



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

APPELLANT: Joe Fontana
DOCKET NO.: 11-01247.001-R-1
PARCEL NO.: 14-31-203-026

The parties of record before the Property Tax Appeal Board are Joe Fontana, 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 a reduction 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: \$2,890
IMPR.: \$16,892
TOTAL: \$19,782

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story dwelling of frame construction containing 864 square feet of living area that was built in 1952. The home features a slab foundation, central air conditioning and a 280 square foot detached garage. The dwelling is situated on a .14 acre site located in the City of Peoria Township, Peoria County, Illinois.

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 March 2009 for a price of \$25,250. The form also indicates the parties to the sale were not related and the property was advertised for sale on the open market. In further support of this argument, the appellant submitted a copy of the Illinois

Real Estate Transfer Declaration, PTAX-203, disclosing the subject property was purchased in March 2009 for \$25,250, but was not advertised for sale. In addition, the appellant submitted a copy of a purported Multiple Listing Service ("MLS") sheet disclosing the subject was advertised on the open market for only 4 days by a realtor.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$8,320 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 \$21,740 was disclosed. The subject's assessment reflects an estimated market value of \$65,939 or \$76.32 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 three suggested comparable sales located in the same assessment neighborhood code as the subject as defined by the assessor. The comparables consist of one-story frame dwellings containing 864 square feet of living area. The dwellings were built from 1951 to 1954. The homes feature slab foundations, central air conditioning and detached garages of 280 or 352 square feet of building area. The sales occurred from June 2008 to January 2010 for prices ranging from \$60,000 to \$72,900 or from \$69.44 to \$84.38 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 disputed 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 a 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 a reduction in 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 subject's Illinois Real Estate Transfer Declaration, PTAX-203, is clearly marked that the property was not advertised for sale. The Board gave this evidence more weight due to the declaration being signed by the parties as being true and correct. The Board further finds that the declaration 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 was not advertised for sale in the open market and is not typical of the due course of business and trade. The subject's Illinois Real Estate Transfer Declaration, PTAX-203, is clearly marked that the 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.

In addition, the Board finds the subject's March 2009 sale dated as it occurred greater than 21 months prior to the subject's January 1, 2011 assessment date.

The Board finds there is one credible market arm's-length sale contained in this record that was submitted by the board of review that is probative of the subject's fair market value as of the January 1, 2011 assessment date. Comparables #2 and #3 submitted by the board of review were given less weight due to their 2008 sale dates. These sales are not probative of the subject's fair market value as of the subject's January 1, 2011 assessment date. The board of review's comparable #1 is very similar to the subject in location, age, size, style and features. It sold in January 2010 for a price of \$60,000 or \$69.44 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$65,939 or \$76.32 per square foot of living area including land, which is above the sale price of the best comparable in this record. Therefore, a reduction is warranted.

In conclusion, the Board finds the evidence in this record does 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 excessive and a slight 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

JR

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: January 24, 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.