FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Keith & Karen Moutvic
DOCKET NO.: 10-04885.001-R-1
PARCEL NO.: 05-10-106-007

The parties of record before the Property Tax Appeal Board are Keith & Karen Moutvic, the appellants, by attorney Timothy P. Whelan of Timothy Whelan Law Associates, Ltd., in Glen Ellyn, 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:	$23,680
IMPR.:	$172,670
TOTAL:	$196,350

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single-family dwelling that contains 4,555 square feet of living area. Features of the home include a full basement that is partially finished, central air conditioning, three fireplaces and a 773 square foot attached garage. The dwelling has a brick, cedar and stone exterior and was constructed in 2007. The property has a 30,000 square foot site and is located in Wheaton, Milton Township, DuPage County.

The appellants' appeal is based on overvaluation.[1] In support of this argument, the appellants submitted evidence disclosing the subject property was purchased on August 14, 2009 for a price of $430,000. The appellants submitted a copy of the Settlement Statement with a handwritten notation "best valuation of property arms length transaction 1910.65" along with a copy of the Supplemental Page HUD-1 Settlement Statement. These documents reveal the seller was American Home Mortgage Servicing, Inc. The

[1] The subject property was the subject matter of an appeal the prior year under Docket Number 09-05022.001-R-2 wherein the assessment of the subject property was reduced to $295,430. As set forth in this appeal, the subject property sold subsequent to the decision of the Property Tax Appeal Board which reflected an estimated market value of the subject as of January 1, 2009.

appellants also submitted a copy of the Multiple Listing Service sheet depicting the original list price of the subject property was $509,900 with an original listing date of April 23, 2009. The remarks included "property sold as-is cond" and agent remarks were "cash only there is no kitchen and some toilets and vanities are missing." Based on this evidence, the appellants requested a reduction in the subject's total assessment to approximately reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeals" wherein the subject's total assessment of $332,450 was disclosed. The subject's assessment reflects a market value of $998,948 or $219.31 per square foot of living area, including land, 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. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review submitted a memorandum and evidence prepared by the Milton Township Assessor's Office. In the memorandum, the assessor contends that the subject property "was a foreclosure in 2009 for $430,000. There was a market value reduction of $149,910 for $49,970 in 2009 for an estimated cost to finish the kitchen and partially finished bathrooms as noted on the MLS."

In support of the assessment, the assessor prepared information on five comparable sales, one of which is located in the same neighborhood code assigned to the subject property. The comparable parcels range in size from 9,750 to 30,000 square feet of land area. Each parcel is improved with a two-story dwelling of masonry or frame construction. The homes range in size from 3,726 to 5,536 square feet of living area. The dwellings were constructed from 2007 to 2010. Features of the comparables include a full basement, three of which include finished area. Each home has central air conditioning, a fireplace and a garage ranging in size from 273 to 1,135 square feet of building area. The comparables sold from November 2008 to September 2009 for prices ranging from $1,100,000 to $2,000,000 or from $228.83 to $361.27 per square foot of living area, including land.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

In written rebuttal, the appellants contend that the subject property was sold by a reputable brokerage company and listed in the MLS for months before an offer was accepted. The appellants further contend this was an arms length transaction, open to all bidders and "sold for fair market value of $455,000."

The appellants further report the subject dwelling is on a busy street with 12,500 cars [per day] whereas the comparables presented by the board of review are not on busy streets. While the subject dwelling is large, the appellants contend "over 1,000 square feet is not useable as the layout is not efficient." The

dwelling has siding on three sides and brick veneer in front. The appellants further wrote:

> The subject property may have been built for builders to make fraudulent funds. The builders never sold the property except to related party for funding. The same builder has another property asking for double market value at 1918 Summit in Wheaton (see attached) [there was no documentation attached regarding this property]. Again township has hardship to only use information as average home condition and not judge craftsmanship but in this case the fair market value has been created by arms length transaction.

Next, the appellants submitted data on three "other" sales of houses that border the subject property ranging from $545,000 to $650,000. The attached MLS data sheets indicate the homes have "many special features with full kitchens as the subject property there was no kitchen or bathrooms completed."

In conclusion, the appellants requested the fair market value of the purchase price of $455,000 plus improvements (added kitchen and bath by owner) which would bring the value of the property to $590,000.

Pursuant to the rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)). In light of these rules, the Property Tax Appeal Board has not considered the additional sales data submitted by appellants in conjunction with their rebuttal argument.

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 appellants contend 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 so to do. 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the purchase of the subject property on August 14, 2009 for a price of $430,000 plus the improvements (added kitchen and bath by owner) that were completed subsequent to the purchase of the property. The appellants provided limited evidence demonstrating the sale had the elements of an arm's length transaction in that the property was listed for sale in the Multiple Listing Service in April 2009 and did not sell until August 2009. Furthermore, the Board finds the purchase price is below the market value reflected by the assessment.

In addition, 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 at the time. In fact, the board of review conceded that the value was reduced "for an estimated cost to finish the kitchen and partially finished bathrooms."

To support the subject's assessment, the board of review through the township assessor presented five sales. The Property Tax Appeal Board has given less weight to sales A and C as each of these dwellings differs significantly in size from the subject dwelling. The most similar comparables sold between December 2008 and July 2009 for prices ranging from $1,100,000 to $1,168,079 or from $228.83 to $260.26 per square foot of living area, including land, but there is no indication in the record that any of these comparables is in close proximity to the subject property.

Thus, based on this record the Board finds the subject property had a market value of approximately $590,000 as of January 1, 2010 after the installation of the kitchen and completion of the bathrooms. 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.

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: July 19, 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.