



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

APPELLANT: Dean Bisconti
DOCKET NO.: 10-03487.001-R-1
PARCEL NO.: 07-06-100-038

The parties of record before the Property Tax Appeal Board are Dean Bisconti, the appellant, by attorney Laura Godek of Laura Moore Godek, PC, in McHenry, 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: \$39,910
IMPR: \$96,540
TOTAL: \$136,450

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame and masonry construction containing 3,400 square feet of living area. The dwelling was constructed in 1999. Features of the home include a full finished basement, central air conditioning, a fireplace and a three-car garage. The property has a 10,759 square foot site and is located in Aurora, Naperville Township, DuPage County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted evidence regarding a recent purchase price, an appraisal of the subject property and a grid analysis of four suggested comparable sales.

In Section IV - Recent Sale Data of the appeal petition, the appellant through legal counsel disclosed the subject property was purchased on April 30, 2010 for a price of \$410,000. The appellant also reported the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 23 months. Numerous attachments further support the details of the transaction. The Multiple Listing Service sheet depicts the original listing price as \$499,900 in August 2009. In the remarks on the sheet, the

agent noted "pursuant to short sale." The Listing & Property History Report depicts the original listing price having been \$589,900 in May 2008, which supports the appellant's contention of a marketing time of 23 months. The Settlement Statement also depicts the sale price and the payment of sales commissions. The PTAX-203 Illinois Real Estate Transfer Declaration further indicates the property was advertised for sale. The Multi-Board Residential Real Estate Contract discloses the purchase price of \$410,000.

In further support of the appeal, the appellant submitted a copy of an appraisal of the property prepared for refinance transaction. The appraisal estimates the subject property had a market value of \$455,000 as of August 31, 2010. Additionally, the appellant provided a grid analysis of four sales.

Based on this evidence, 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 Appeals" wherein the subject's total assessment of \$176,350 was disclosed. The subject's assessment reflects a market value of \$529,898 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.

The board of review submitted its Addendum along with Exhibit 1 which was prepared by the Naperville Township Assessor's Office. The board of review criticized the appraisal as not reflecting "ad valorem assessment value," having a valuation date nine months after the assessment date of January 1, 2010 and having been prepared for a mortgage finance transaction.

The assessor prepared a memorandum and acknowledged that the subject property was purchased in April 2010 for \$410,000. However, the "listing sheet indicates that it was a short sale. For assessing purposes, this sale will be looked at in 2011." The assessor further noted that both the purchase and the appraisal were "after the 1/1/2010 assessment date." As a final matter, the assessor contended based on a copy of the Multiple Listing Service sheet that the subject property was listed on the market for only 135 days "with an original list price of \$499,900."

In support of the subject's estimated market value as reflected by its assessment, the assessor provided a two-page spreadsheet with information on six comparable sales. The comparables are improved with two-story dwellings of frame and masonry construction that range in size from 3,127 to 4,070 square feet of living area. The dwellings were constructed in 1999 or 2000. Each has the same neighborhood code as the subject property. The comparables sold from February 2008 to February 2010 for prices ranging from \$520,000 to \$605,000.

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. 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). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983). 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 Board finds the best evidence of market value of the subject property as of January 1, 2010 to be the purchase price of the subject property on April 30, 2010 for a price of \$410,000, which was a mere four months after the assessment date at issue. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction including having been listed with a Realtor and being advertised in the Multiple Listing Service since May 2008 with an original asking price of \$589,900.

The Board finds the purchase price of \$410,000 is below the market value of \$529,898 reflected by the assessment. The Board finds the board of review through the assessor noted the property was a "short sale," but the assessor 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 for the subject property.

Based on this record the Board finds the subject property had a market value of \$410,000 as of January 1, 2010. Since market value has been determined the 2010 three year average median level of assessment for DuPage County of 33.28% 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank 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: October 18, 2013

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.