



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

APPELLANT: Bruce Stark
DOCKET NO.: 10-02016.001-R-1
PARCEL NO.: 03-26-126-017

The parties of record before the Property Tax Appeal Board are Bruce Stark, 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: \$10,000
IMPR.: \$16,688
TOTAL: \$26,688**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property¹ is improved with a one-story single-family dwelling of frame construction. The dwelling contains approximately 912 square feet of living area and was constructed in 1974. Features of the home include a full basement with finished area, central air conditioning and a 480 square foot garage. The property has a 13,640 square foot site and is located in East Dundee, Dundee 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 October 6, 2009 for a price of \$80,000. The appellant completed Section IV - Recent Sale Data

¹ Descriptive details of the subject property have been drawn from the property record card submitted by the board of review as the appellant failed to complete Section III - Description of Property.

of the appeal petition disclosing the parties to the transaction were not related and the property was sold using a Realtor firm of Unico Realty with agent Susana Padilla. Furthermore, the property had been advertised on the open market with the Multiple Listing Service for 11 days prior to its sale.

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 \$73,300 and a listing date of September 14, 2009. Among the remarks on the document is a statement "seller will pay up to 3% of the sales price towards Buyers closing costs."

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 \$42,849 was disclosed. The subject's assessment reflects a market value of \$128,444 or \$140.84 per square foot of living area, including land, 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 case law provides that a sales contract may be a "good sale" that should be looked at as market value, but where there is only a sales contract the terms of the transaction should also be examined along with any further evidence that would also support "a market value." Such that a contract alone is not necessarily market value, but it could be market value. "One sale does not make a market and we do need further evidence to support whether -- the sales contract price is truly market or not."

In support of the subject's estimated market value as reflected by its assessment, the board of review submitted a grid analysis with information on three comparable sales located in the same neighborhood code assigned by the assessor as the subject property and from .86 to 1.12-miles from the subject. The comparables are improved with one-story dwellings of frame or

brick exterior construction. Dwelling sizes range from 1,082 to 1,168 square feet of living area. The dwellings were built between 1871 and 1956. Each comparable has a basement, one of which includes finished area. One of the homes has a fireplace, one comparable has central air conditioning and one comparable has a finished attic of 690 square feet. Each comparable has a garage ranging in size from 286 to 528 square feet of building area. These three properties sold from June 2008 to February 2009 for prices ranging from \$160,000 to \$220,000 or from \$145.06 to \$188.36 per square foot of living area, including land. As part of the grid analysis, the board of review also reported the subject's sale on October 1, 2009 for \$80,000 or \$87.72 per square foot of living area, including land. Similarly, the property record card reflects the sale date and price with a transfer via Special Warranty Deed. Also a permit for "home maintenance" was shown on the card with a date of November 6, 2009.

As part of the submission, the board of review also asserted that the sale of the subject property included parcel 03-26-126-039, a 5,157 square foot vacant parcel.

At hearing, the board of review called Bonnie Wilcox, Chief Deputy Assessor in Dundee Township, for testimony. She outlined data concerning the comparables that were presented.

The board of review did not specifically address nor challenge the subject's sale price and did not provide any information as to the purchase process, negotiations and/or the condition of the subject property at the time of purchase.

Madziarek further opined, based on the seller's willingness to pay toward the buyer's closing costs, this was an indicator of the seller's "desire to move the property off of their books." Furthermore, despite the case law regarding the sale of the subject property, he contended that "we need more evidence" to support the conclusion that a sale price is reflective of market value. Based on this evidence and argument, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

In rebuttal, counsel for the appellant noted that the comparable sales presented by the board of review were in fact dissimilar to the subject in size, exterior construction, features, finished basement and/or finished attic areas.

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). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). 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.

The Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property on October 6, 2009 for a price of \$80,000. The appellant provided evidence demonstrating the sale had the elements of an arm's-length transaction. The subject was advertised for sale and the buyer and seller were not related parties.

As argued by the board of review, the Illinois courts have stated that 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. Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172

Ill.App.3d 552 (4th Dist. 1988). As set forth in this record, the board of review failed to adequately rebut the apparent arm's-length nature of the sale transaction in that the only evidence of record is that the buyer and seller were not related, the property was open and exposed on the market for a period of time and sold for \$80,000 on October 6, 2009, two months before the assessment date at issue of January 1, 2010.

Additionally, the Board finds the purchase price of \$80,000 is below the market value reflected by the assessment of \$128,444. Moreover, the original listing price of \$73,300 for the subject property at the time of marketing in September 2009 was also less than the estimated market value as reflected by its 2010 assessment. Furthermore, the Property Tax Appeal Board finds the board of review did not present any substantive evidence to challenge the arm's-length nature of the transaction or to refute the contention that the purchase price was reflective of market value. The Board gave less weight to the comparables submitted by the board of review finding that they do not refute the arm's-length sale price evidence presented by the appellant in addition to the fact that the comparables were dissimilar to the subject in various respects. Furthermore, but for comparable #3, the sales were not proximate in time to the assessment date at issue of January 1, 2010 as comparables #1 and #2 sold in June and November of 2008. To the extent that comparable #3 sold closer in time to the assessment date, this dwelling was over 100 years older than the subject, has a larger living area and features a 690 square foot finished attic.

Based on this record, the Board finds the appellant demonstrated by a preponderance of the evidence that the subject property was overvalued. The best evidence in the record is that the subject property had a market value of \$80,000 as of January 1, 2010. Since market value has been determined the 2010 three year average median level of assessment for Kane County of 33.36% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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

K. L. Fern

Member

Tracy 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: January 24, 2014

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.