



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

APPELLANT: Carlos Salgado
DOCKET NO.: 10-02089.001-R-1
PARCEL NO.: 02-36-253-017

The parties of record before the Property Tax Appeal Board are Carlos Salgado, 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: \$17,045
IMPR.: \$65,688
TOTAL: \$82,733

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 contains approximately 2,290 square feet of living area and was constructed in 2002. Features of the home include a full unfinished basement, central air conditioning and an attached garage. The property is located in Gilberts, Rutland 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

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

citing various Illinois cases along with evidence disclosing the subject property was purchased on September 25, 2009 for a price of \$248,000. The appellant completed Section IV - Recent Sale Data of the appeal petition disclosing the parties to the transaction were not related and the property was sold using a Realtor firm of ReMax with agent Mark Goff. Furthermore, the property had been advertised on the open market with the Multiple Listing Service for 212 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 \$289,900 and a listing date of October 6, 2008, with a subsequent price reduction to \$254,900. The remarks section on the document state in pertinent part:

Bank approved short sale at \$248K Bank will not supply survey) Home shows like a model*Absolutely move-in condition*Yes this home is a pre-foreclosure, however, does not show like one! . . .Super clean . . .

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 \$89,203 was disclosed. The subject's assessment reflects a market value of \$267,395 or \$116.77 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.

In support of the subject's estimated market value as reflected by its assessment, the board of review submitted a copy of the PTAX-203, Illinois Real Estate Transfer Declaration regarding the subject's September 2009 sale noting the property was not advertised for sale prior to the transaction, but the property did transfer via Warranty Deed. Also presented was a grid analysis with information on three comparable sales located in the either Timber Trails Unit 2 or Unit 2A whereas the subject was located in Timber Trails Unit 8. The comparables are improved with two-story dwellings of frame or frame and masonry exterior construction. Each dwelling contains 2,290 square feet of living area and the dwellings were built in 2001 or 2004. Each home has central air conditioning, a full or partial basement and a garage of either 409 or 418 square feet of building area. These properties sold from July to November 2007 for prices ranging from \$297,500 to \$365,000 or from \$129.91 to \$159.39 per square foot of living area, including land. As part of the grid analysis, also reported was the subject's sale on September 1, 2009 for \$248,000 or \$108.30 per square foot of living area, including land.

At hearing, the board of review called Bonnie Wilcox, Chief Deputy Assessor in Dundee Township, for testimony. She discussed the evidence gathered by the Rutland Township Assessor and noted various similarities and differences between the comparables and the subject property. She also noted that despite the Multiple Listing Service sheet regarding the property, the PTAX-203 was marked that the property was not advertised prior to its sale.

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 although reference was made to the case of Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 552 (4th Dist. 1988). Madziarek argued that other facts and circumstances should include other area sales that show that the sale price is not reflective of market value.

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 September 25, 2009 for a price of \$248,000. 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 \$248,000 on September 25, 2009,

three months before the assessment date at issue of January 1, 2010. Moreover, the board of review presented sales that occurred between July to November 2007, which was at least 25 months prior to the assessment date of January 1, 2010 without any evidence that sales this far removed from the assessment date would be indicative of the subject property's estimated market value as of January 1, 2010.

Additionally, the Board finds the purchase price of \$248,000 is below the market value reflected by the assessment of \$267,395. Additionally, while the original listing price of \$289,900 for the subject property at the time of marketing in October 2008 is higher than its 2010 assessment, the property was eventually offered for \$254,900 and subsequently sold for \$248,000, both of which are 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 sufficiently refute the sale. The board of review also did not refute the contention that the purchase price was reflective of market value at the time of sale. 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 and that the sales occurred at a date far removed from the assessment date so are not to be indicative or relevant to estimating the subject's market value as of January 1, 2010.

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 \$248,000 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

JR

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.