



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

APPELLANT: Peggy C. McGrath
DOCKET NO.: 11-02487.001-R-1
PARCEL NO.: 06-28-109-008

The parties of record before the Property Tax Appeal Board are Peggy C. McGrath, 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: \$6,160
IMPR.: \$39,590
TOTAL: \$45,750

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a first floor condominium unit that contains 1,256 square feet of living area. The condominium building was built in 2001 of masonry exterior construction. Features of the unit include central air conditioning and underground parking. The property is located in Lombard, York 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 March 10, 2010 for a price of \$138,000. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the seller was Michele Walter, the parties to the transaction were not related, the property was sold using a Realtor from the firm of ReMax/All Pro, agent Angela Lot, the property had been advertised on the open market

with the Multiple Listing Service and it had been on the market for 222 days.

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 March 19, 2009 for an asking price of \$225,000 with a subsequent price reduction to \$160,000 prior to the sale for \$138,000. The document notes "pursuant to short sale" and further depicts that the contract was entered into on October 26, 2009 and the closing occurred on March 10, 2010. Additionally, a copy of the Settlement Statement was submitted which reiterated the date of sale and the sale price previously reported 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 \$61,490 was disclosed. The subject's assessment reflects a market value of \$185,490 or \$147.68 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 prepared by Deanna Wilkins, Assessor with the York Township Assessor's Office. The spreadsheet has descriptions and sales information for five properties and on the reverse side has the following "Notes/Comments":

The appellant has filed based on a recent purchase of the subject property, March 10, 2010 of \$138,000. No comparables were provided by the appellant. The comparables that were provided by the Assessor's Office are all located within the same complex as the subject property. To show the history of sales within the complex, 2009-2011 sales are shown. Note that the subject reflects a sale price outside the range of a "typical sale" for the subject neighborhood. The sale/purchase of the subject property was under duress (pursuant to short sale) as documented in the copy of the listing. Also stated on the listing sheet was the original asking price of \$225,000 in March, 2009. For the purpose of this PTAB filing, we have used all 2011

sales, regardless of style, to show typical sale prices from this complex. This data can be used to arrive at a median price per square foot that we can apply back to the subject property for 2011. The median sale price of the Assessor's comparables, using only the 2011 sales, is \$258,500. The median square footage (of the 2011 sales) is 1,721.50. This would equate to a median price per sq. ft. (market value) of \$150.16, or, \$50.05 (assessed value) per sq. ft. This applied to the subject property's 1,256 sq. ft. results in a total assessed value of \$62,860 (higher than the current 2011 final assessment), or, an estimated market value of \$188,580. Based on the sale under duress, and the 2011 sale data used as comparison, we would ask for confirmation of this assessment.

Each of the five sales comparables has the same neighborhood code assigned by the assessor as the subject property and a similar street address. These comparables are improved with condominiums of masonry construction that range in size from 1,497 to 2,251 square feet of living area and were built in 2001 or 2002. No other descriptive characteristics for the comparables have been presented regarding foundation, air conditioning, amenities and/or parking. The comparables sold from September 2009 to October 2011 for prices ranging from \$234,500 to \$315,000 or from \$133.27 to \$162.69 per square foot of living area, including land.

Also as part of Exhibit #1 was a copy of the data sheet for the subject property from the Multiple Listing Service with handwritten notations and marks regarding the "conventional" financing, the original listing price of \$225,000 and the "sold by: Carol McGrath" with a notation, "related to buyer?"

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. 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). 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. [Emphasis added.] (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 March 10, 2010 for a price of \$138,000 on a date approximately nine months before 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 Michele Walter, the parties to the transaction were not related, the property was sold using a Realtor from the firm of ReMax/All Pro, agent Angela Lot, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 222 days.

Moreover, the Board finds the purchase price of \$138,000 is below the market value reflected by the assessment of \$185,490. It is also noteworthy that the reduced asking price of \$160,000 is also below the subject's estimated market value based on its assessment of \$185,490. The Board also finds the board of review did not substantively present any evidence to challenge the arm's length nature of the transaction. The mere fact of questioning the appellant's name and a real estate agent and/or the fact that the property was a short sale is not substantive

evidence challenging the arm's length nature of a sale transaction that the property was advertised on the open market through the Multiple Listing Service for a period of 222 days prior to the sale transaction. The board of review also did not provide a copy of the PTAX-203 Illinois Real Estate Transfer Declaration. In addition, the board of review failed to refute the contention that the purchase price of \$138,000 was reflective of market value at the time of sale, particularly given the reduced asking price of \$160,000.

Next, the Board has given little weight to the five sales presented by the board of review. Each comparable is larger than the subject condominium unit. One sale occurred in September 2009 and is too remote in time to be a valid or relevant indicator of the subject's estimated market value as of the assessment date of January 1, 2011. One comparable has about 1,000 square feet of additional living area than the subject and thus is too dissimilar to the subject to be relevant to assist in determining the subject's estimated market value. In addition reduced weight should be afforded to the remaining three comparable sales in light of the provisions of the Property Tax Code and the applicable case law cited above along with the fact that the subject sold approximately nine months before the assessment date at issue.

Based on this record the Board finds the subject property had a market value of \$138,000 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.

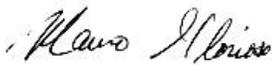


Chairman



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: 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.