FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Kaihong Wang
DOCKET NO.: 11-02464.001-R-1
PARCEL NO.: 08-15-308-016

The parties of record before the Property Tax Appeal Board are Kaihong Wang, 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:	$48,040
IMPR.:	$74,950
TOTAL:	$122,990

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single-family dwelling of frame construction containing 3,616 square feet of living area. The dwelling was constructed in 1985. Features of the home include a partially finished basement, central air conditioning, a fireplace and an attached garage of 441 square feet of building area. The property is located in Lisle, 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 July 28, 2011 for a price of $371,005. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the seller was FHLMC, the parties to the transaction were not related, the property was sold using a Realtor from the firm of Jax Realtors, agent Michael Fields, the

property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 9 days. The property was reportedly sold in settlement of a foreclosure action.

In further support of the transaction the appellant submitted a copy of the Multiple Listing Service data sheet depicting the subject was originally listed on May 12, 2011 for an asking price of $372,750 prior a sale for $373,000. The document further depicts that the contract was entered into on May 20, 2011 and the closing occurred on August 7, 2011. Additionally, a copy of the Settlement Statement was submitted which reiterated the date of sale of July 28, 2011 and the sale price of $371,005 along with the payment of brokers' commissions on the sale.

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 Appeals" wherein the subject's total assessment of $161,250 was disclosed. The subject's assessment reflects a market value of $486,425 or $134.52 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 that included five sales along with a map depicting the location of the subject and the comparable properties. The spreadsheet indicates it was prepared by John D. Trowbridge II, Lisle Township Assessor. The grid also depicts the subject's purchase price of $371,005 with a date of July 2011. Also noted on the spreadsheet was the statement, "Subject's sale was REO[1] sale, sheriff's deed rec 2/28/2011 . . ." with a copy of that document attached. Also attached was a copy of a Special Warranty Deed dated July 27, 2011.

The spreadsheet sets forth information on five suggested comparable sales located in the same neighborhood code assigned by the assessor as the subject property. The comparables are improved with dwellings of frame construction that range in size from 3,022 to 3,118 square feet of living area. The dwellings

[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*.

were constructed between 1980 and 1986. Each comparable has an unfinished basement, central air conditioning and one or two fireplaces. Each home has an attached garage ranging in size from 462 to 630 square feet of building area. These comparables sold from March 2008 to June 2011 for prices ranging from $418,500 to $485,000 or from $135.88 to $155.55 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 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 July 28, 2011 for a price of $371,005 on a date seven months after the assessment date of January 1, 2011. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The seller was FHLMC, the parties to the transaction were not related, the property was sold using a Realtor from the firm of Jax Realtors, agent Michael Fields, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 9 days.

Moreover, the Board finds the purchase price of $371,005 is below the market value reflected by the assessment of $486,425. Additionally, the original asking price of $372,750 was also below the market value reflected by the assessment of $486,425. The Board also finds the board of review did not present any evidence to challenge the arm's length nature of the transaction and, in fact, reported the sale of the subject as of July 2011 for $371,005 in its spreadsheet.

The Board has given no weight to board of review comparable sales #2 through #5 as these sales occurred in 2008 or 2009 which are dates more remote in time than the sale date of July 2011 and thus, these are less likely to be valid or relevant indicators of the subject's estimated market value as of the assessment date of January 1, 2011. The board of review also failed to refute the contention that the purchase price was reflective of market value at the time of sale. Finally, the Board has also given less weight to comparable sale #1 in light of the provisions of the Property Tax Code and the applicable case law cited above where the subject sale occurred seven months after the assessment date of January 1, 2011 after having been exposed on the open market which resulted in the reported sale for $371,005. It is also noteworthy that 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) <u>the first sale of real</u>

> 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. [Emphasis added.]

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. Therefore, the Board finds these statutes are instructive as to the appellant's 2011 assessment of the subject property.

Based on this record the Board finds the subject property had a market value of $371,005 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: April 18, 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.