



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

APPELLANT: Nabeel Ali
DOCKET NO.: 11-02446.001-R-1
PARCEL NO.: 09-15-102-043

The parties of record before the Property Tax Appeal Board are Nabeel Ali, 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: \$37,740
IMPR.: \$25,310
TOTAL: \$63,050

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a 1.5-story dwelling of masonry construction containing 2,016 square feet of living area. The dwelling was constructed in 1957 and remodeled in 1996. Features of the home include a partial unfinished basement and a 952 square foot garage. The property has a 13,135 square foot site and is located in Westmont, 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 June 30, 2011 for a price of \$190,199. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold by Deutsche Bank using a Realtor with Realhome Services by agent Cheryle Robin, the property had been advertised on the open market through the Multiple Listing Service and it had been on the market for 154 days. The property was sold as a consequence of foreclosure.

In further support of the transaction the appellant submitted a copy of the Multiple Listing Service data sheet and a copy of the Settlement Statement, both of which reiterated the sale date and sale price. The listing sheet further indicated the property was initially offered for sale on October 19, 2010 for \$204,765 which was subsequently reduced to \$194,900 prior to its sale for \$190,199. The listing sheet also indicated the property was "sold as is" with no warranties.

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 \$131,200 was disclosed. The subject's assessment reflects a market value of \$395,777 or \$196.32 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.

In response to the appeal, the board of review submitted a memorandum indicating the subject was purchased "through a Bank REO sale in March 2011 for \$190,199 based on the condition of the home at the time of sale."¹

As shown in the documentation and discussed in the memorandum, the township assessor apparently offered to reduce the subject's 2011 assessment (FOR ONE YEAR ONLY) with a proposed stipulation which was not signed by nor issued by the DuPage County Board of Review. Moreover, the board of review indicated in its "Notes on Appeals" that it was not willing to stipulate in this matter. Said stipulation has not been executed by the appellant nor accepted by the board of review in this proceeding.

Next, the memorandum contends that a field inspection of the subject property on August 26, 2011 revealed that the owner was rehabilitating the interior at the time "and would hopefully be able to move in within [a] month."

In support of the assessment, the board of review also 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 1.5-story dwellings of frame construction that range in size from 1,080 to 1,499

¹ An REO property is one that a bank or other financial institution now owns after an unsuccessful sale at a foreclosure auction. William Roark (2006), *Concise Encyclopedia of Real Estate Business Terms*.

square feet of living area. The dwellings were constructed from 1953 to 1965. Features of the comparables include a full unfinished basement and a garage ranging in size from 280 to 528 square feet of building area. One of the comparables also has a fireplace. These comparables have sites ranging in size from 8,670 to 10,964 square feet of land area. The comparables sold from December 2009 to May 2011 for prices ranging from \$154,000 to \$360,312 or from \$143 to \$240 per square foot of living area, including land, rounded. In the memorandum, the final contention is that the subject "(had it not needed the rehabbing) would be in range with a market value of \$393,639 or \$195/SF."

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. 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). (Emphasis added.)

The Board finds the best evidence of market value to be the purchase of the subject property on June 30, 2011 for a price of \$190,199. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The Board finds the purchase price of \$190,199 is below the market value reflected by the assessment of \$395,777.

The board of review also noted that the subject property was sold as the consequence of a foreclosure action. In this regard, it is noted that as of July 16, 2010, the Property Tax Code mandates that the Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. (35 ILCS 200/16-183) The Property Tax Code defines a compulsory sale in part as "the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete." (35 ILCS 200/1-23)

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 substantive evidence of "other circumstances" provided by the board of review in this proceeding. (See Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 552 (4th Dist. 1988)). The mere fact that the property was sold in "as is" condition and required rehabilitation prior to its occupancy simply further supports the contention that the property's sale price in June 2011 was reflective of its market value as of the assessment date of January 1, 2011.

The board of review also provided three comparable sales that occurred from December 2009 to May 2011 for prices ranging from \$154,000 to \$360,312 or from \$143 to \$240 per square foot of living area including land, rounded. Each of these comparables

is substantially smaller than the subject dwelling. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. Thus, which the suggested comparables are somewhat similar to the subject in location, design and age, the substantial differences in dwelling size severely detract from these sales as being suitable comparables to the subject dwelling of 2,016 square feet when the comparables range in size from 1,080 to 1,499 square feet. 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 June 2011 sale price of \$190,199 was reflective of its market value.

Based on this record the Board finds the subject property had a market value of \$190,199 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.



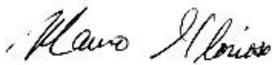
Chairman



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.