



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

APPELLANT: John Carron
DOCKET NO.: 11-02436.001-R-1
PARCEL NO.: 09-18-309-002

The parties of record before the Property Tax Appeal Board are John Carron, the appellant, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$68,280
IMPR: \$34,490
TOTAL: \$102,770

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story single-family dwelling of frame construction containing 1,987 square feet of living area. The dwelling was constructed in 1971. Features of the home include a partial unfinished basement, a fireplace and a 420 square foot garage. The property has a 20,000 square foot site and is located in Downers Grove, Downers Grove Township, DuPage 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 April 28, 2011 for a price of \$310,000. As part of the appeal, 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 from the firm of Patrick & Paul, the agent was Carolyn Duffy, the property had been advertised on the open market through the Multiple Listing Service.

In further support of the transaction the appellant submitted a copy of the Settlement Statement and the Multiple Listing Service data sheet which reported the property had been on the market for 24 days prior to its sale. The data sheet indicates and original list price of \$349,000 followed by a price reduction to \$339,000 prior to the conclusion of the sale/closing on April 28, 2011 the sale price of \$310,000. Also of note, the remarks on the data sheet concerning the subject property provide that:

Better than new Ranch style home situated on large treed lot * New in 2011: Kitchen with all maytag appliances, ceramic kitchen and foyer floors, paint, roof, garage door, electrical outlets/switches and cover plates & hard wired smoke detectors, base trim & vent covers, door knobs, drywall & insulation (R15 walls/R38 ceilings) * Refinished hardwood floors * Upgraded electrical panel * LG Washer & Dryer * WOW!

Based on the foregoing evidence, the appellant requested a reduction in the subject's assessment so as to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeals" wherein the subject's total assessment of \$146,530 was disclosed. The subject's assessment reflects a market value of \$442,021 or \$222.46 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum asserting that the subject dwelling had extensive remodeling done in January 2011. The memorandum further asserted that all properties in the same neighborhood code "are calculated using the same cost manual and market driven neighborhood cost modifiers (NCM)."

The memorandum further asserted that the subject property was transferred by Sheriff's Deed in November 2010 (copy attached); the bank REO sale was December 2010 for \$125,000 "due to a condition issue" (a copy of the Warranty Deed was attached). Next, the memorandum reported an effort to apply Section 1910.94 of the rules of the Property Tax Appeal Board in that on May 14, 2013, Chief Deputy Assessor for Downers Grove Township Joni Gaddis issued a letter, sent via certified mail, to the appellant (1) requesting a copy of the purchase appraisal and (2) requesting an interior and exterior inspection of the

property by calling the assessor's office within 10 days. The copy of the attached receipt reflects delivery on June 7, 2011. The memorandum asserts that as of June 12, 2013 the appellant had not responded.

In support of the subject's estimated market value based on its assessment, the board of review submitted information on three comparable sales located in the same neighborhood code assigned by the assessor as the subject property. The comparables are improved with one-story dwellings of frame or masonry construction that range in size from 1,414 to 1,909 square feet of living area. The dwellings were constructed from 1953 to 1974 with one comparable having been remodeled in 1996. Two of the comparables have either a full or a partial basement, one of which is 25% finished. Each home has a fireplace and a garage ranging in size from 483 to 576 square feet of building area. The comparables have sites ranging in size from 17,993 to 35,988 square feet of land area. The comparables sold in June or September 2010 for prices ranging from \$316,000 to \$410,000 or from \$192 to \$290 per square foot of living area, including land, rounded.

The memorandum concluded with the following statement, "The assessor is requesting an adjustment to a market value of \$377,530 or \$190/SF based on comparable sales in the neighborhood, due to the limited exposure time of the subject on the open market." However, the board of review indicated on the "Notes on Appeals" that it was not willing to stipulate in this matter and thus, the board of review presumably was requesting confirmation of the subject's assessment in this matter.

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.

As an initial matter, the assessor's letter request for an inspection and the concomitant request to apply the provisions of Section 1910.94 of the Board's rules regarding the description, physical characteristics or condition of the subject property will be addressed. The cited rule states:

- a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other

evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner **denied a request made in writing by the board of review or a taxing body**, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes.

- b) **Any motion made to invoke this Section shall incorporate a statement detailing the consultation and failed reasonable attempts to resolve differences over issues involving inspection with the taxpayer or property owner.**

(86 Ill.Admin.Code §1910.94(a) & (b)). (Emphasis added).

As the inspection request was made by the township assessor and not by the DuPage County Board of Review, the provisions of Section 1910.94(a) are not applicable to this proceeding. Moreover, as there was no motion by the DuPage County Board of Review to invoke the provision with the inclusion of details of the consultations and the inability to resolve differences over issues related to an inspection with the appellant, the Property Tax Appeal Board further finds that the "motion" is incomplete and insufficient on this record. In summary, the record reveals no basis to apply the provisions of Section 1910.94(a) regarding the description, physical characteristics or condition of the subject property.¹

For this appeal, 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)). (Emphasis added.) The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

¹ It is further noted that the appellant provided no substantive evidence in his case-in-chief concerning the condition of the subject dwelling.

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). (Emphasis added.) 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). (Emphasis added.)

The Board finds the best evidence of market value to be the purchase of the subject property on April 28, 2011 for a price of \$310,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The Board finds the purchase price of \$310,000 is below the market value reflected by the assessment of \$377,530.

The Property Tax Appeal Board further finds the board of review did not present any evidence to challenge the arm's length nature of the transaction beyond noting that the property was on the market for 24 days prior to its sale. There also was no evidence presented by the board of review to refute the contention that the purchase price was reflective of market value at the time of sale.

While Illinois courts have stated that the sale price of property does not necessarily establish its value without further information on the relationship of the buyer and seller and other circumstances, there was no such evidence of "other circumstances" provided by the board of review in this proceeding beyond the argument related to the time on the market of 24 days. (See Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 552 (4th Dist. 1988)). Based on this record, the general public had 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 [American Institute of Real Estate Appraisers, The Appraisal of Real Estate, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983), provides in pertinent part:

The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale; The property is exposed for a reasonable time on the open market.

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]. (International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996)).

In summary, the Property Tax Appeal Board finds that the board of review failed to adequately rebut the apparent arm's-length nature of the sale transaction in that the only evidence of record is that the buyer and seller were not related, the property was open and exposed on the market for a period of time of 24 days and sold for \$310,000 on April 28, 2011, four months after the assessment date at issue of January 1, 2011, after having been offered for sale initially for \$349,000. It is further noted that both the final sale price and the offering

price were both lower than the subject's estimated market value based on its assessment.

The board of review provided three comparable sales that occurred in June and September 2010 for prices ranging from \$316,000 to \$410,000 or from \$192 to \$290 per square foot of living area including land, rounded. The Property Tax Appeal Board further finds that two of the three comparable sales presented by the board of review sold for prices less than the subject's estimated market value of \$377,530 as reflected by its assessment. Based upon analysis of the data presented, the Board finds these sale comparables presented by the board of review neither support the subject's estimated market value nor do they overcome the arm's length nature of the subject's sale transaction as displayed in this record.

Since the appellant presented evidence showing the subject property was advertised for sale and exposed to the open market through the Multiple Listing Service in an arm's-length transaction, the Property Tax Appeal Board finds the subject's April 2011 sale price of \$310,000 was reflective of its market value.

Based on this record the Board finds the subject property had a market value of \$310,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for DuPage County of 33.15% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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.



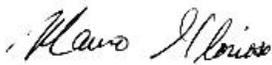
Chairman



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: February 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.