



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

APPELLANT: Bob Fredericks
DOCKET NO.: 11-01067.001-R-1
PARCEL NO.: 14-31-202-008

The parties of record before the Property Tax Appeal Board are Bob Fredericks, the appellant, by attorney Clyde B. Hendricks in Peoria, and the Peoria 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 **Peoria** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$2,880
IMPR.: \$10,790
TOTAL: \$13,670

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story dwelling of frame construction containing 720 square feet of living area. The dwelling was constructed in 1954. Features of the home include a full unfinished basement, central air conditioning¹ and a 240 square foot attached garage. The property has a .14-acre site and is located in Peoria, City of Peoria Township, Peoria County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on February 15, 2010 for a price of \$26,500 or \$36.81 per square foot of living area, including land. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor, the property had

¹ Both parties listed the subject property as not having central air conditioning. The Multiple Listing Service sheet states that the subject property has central air conditioning.

been advertised on the open market with the Multiple Listing Service and it had been on the market for four days. In further support of the transaction the appellant submitted a copy of the Illinois Real Property Transfer Declaration. 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 Appeal" wherein the subject's total assessment of \$13,670 was disclosed. The subject's assessment reflects a market value of \$41,462 or \$57.59 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for Peoria County of 32.97% as determined by the Illinois Department of Revenue.

In support of the assessment the board of review submitted information on three comparable sales improved with one-story dwellings of frame construction that range in size from 720 to 996 square feet of living area. The dwellings were constructed from 1945 to 1952. Each comparable has the same neighborhood code as the subject property. Features of the comparables include an attached or detached garage ranging in size from 240 to 352 square feet of building area. Two comparables have an unfinished basement and central air conditioning. One comparable has a fireplace. The comparables have sites that contain .15 or .17-acre of land area. The comparables sold in August and October 2010 for prices ranging from \$41,000 to \$63,000 or from \$54.22 to \$80.77 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant argued that the property was a recent sale and was listed through the Multiple Listing Service. The appellant also argued that the board of review did not refute the sale.

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 not warranted.

The appellant argued the subject property's assessment was not reflective of its fair market value based on its February 2010 sale price of \$26,500. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax

Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant failed to overcome this burden.

The Illinois Supreme Court 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 Property Tax Appeal Board finds the subject's sale does not meet at least one of the fundamental requirements to be considered an arm's-length transaction reflective of fair cash value. The Board finds the subject's Illinois Real Estate Transfer Declaration, PTAX-203, is clearly marked that the property was advertised for sale, but according to the Multiple Listing Service sheet it was only advertised for four days. The Board further finds that the Multiple Listing Service sheet detracts from the credibility of the appellant's contention that the subject's sale was exposed in the open market and would be considered an arm's-length transaction. Therefore, the subject's sale price was given little weight.

Illinois Courts has stated fair cash value is synonymous with fair market value and is defined as the price a willing buyer would pay a willing seller for the subject property, there being no collusion and neither party being under any compulsion. Ellsworth Grain Company v Property Tax Appeal Board, 172 Ill.App.3d 552, 526 (4th Dist. 1988). Although the appellant's evidence may suggest the subject's transaction was between a willing, knowledgeable buyer and seller, the Board finds the transaction being advertised for sale for four days in the open market and is not typical of the due course of business and trade. Thus, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price.

Other recognized sources further demonstrate the fact a property must be advertised or exposed in the open market to be considered an arm's-length transaction that is reflective of

fair market value. Black's Law Dictionary (referencing Bourjois, Inc. v. McGowan and Lovejoy v. Michels (citation omitted)), states:

"the price a property would command **in the market**" (Emphasis added). This language suggests a property must be publicly offered for sale in the market to be considered indicative of fair market value.

The Board finds there are other credible sources that specify a property must be advertised for sale in the open market to be considered an arm's-length transaction. The Dictionary of Real Estate Appraisal; 5th Edition, Appraisal Institute, pp. 122-123., provides in pertinent that the definition of market value includes as an element a reasonable exposure time.

Additionally, the Property Assessment Valuation, 2nd Edition, states: Market value is the most probable price, expressed in terms of money that a property would bring if **exposed for sale in the open market** (Emphasis added) in an arm's-length transaction between a willing seller and a willing buyer; **a reasonable time is allowed for exposure to the open market.** (Emphasis added). Property Assessment Valuation, 2nd Edition, International Association of Assessing Officers, Pgs. 18, 35, (1996)). Since the appellant presented no factual evidence showing the subject property was exposed to the open market for a reasonable period of time, the Board gave little weight to the subject's transaction for market value consideration.

Absent an arm-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 there are three credible market arm's-length sales contained in this record that were submitted by the board of review probative of the subject's January 1, 2011 assessment date. These properties are located in the same neighborhood code as the subject property and are similar to the subject in size, style and features. They sold in August 2010 and October 2010 for prices ranging from \$41,000 to \$63,000 or from \$54.22 to \$80.77 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$41,462 or \$57.59 per square foot of living area including land, which is within the range established by the 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 supported. Therefore, no 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy 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: March 21, 2014

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.