



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

APPELLANT: Susan Shirkey
DOCKET NO.: 11-01373.001-R-1
PARCEL NO.: 12-09-406-006

The parties of record before the Property Tax Appeal Board are Susan Shirkey, the appellant, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$56,661
IMPR.: \$86,888
TOTAL: \$143,549

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single-family dwelling of frame and masonry construction containing 3,135 square feet of living area. The dwelling was constructed in 1996. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and a three-car garage. The property also has a screened porch and has a 56,661 square foot site. The subject is located in the Eaglebrook subdivision, Geneva, Geneva Township, Kane 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 May 10, 2011 for a price of \$420,000. 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 been advertised on the open market with the Multiple Listing Service, in a newspaper and on the Internet for six months. In further support of the transaction, the appellant submitted a copy of the Bill of Sale, sales contract and settlement statement. As part of the submission, the appellant also reported having expended \$10,647 in renovation costs before occupying the property in June 2011.

Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$143,549 which would reflect a market value of approximately \$430,647.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$166,386 was disclosed. The subject's assessment reflects a market value of \$500,710 or \$159.72 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for Kane County of 33.23% as determined by the Illinois Department of Revenue.

In support of the assessment the board of review submitted a two-page letter from Denise LaCure, Geneva Township Assessor, who also included a grid analysis of six comparable sales. As to the sale of the subject, the assessor provided a copy of the PTAX-203 Illinois Real Estate Transfer Declaration along with a copy of the Warranty Deed in Trust. According to the assessor, "This documentation demonstrates that the Subject's 2011 sale is not an arms-length transaction and is, thus, an excluded sale." The PTAX-203 indicates that the property was advertised prior to its sale and the full actual consideration was \$420,000, in addition to the fact that the property transferred via "Warranty Deed in Trust." In addition, the assessor noted that the sale of the subject did not occur until five months after the assessment date at issue of January 1, 2011.

In support of the subject's estimated market value, the assessor provided a grid analysis of six properties located in the Eaglebrook subdivision. The assessor reported that the subject and each of these comparables is located on a "Golf Course site." The comparables are improved with two-story dwellings of frame and masonry or frame and dryvit construction that range in size from 3,131 to 3,216 square feet of living area. The dwellings were constructed from 1991 to 2000. Features of the comparables include a full basement, one of which is a walkout-style and three of which are a lookout-style. Five of the basements include finished area. Each home has central air conditioning, one or two fireplaces and a three-car garage. The comparables sold from April 2010 to December 2012 for prices ranging from \$475,000 to \$565,000 or from \$151.71 to \$178.18 per square foot of living area, including land.

In closing, the assessor contended that comparable #5 was the most similar property to the subject having an unfinished basement that is only slightly larger than that of the subject, with other similar amenities to the subject. As this comparable sold in September 2011 for \$480,000, the assessor contends that the subject's assessment should be confirmed.

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 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 do so. 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 appellant 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 May 10, 2011 for a price of \$420,000 plus the reported expenditure of \$10,647 in renovation costs prior to occupying the property in June 2011. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction and the property was in need of renovation prior to occupancy indicating there were some condition issues.

Furthermore, the Board finds the purchase price of \$420,000 plus the renovation costs of \$10,647 totals 430,647 which is below the market value reflected by the assessment of \$500,710. The Board finds the board of review did not present any substantive evidence to challenge the arm's length nature of the transaction. The PTAX-203 established that the property was advertised prior to its sale. The fact the property transferred via a Warranty Deed in Trust alone is not sufficient evidence to establish that the sale was not an arm's length transaction.

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Based on this record, the Board finds the subject property was overvalued based on its assessment and a reduction commensurate with the appellant's request 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

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: November 22, 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.