



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

APPELLANT: Kenneth Samborski
DOCKET NO.: 10-03992.001-R-1
PARCEL NO.: 14-35-151-002

The parties of record before the Property Tax Appeal Board are Kenneth Samborski, the appellant, and the McHenry County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$32,446
IMPR.: \$110,441
TOTAL: \$142,887

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame and brick construction containing 3,826 square feet of living area. The dwelling was constructed in 1992. The subject dwelling has an unfinished basement, central air conditioning, one fireplace and a three-car attached garage with 875 square feet of building area. The property has a 1.01 acre site and is located in Crystal Lake, Nunda Township, McHenry County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted information on four comparable sales described as two-story dwellings of brick, stucco and wood or brick and frame construction that range in size from 3,342 to 3,944 square feet of living area. The dwellings were constructed from 1993 to 2000. The comparables were located in Crystal Lake from 282 feet to 1.9 miles from the subject property. Each comparable has a partially finished basement, central air conditioning, one or two fireplaces and an 875 square foot garage. The comparables have sites ranging in size from .76 acres to 1.18 acres. The comparables sold from June 2009 to January 2011 for prices ranging from \$325,000 to \$390,000 or from \$94.70 to \$106.38 per square foot of living area, including land. Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$130,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$142,887 was disclosed. The subject's assessment reflects a market value of \$443,611 or \$115.95 per square foot of living area, including land, when applying the 2010 three year average median level of assessment for McHenry County of 32.21% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review presented information from the Nunda Township Assessor. The township assessor asserted that appellant's sales #1, #2 and #4 were foreclosure sales and sale #3 occurred in January 2011, one year after the assessment date at issue.

The township assessor submitted information on four comparable sales that he identified as being arm's length transactions. The comparable sales improved were improved with two-story dwellings of aluminum, brick and vinyl or brick and frame exterior construction that range in size from 3,068 to 3,741 square feet of living area. The dwellings were constructed from 1997 to 2001. Each property was located in Crystal Lake. Each comparable had a basement with three having finished area, central air conditioning, one to three fireplaces and a three-car garage. The comparables have sites ranging in size from .32 acres to 1.25 acres. The comparables sold from July 2009 to June 2010 for prices ranging from \$407,500 to \$475,000 or from \$120.29 to \$135.56 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 the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board gives most weight to board of review comparable sales #1, #2 and #3. These sales were identified as arm's length transactions that occurred most proximate in time to the assessment date at issue. These properties were similar to the subject in age, style, size and features. The comparables sold for prices ranging from \$450,000 to \$475,000 or from \$120.29 to \$135.56 per square foot of living area, including land. The

subject's assessment reflects a market value of \$443,611 or \$115.95 per square foot of living area, including land, which is below the range established by the best comparable sales in this record. The Board gave less weight to the appellant's sales as three were identified as foreclosure sales calling into question the arm's length nature of the sales and whether the purchase prices reflect "fair cash value" as defined by section 1-50 of the Property Tax Code (35 ILCS 200/1-50).^{1, 2} Additionally, appellant's sale #3 occurred one year after the assessment date at issue, not as proximate in time to the assessment date as the best sales in the record. Based on this record the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction in the subject's assessment is not justified.

¹ Sec. 1-50 of the Property Tax Code states:

Fair cash value. 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.

² The Property Tax Appeal Board recognizes that Public Act 96-1083, effective July 16, 2010, added section 1-23 to the Property Tax Code (35 ILCS 200/16-23) providing a definition for a "compulsory sale" and also added section 16-183 to the Property Tax Code (35 ILCS 200/16-183) stating that:

The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

The Board finds, however, these sections became effective after the January 1, 2010, assessment date issue and there was no reference that either section was to be given retroactive application. Therefore, the Board finds that it is not required to consider the sales identified as being foreclosure sales under the facts of this appeal.

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.



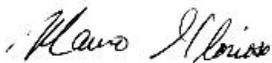
Chairman



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: August 23, 2013



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.