



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

APPELLANT: Agim Baftiri
DOCKET NO.: 11-02452.001-R-1
PARCEL NO.: 08-19-214-001

The parties of record before the Property Tax Appeal Board are Agim Baftiri, 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: \$62,110
IMPR.: \$3,200
TOTAL: \$65,310

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a split-level dwelling of frame exterior construction containing 1,056 square feet of living area. The dwelling was constructed in 1955. Features of the home include a partial finished basement, a fireplace¹ and an attached garage of 500 square feet of building area. The property is located in Naperville, Lisle 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 May 2, 2011 for a price of \$197,000. 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 from ReMax Professionals, agent Edward Lukasik, the property had been

¹ The appellant's Multiple Listing Service data sheet reports a fireplace in the dwelling's family room although the assessing officials did not report a fireplace for the subject dwelling in their grid analysis.

advertised on the open market through the Multiple Listing Service and it had been on the market for 92 days.

In further support of the transaction the appellant submitted a copy of the Multiple Listing Service data sheet depicting the listing date of November 24, 2010 and an asking price initially of \$285,000 following by a subsequent price reduction to \$199,900 prior to the sale of the property to the appellant for \$197,000. A copy of the Settlement Statement reiterates the sale date and purchase price as previously reported and also reflects the payment of brokers' commissions related to the sale.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeals" wherein the subject's total assessment of \$92,650 was disclosed. The subject's assessment reflects a market value of \$279,487 or \$264.67 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 support of the assessment the board of review submitted its Addendum to Board of Review Notes on Appeal along with Exhibit 1 consisting of a spreadsheet of five comparable sales. The spreadsheet indicates it was prepared by John D. Trowbridge II, Lisle Township Assessor and includes a map depicting the location of the subject and comparable properties along with copies of a Sheriff's Deed, a Quitclaim Deed, another Quit Claim Deed and a Special Warranty Deed. At the top of the spreadsheet are the following statements:

- Subject = Property was taken on sheriff's deed rec 12/2009 . . . by Federal National Mortgage Association.
- Federal National Mortgage then quitclaim's property to EMC Mortgage Corporation EMC Mortgage then quitclaim's property to Homesales Inc Homesales Inc then sell's [sic] property to Agim Baftiri on a special warranty deed for \$197,000

The spreadsheet sets forth information on five comparable sales located in the same neighborhood code assigned by the assessor as the subject property. The comparables are improved with dwellings of frame or masonry construction that range in size

from 1,056 to 1,330 square feet of living area. The dwellings were constructed from 1955 to 1958. Features of the comparables include a full or partial finished basement and a garage ranging in size from 240 to 474 square feet of building area. Four of the comparables have central air conditioning and two have a fireplace. These comparables sold from April 2008 to October 2009 for prices ranging from \$280,000 to \$390,000 or from \$265.15 to \$329.58 per square foot of living area, including land.

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 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). 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 2, 2011 for a price of \$197,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The parties to the transaction were not related, the property was sold using a Realtor from ReMax Professionals, agent Edward Lukasik, the property had been advertised on the open market through the Multiple Listing Service and it had been on the market for 92 days.

The Property Tax Appeal Board further finds the purchase price of \$197,000 is below the market value reflected by the assessment of \$279,487. The board of review sought to challenge the arm's length nature of the transaction by pointing out that the property had been foreclosed and then resold several times. Public Act 96-1083 amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) 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.

Section 16-183 provides:

Compulsory sales. 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.

The Board finds the effective date of these statutes is applicable to assessment date at issue, January 1, 2011. Moreover, the Board finds these statutes are instructive as to

the appellants' 2011 assessment of the subject property based on its purchase price.

The board of review also did not refute the contention that the purchase price was reflective of market value at the time of the sale. In light of the provisions of the Property Tax Code and case law, the Board has given reduced weight to the comparable sales presented by the board of review. Each of these sales occurred from 14 to 32 months prior to the assessment date of January 1, 2011. Given their lack of proximity in time, the Board finds these sales are less likely indicators of the subject's estimated market value, particularly when the subject sold five months after the assessment date of January 1, 2011.

Based on this record the Board finds the subject property had a market value of \$197,000 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.



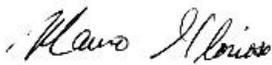
Chairman



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: March 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.