



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

APPELLANT: Joanna Protaziuk
DOCKET NO.: 11-03578.001-R-1
PARCEL NO.: 09-09-201-021

The parties of record before the Property Tax Appeal Board are Joanna Protaziuk, 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: \$10,000
IMPR.: \$16,750
TOTAL: \$26,750

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a one-story dwelling of frame construction with 1,008 square feet of living area. The dwelling was constructed in 1929 and was modified in 1955. Features of the home include a partial unfinished basement and a 216 square foot garage. The property has an 18,000 square foot

site and is located in Westmont, Downers Grove Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on four comparable sales, one of which is described as a vacant parcel. Based on this evidence, the appellant requested a total assessment of \$21,000 which would reflect a market value of approximately \$63,000 or \$62.50 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$57,550. The subject's assessment reflects a market value of \$173,605 or \$172.23 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

As to the appellant's comparables, the board of review reported that comparable #1 sold at auction; comparables #2 and #3 were foreclosure sales; and comparable #4 was purchased from a holding company and was bank owned property.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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. 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.

As to the criticism that appellant's comparable #1 was sold at auction, the submission by the board of review does not establish that the property was not advertised prior to its sale at auction. One of the prerequisites for an arm's length sale transaction is that the general public had the same opportunity to purchase the property at any negotiated sale price. Other

recognized sources further demonstrate the fact a property must be advertised or exposed in the open market to be considered an arm's-length transaction that is reflective of fair market value. Black's Law Dictionary (referencing Bourjois, Inc. v. McGowan and Lovejoy v. Michels (citation omitted)), states:

. . . the price a property would command **in the market**" (Emphasis added). This language suggests a property must be publicly offered for sale in the market to be considered indicative of fair market value.

The Dictionary of Real Estate Appraisal [American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983), provides in pertinent part:

The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale; The property is exposed for a reasonable time on the open market.

The Property Assessment Valuation, 2nd edition, states: Market value is the most probable price, expressed in terms of money, that a property would bring **if exposed for sale in the open market** [emphasis added] in an arm's-length transaction between a willing seller and a willing buyer; a **reasonable time is allowed for exposure to the open market**. [emphasis added]. (International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996)). The board of review did not establish that the appellant's comparable #1 was not exposed on the open market for a reasonable period of time prior to its sale. Thus, the Board finds the mere fact that the property sold at auction is not a basis to discount the property as a comparable in the Board's analysis.

As to the contentions by the board of review that other comparables presented by the appellant were foreclosure and/or bank sale properties, 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.

The parties submitted a total of seven sales to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparable #3 which is a vacant land sale and thus reflects a land sale price of \$15.29 per square foot of land area which does not address the estimated market value of the subject's improvement (i.e., the dwelling and garage). The Board has also given reduced weight to board of review comparables #1 and #3 as these dwellings were built in 1958 and 1963 making them much newer than the subject dwelling that was built originally in 1929.

The Board finds the best evidence of market value to be appellant's comparable sales #1, #2 and #4 along with board of review comparable sale #2. These most similar comparables sold for prices ranging from \$35,000 to \$247,500 or from \$35.14 to \$288.46 per square foot of living area, including land. The subject's assessment reflects a market value of \$173,605 or \$172.23 per square foot of living area, including land, which is within the range established by the best comparable sales in this record, but does not appear to be justified given that only one sale stands at the high end of the range. Without board of review comparable #2 the highest sale price per square foot is \$82.79 followed closely by \$82.07 which represents appellant's comparables #2 and #4, which properties bracket the subject dwelling in size, however, these homes were built in the 1940s whereas the subject is older having been built in 1929. Based

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on this evidence the Board finds a reduction in the subject's assessment is justified.

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.



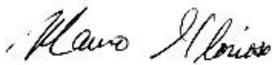
Chairman



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: October 24, 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.