FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Robert Bienick
DOCKET NO.: 11-00747.001-R-1
PARCEL NO.: 16-05-21-204-037-1004

The parties of record before the Property Tax Appeal Board are Robert Bienick, the appellant, by attorney Russell Cech in Frankfort, and the Will 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 **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$10,000
IMPR.:	$59,928
TOTAL:	$69,928

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story single-family townhome of masonry construction containing 1,967 square feet of living area. The dwelling is 6 years old. Features of the townhome include a concrete slab foundation, central air conditioning and an attached garage of 398 square feet of building area. The property is part of a 71-unit townhome development in Messenger Woods subdivision which is located in Homer Glen, Homer Township, Will County.

The appellant's appeal is based on both unequal treatment in the assessment process and overvaluation. In support of these claims, the appellant through legal counsel submitted a two-page grid analysis and a brief. Within the brief, counsel contends the townhome development consists of two models known as either Abbey, consisting of two bedrooms and 1,821 square feet of

living area, or Canterbury, consisting of three bedrooms and 1,967 square feet of living area.

The four equity comparables located in Messenger Woods townhome development were described as one-story masonry townhomes that were 6 or 7 years old. The dwellings contain either 1,821 or 1,967 square feet of living area. Features include central air conditioning and a garage of 398 square feet of building area. The comparables have improvement assessments ranging from $53,333 to $60,000 or from $29.29 to $31.12 per square foot of living area. The subject's improvement assessment is $69,987 or $35.58 per square foot of living area. Counsel also reported in the brief that the township assessor assessed "all 71-units at $79,987 with no distinguishing between the two types of models." Based on this equity evidence, the appellant requested a reduction in the subject's improvement assessment to $56,660 or $28.81 per square foot of living area.

In support of the overvaluation argument, the appellant submitted sale dates and sale prices for comparables #1 through #4 and provided two additional comparable sales all of which were located in the Messenger Woods townhome development. The six comparables are each one-story masonry townhomes that were 6 or 7 years old. The dwellings contain either 1,821 or 1,967 square feet of living area. Features include central air conditioning and a garage of 398 square feet of building area. The sales occurred between July 2009 and June 2010 for prices ranging from $190,000 to $210,000 or from $100.41 to $109.83 per square foot of living area, including land. Counsel also pointed out in the brief that comparables #1 through #4 received 2011 assessment reductions in light of their recent sale prices. Based on this evidence, the appellant requested a total assessment reduction to $66,660 which would reflect a market value of approximately $199,980 or $101.67 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $79,987 was disclosed. The subject's assessment reflects an estimated market value of $240,852 or $122.45 per square foot of living area, land included, using the 2011 three-year median level of assessments for Will County of 33.21%.

In response to the appellant's data, the board of review submitted data gathered by Karen Szynkowski, Homer Township Assessor, which included a letter from the assessor criticizing

the appellant's four comparable sales[1] and outlining the assessor's additional evidence.

As to the appellant's sales, the assessor contends: #1 was "an option to purchase"; #2 was an estate sale; #3 was sold at auction; and #4 was a "short sale." In support of the contentions as to comparables #1, #2 and #4, the assessor submitted Exhibits B, C and D. Exhibit B is a PTAX-203 Illinois Real Estate Transfer Declaration which indicates the property was advertised for sale prior to the transaction. Exhibit C and D are Multiple Listing Service data sheets which included agent remarks. Exhibit C includes the remark, "Estate Sale - disclosures available - excellent condition - drastic reduction!!" Exhibit D includes the remark, "pursuant to short sale." The assessor provided no supporting data regarding comparable #3 that was reportedly sold at auction and why that would not qualify as an arm's length transaction.

The assessor's letter summarized the townhome development as consisting of 72 units of two different model types known as Abbey and Canterbury. As to uniformity of assessments, the township assessor wrote:

> All townhomes in Messenger Woods subdivision are assessed at 69,987 on the building with the total assessment at 79,987. At the Will County Board of Review for 2011 four assessments were adjusted in Messenger Woods based upon recent sales, no other changes were made except for those four.

The assessor noted it was these four adjusted properties which the appellant presented as comparable sales.

Exhibit E is a five page spreadsheet depicting all of the parcels within the development, including common areas, with both assessment data and recent sales. The assessor wrote in her letter that for the 2011 general assessment Messenger Woods "were completely redone based upon the recent sales. We did not review just the duress sales as the appellant has included for their evidence. All other sales were considered when the subdivision was reassessed for 2011 with greatest weight placed on the 2010 sales; resulting in assessments being decreased from 85,501 to the 79,987 for 2011."

The spreadsheet depicts a total of ten sales, which includes appellant's comparables #1 through #6, with six sales denoted on

[1] The assessor made no comment regarding the appellants sales #5 and #6.

the spreadsheet as "arms-length." Included among the denoted "arms-length" sales were appellant's comparables #5 and #6. The six sales cited by the township assessor include three townhomes of 1,821 square feet of living area and three townhomes of 1,967 square feet of living area. These six sales occurred between February 2008 and July 2010 for prices ranging from $197,500 to $265,000 or from $100.41 to $145.52 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's assessment is warranted.

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. 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). The Board finds the evidence in the record does support a reduction in the subject's assessment.

Given common properties presented, the Property Tax Appeal Board finds that the parties submitted a total of ten comparable sales for the Board's consideration. The township assessor criticized the appellant's sales #1 through #4 inferring that they were not suitable sales for consideration due to the exercise of "an option to purchase," a short sale, having been sold at auction and/or having been an estate sale. Public Act 96-1083 amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

> Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed

> in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

Section 16-183 provides:

> Compulsory sales. 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 the effective date of these statutes is relevant to the assessment date at issue of January 1, 2011. Therefore, the Board finds both statutes apply to the appellant's 2011 assessment. As a result the Board finds that in the absence of other evidence why the sales presented by the appellant would not qualify as arm's length transactions, the appellant's sales will be considered. The board of review's evidence revealed that two of the disputed properties were advertised for sale through the Multiple Listing Service for 31 and 170 days, respectively. (Exhibits C and D).

Due to the dates of sale being least proximate to the assessment date, the Board has given reduced weight to two of the board of review's sales which occurred in February and August 2008 for the highest sales prices of $255,000 and $265,000.

The remaining eight comparable sales submitted by the parties were similar to the subject in location, age, size, design, exterior construction, and/or foundation being either Abbey or Canterbury townhomes in the development. These eight comparables sold more proximate to the subject's January 1, 2011 assessment, from September 2009 to June 2010 for prices ranging from $190,000 to $248,000 or from $100.41 to $126.08 per square foot of living area, including land. The subject's assessment reflects a market value of approximately $240,852 or $122.45 per square foot of living area, including land. The Board finds the subject's assessment reflects a market value that falls within the range established by the comparable sales. However, the Board finds the subject's assessed valuation falls at the higher end of the range, particularly two of the eight comparables, which sold in May 2010 sale for prices of $240,000 and $248,000 or $122.01 and $126.08 per square foot of living area, including land. The Board finds six of the eight comparables sold in a tighter range from $190,000 to $210,000 or from $100.41 to $109.83 per square foot of living area including land. The Board finds a preponderance of the market value evidence

contained in this record demonstrates that the subject's assessed valuation is excessive. The Board further finds the median sale price of the most recent sales was $200,000 and the average or mean sale price of these eight sales was $210,563, which lends further support that the subject's assessment is not reflective of fair market value. After considering any necessary adjustments to the comparables for any differences when compared to the subject, the Board finds a preponderance of the most credible comparable sales contained in this record demonstrate the subject property's assessment to be excessive in relation to its market value. Therefore, the Board finds a reduction in the subject's assessment is warranted on the record on grounds of overvaluation.

The appellant also contends unequal treatment in the subject's improvement assessment as a basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data and considering the reduction in assessment for overvaluation, the Board finds that the subject property is equitably assessed and no further reduction in the subject's assessment 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.

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: March 21, 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.