



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

APPELLANT: Brian Monge
DOCKET NO.: 11-01243.001-R-1
PARCEL NO.: 13-25-402-031

The parties of record before the Property Tax Appeal Board are Brian Monge, 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: \$6,670
IMPR.: \$32,670
TOTAL: \$39,340

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story masonry duplex containing 1,792 square feet of living area that was built in 1976. The duplex features a central air conditioning and a 614 square foot attached garage.

The appellant contends overvaluation based on a recent sale of the subject property. The appellant completed Section IV-Recent Sale Data on the appeal form indicating the property sold in August 2011 for a price of \$70,000. The form also reveals the parties to the sale were not related, however, the property was not advertised for sale on the open market. In further support of the overvaluation argument, the appellant submitted a copy of a subject's settlement statement disclosing a contract sale price of \$70,000. To further document the sale, the appellant submitted a Multiple Listing Service ("MLS") data sheet disclosing the subject was not advertised on the open market, but had a selling agent, Brian J Monge, who was also the subject's purchaser.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$23,330 to reflect the subject's purchase price.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$39,340 was disclosed. The subject's assessment reflects an estimated market value of \$119,321 or \$66.59 per square foot of living area including land using Peoria County's 2011 three-year median level of assessments of 32.97%.

In support of the subject's assessment, the board of review submitted five suggested comparable sales. The comparables are located in different assessment neighborhood codes as the subject as defined by the local assessor. The comparables consist of 4, one-story frame or masonry duplexes and 1, split-level frame dwelling. The dwellings were built from 1968 to 1977. They contain from 1,312 to 3,000 square feet of living area. One comparable features a full finished basement, one features a full basement with 540 square feet of recreation area and one features a partial unfinished basement. Four comparables have central air conditioning, one comparable has a fireplace and four comparables have attached garages ranging in size from 484 to 616 square feet of building area. The sales occurred from July to December 2010 for prices ranging from \$103,500 to \$140,000 or from \$46.67 to \$78.89 per square of living area including land.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under rebuttal, counsel for the appellant argued that the subject's sale was an arms-length transaction, which was not rebutted by the board of review.

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 no reduction in the subject's assessment is warranted.

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 evidence in this record supports the subject's assessment.

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 preponderance of the evidence clearly shows the subject property was not advertised or exposed for sale on the open market. Therefore, the subject's sale price was given little weight and is not considered indicative of fair market value.

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 was not advertised for sale in the open market and is not typical of the due course of business and trade. The subject's Multiple Listing Service ("MLS") data sheet disclosed the subject was not advertised on the open market and the appellant's appeal petition clearing establishes that the subject property was not advertised for sale. Thus, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price.

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 two 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. Comparables #3, #4 and #5 submitted by the board of review were given less weight due to their superior basement foundations, which the subject lacks. In addition, comparable #4 is a dissimilar split-level dwelling with 3,000 square feet of living area, which is considerably larger than the subject. The board of review's comparables #1 and #2 are very similar to the subject in age, size, style and features. They sold in July and October 2010 for prices of \$118,000 and \$140,000 or \$69.589 and \$74.15 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$119,321 or \$66.59 per square foot of living area including land. 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.

In conclusion, the Board finds the evidence in this record does not demonstrate the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Marko M. Louie

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: December 20, 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.