



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

APPELLANT: Timothy Ramseyer
DOCKET NO.: 10-02140.001-R-1
PARCEL NO.: 06-15-278-007

The parties of record before the Property Tax Appeal Board are Timothy Ramseyer, 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: \$11,660
IMPR.: \$8,356
TOTAL: \$20,016

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property¹ is improved with a 1.5-story dwelling of frame construction. The dwelling was constructed in 1930. Features of the home include a full basement with finished area and a detached 1.5-car garage. The property has a less than .25-acre site and is located in Elgin, Elgin 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 data sheet submitted by the appellant with the appeal petition as 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 as required by the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.40(a)) or any other descriptive information regarding the subject.

citing various Illinois cases along with evidence disclosing the subject property was purchased on May 8, 2009 for a price of \$60,000. The appellant completed Section IV - Recent Sale Data of the appeal petition disclosing the parties to the transaction were not related, the property was sold using a Realtor firm of Tanis Group Realty with agent Joseph Mueller, and the property had been advertised on the open market with the Multiple Listing Service for 64 days prior to its sale. At hearing, counsel further reported that both the buyer and seller were represented by real estate agents at the time of the transaction.

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 \$84,900 and a listing date of February 16, 2009. The listing sheet for subject indicates the property was sold "as is." There was also a comment that the seller would make no repairs nor provide a disclosure or survey.

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 \$48,063 was disclosed. The subject's assessment reflects a market value of \$144,074, 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 Kevin Schulenburg contended that "one sale does not make the market value on a property," the subject was an REO² and it was a cash transaction. Thus, based on these facts and other sales that occurred in the neighborhood, the board of review does not feel that the sale transaction was indicative of the subject's true market value.

In support of the subject's estimated market value as reflected by its assessment, the board of review submitted information on 14 comparable sales as set forth in 14 separate Multiple Listing

² An REO property is one that a bank or other financial institution now owns after an unsuccessful sale at a foreclosure auction. William Roark (2006), *Concise Encyclopedia of Real Estate Business Terms*.

Service sheets. As the board of review failed to provide an analysis or summary of its fourteen suggested comparables identifying their design, age, dwelling size and/or other features or characteristics which would reflect that these properties were similar in various respects to the subject, the limited details of these properties have been taken from the data available in the various listing sheets.

The 14 comparables are improved with four 1-story, eight 1.5-story, a part 1-story and part 1.5-story and a 2-story dwelling of frame, brick or frame and masonry exterior construction. Dwelling sizes were stated for 6 of the 14 comparables that range from 1,170 to 1,492 square feet of living area. Dates of construction were stated for 9 of the 14 dwellings presenting a range of 1899 to 1957. The locations of these comparables in relation to the subject were not provided in the board of review's submission. These 14 properties sold from July 2008 to July 2011 for prices ranging from \$80,000 to \$165,000. The listing sheets depict that days on the market for these properties range from 6 to 245 days.

At hearing, the board of review called Steven Surnicki, the Elgin Township Assessor, for testimony. He acknowledged that there were some "short sales" and some foreclosure sales among the sales that were presented. In addition, these sales were from the subject's neighborhood as defined of the Greater Washington Heights neighborhood.

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.

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 May 8, 2009 for a price of \$60,000. 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. The board of review failed to adequately rebut the apparent arm's-length nature of the transaction.

Additionally, the Board finds the purchase price of \$60,000 is below the market value reflected by the assessment of \$144,074. The 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.

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 \$60,000 as of January 1, 2010. Since market value has been determined the 2010 three

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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.



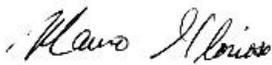
Chairman



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.