that occurred in May 2009 and gave greater weight to the asking price of the subject property that occurred in August 2009. The Board finds the best evidence of the subject's estimated market value as of the assessment date is more accurately reflected in its asking price in August 2009 than in its sale price in May 2009.

Based on this record, the Board finds the subject property is overvalued as of the assessment date of January 1, 2010 and a reduction in the subject's assessment commensurate with the listing price in August 2009 is appropriate.

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: January 24, 2014



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.