



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

APPELLANT: Jeff Dubose
DOCKET NO.: 10-03551.001-R-1
PARCEL NO.: 03-36-108-016

The parties of record before the Property Tax Appeal Board are Jeff Dubose, the appellant, by attorney Brian P. Liston of the Law Offices of Liston & Tsantilis, P.C., Chicago; 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: \$51,140
IMPR.: \$38,660
TOTAL: \$89,800

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story brick and frame dwelling containing 1,738 square feet of living area that was built in 1950. Features include an unfinished basement and a detached 576 square foot garage. The dwelling is situated on a 7,860 square foot lot. The subject property is located in Addison Township, DuPage County.

The appellant submitted evidence before the Property Tax Appeal Board through legal counsel claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a warranty deed and Real Estate Transfer Declaration. The documents indicate the subject property sold in May 2005 for \$330,000. Line 7 of the Real Estate Transfer Declaration indicates the property was not advertised for sales or sold using a real estate agent. Line 10b of the Real Estate Transfer Declaration indicates that sale was between related individuals or corporate affiliates. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeals" wherein the subject property's final assessment of \$120,220 was disclosed. The subject's assessment reflects an estimated market value of \$361,238 or \$207.85 per square foot of living area including land using DuPage County's 2010 three-year median level of assessments of 33.28%.

In support of the subject's assessment, the board of review submitted photographs, a location map and an analysis of three suggested comparable sales. The comparables are located in close proximity to the subject. The comparables consist of two-story frame dwellings that were built from 1947 to 1952. The dwellings range in size from 1,560 to 2,172 square feet of living area. Comparable A1 has full basement that is partially finished; comparable A2 has an partial unfinished basement; and comparable A5 does not have a basement. Comparable A1 has central air conditioning. Each comparable has a detached garage that contain 360 or 528 square feet. The dwellings are situated on lots that contain 7,800 or 7,920 square feet of land area. The comparables sold from December 2006 to March 2010 for prices ranging from \$260,000 to \$372,000 or from \$140.42 to \$238.46 per square foot of living area including land. 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 property's assessment is warranted.

The appellant argued the subject property's assessment was not reflective of its fair market value. When market value is the basis of the appeal, the value 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). The Board finds the board of review's evidence supports a reduction in the subject's assessment.

The Board gave no weight to the subject's May 2005 sale price as a reliable indicator of fair market value for multiple reasons. First, the Board finds the subject's sale occurred over four and one-half years prior to the subject's January 1, 2010 assessment date. More importantly, the Board finds the subject's sale does not meet the key fundamental elements of an arm's-length transaction. The Illinois Supreme Court has defined fair cash value as 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). In addition, Section 1-50 of the Property Tax Code defines fair cash value as:

The 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 Board finds the of the Real Estate Transfer Declaration shows the subject property was not advertised or exposed for sale on the open market. Therefore, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price. Furthermore, the Real Estate Transfer Declaration indicates the sale was between related individuals or corporate affiliates. These facts demonstrate the subject's sale was not an arm's-length transaction for a credible market value consideration.

Absent an arm's-length transaction, Illinois courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989). The Board finds the board of review submitted three suggested comparable sales. The Board gave less weight to comparable A5. This suggested comparable sold in December 2006, over three years prior to the subject's January 1, 2010 assessment. Due to its date of sale, the Board finds comparable A5 is not reliable indicator of the subject's market value. The Board finds there are two comparable sales submitted by the board of review that are probative of the subject's market value and support a reduction in the subject's assessed valuation. Comparables A1 and A2 submitted by the board of review are located in close proximity to the subject and are similar to the subject in age, size, style and most features. They sold in July 2009 and March 2010 for prices of \$260,000 and \$305,000 or for \$140.42 and \$152.005 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$361,238 or \$207.85 per square foot of living area including land, which is considerably greater than the two most similar comparable sales. After considering adjustments to these comparables for differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is excessive. Therefore, a reduction is warranted.

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.