



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

APPELLANT: Daniel Shaker
DOCKET NO.: 11-02445.001-R-1
PARCEL NO.: 09-13-206-026

The parties of record before the Property Tax Appeal Board are Daniel Shaker, 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: \$124,530
IMPR: \$157,250
TOTAL: \$281,780**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a part two-story, part one-story single-family dwelling of frame construction containing 3,675 square feet of living area. The dwelling was constructed in 1997. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and an 883 square foot garage. The property has a 14,507 square foot site and is located in Hinsdale, 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 August 15, 2011 for a price of \$850,000. As part of the appeal, the appellant completed Section IV - Recent Sale Data disclosing the parties to the transaction were not related, the property was purchased from Frank Tabachka, the property was sold using a Realtor with Prudential Rubloff with agent Tracy Anderson, the property had been advertised on the open market through the Multiple Listing Service and it had been on the market for 191 days.

In further support of the transaction, the appellant submitted a copy of the Settlement Statement and the Multiple Listing Service data sheet. Both documents reiterate the sale date and the sales price as reported by the appellant. The listing sheet further indicates the property was initially listed on January 12, 2011 for an asking price of \$945,000 which was subsequently reduced to \$899,000 prior to its sale for \$850,000.

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 \$299,640 was disclosed. The subject's assessment reflects a market value of \$903,891 or \$245.96 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 along with additional sales evidence to support the subject's estimated market value as reflected by its assessment. The memorandum pointed out that the subject's sale occurred eight months after the assessment date of January 1, 2011. Next, the memorandum stated, "The DuPage County Board of Review adjusted the 2011 assessment to reflect the 6-20-2011 listing at a market value of \$899,000." The memorandum also reported that the 2012 assessment of the subject property was \$281,600 "with a market value of \$844,884 is reflecting the 8-15-2011 sale."

In further support of the assessment, the board of review submitted information on three comparable sales of improved parcels located in the same neighborhood code assigned by the assessor to the subject property. The comparables are improved with part two-story, part one-story dwellings of frame or masonry construction that range in size from 3,177 to 4,261 square feet of living area. The dwellings were constructed from 1989 to 1997. Features of the comparables include a full unfinished basement, one or two fireplaces and a garage ranging in size from 556 to 875 square feet of building area. The comparables have sites ranging in size from 17,806 to 18,200 square feet of land area. The comparables sold from June 2008 to May 2010 for prices ranging from \$825,000 to \$1,175,000 or from \$250 to \$333 per square foot of living area, including land, rounded.

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. 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.

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 to do. 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 August 15, 2011 for a price of \$850,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The Board

finds the purchase price of \$850,000 is below the market value reflected by the assessment of \$903,891.

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 and in fact "accepted" the sale price in arriving at the 2012 assessment of the property as outlined above. 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)).

The board of review also provided three comparable sales that occurred between June 2008 and May 2010 for prices ranging from \$825,000 to \$1,175,000 or from \$250 to \$333 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 occurred 14 and 30 months prior to the assessment date at issue of January 1, 2011. As such, the Board finds these sale prices are too remote in time to be likely valid indicators of the subject's estimated market value as of the assessment date. The remaining comparable sale from May 2010 was of a substantially larger dwelling than the subject and therefore has been given reduced weight in the Board's analysis. In conclusion, based upon an 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 August 2011 sale price of \$850,000 was reflective of its market value.

Based on this record the Board finds the subject property had a market value of \$850,000 as of January 1, 2011. Since market

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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.

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: February 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.