FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Robert & Jessie Hartman
DOCKET NO.: 11-05412.001-R-1
PARCEL NO.: 04-572-001-00

The parties of record before the Property Tax Appeal Board are Robert & Jessie Hartman, the appellants, by attorney Laef N. Lorton of Wittman and Lorton, P.C., in Jerseyville, and the Jersey 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 **Jersey** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$12,920
IMPR.:	$10,236
TOTAL:	$23,156

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Jersey 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 two-story single-family dwelling of frame construction with approximately 1,737 square feet of living area. The dwelling was constructed in 1898. Features of the home include a partial unfinished basement, central air conditioning and both a two-car garage of 624 square feet of building area and a second one-car garage of 264 square feet of building area. The property has an 18,750 square foot corner site and is located in Jerseyville, Jersey Township, Jersey County.

The appellant Robert Hartman appeared before the Property Tax Appeal Board with his counsel contending the subject property was

overvalued based on its assessment. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on August 31, 2010 for a price of $70,000 from the previous owner Christina M. Twitchell. The parties to the transaction were not related and the property was listed for sale with a Realtor from Century 21 through the Multiple Listing Service for a period of 66 days prior to the execution of a sales contract. The property was also advertised on the realtor's website.

Appellant Robert Hartman, a resident of Grafton Hills, was called as a witness and testified that his son was in need of a house. After looking for available homes in Jerseyville, the appellant's son indicated an interest in the subject property. The witness believed the asking price at the time was $99,000 to $100,000. The appellants dealt only with the seller's Realtor in the purchase process and made an offer on the subject property for $70,000, even though the Realtor advised him the offer was unlikely to be accepted.[1] He also testified that the Realtor never advised him that the subject property was being sold under duress. Based upon other real estate purchases the appellant has made, he felt that the $70,000 offer for the subject property was fair.

Upon questioning by the Administrative Law Judge, the appellant testified that the dwelling was in move-in condition at the time of purchase. Mr. Hartman did not know how his son became aware of the property being available for sale.

Based on this evidence, the appellants 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" disclosing the total assessment for the subject of $30,000. The subject's assessment reflects a market value of $90,689 or $52.21 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Jersey County of 33.08% as determined by the Illinois Department of Revenue.

The board of review submitted a letter from Christy Hayes, the Clerk of the Board of Review and Jersey County Supervisor of Assessments along with additional evidence. Hayes asserted that one sale is not "an automatic representation of true market value." She noted the subject had "not been listed for an extended period of time and adequate market exposure is a prerequisite of ascertaining typical and true market value." In further support of this argument, she pointed out that the last listing was for $98,000, but only 28 days later a contract was made for a $70,000 sale price. As a final assertion, Hayes stated, "the seller was a recent divorcee and she moved out of the area to Carlinville." Also at hearing Hayes noted that as a

[1] The sales contract references Karen A. Bertman, of Century 21 House Center in Jerseyville as both the listing broker and the selling broker.

consequence of the hearing before the Jersey County Board of Review, the board of review believed there was an appraisal of the subject property for $90,000, although this was not submitted as value evidence either at that hearing or before the Property Tax Appeal Board.

In support of the subject's estimated market value as reflected by its assessment, the board of review submitted information on four comparable sales located within 7 blocks of the subject property. The comparables were 1.5-story or two-story dwellings of frame construction which range in age from 91 to 111 years old. The homes range in size from 1,658 to 2,125 square feet of living area and feature partial unfinished basements and central air conditioning. Three of the comparables have two detached garages and one comparable has a "minShed." These properties sold between June 2010 and August 2012 for prices ranging from $93,700 to $113,850 or from $53.58 to $59.20 per square foot of living area, including land.

At hearing the board of review's representative, Christy Hayes, called Tom Glynn, the multi-township assessor, for testimony. Glynn testified that the subject property was originally listed in June 2010 for $110,000. Glynn further opined that a property must have sufficient marketing exposure time to be indicative of market value and based on the higher listing price and acceptance of a lower purchase price "by a divorcee who wanted to move to Carlinville" he contended that the property was sold under duress.

Counsel for the appellants objected on the record to Glynn's testimony regarding the purported state of mind of the seller and the concomitant assertion the property was sold under duress. The Board finds that without foundation, the objection is valid.

Hayes next called appellant Robert Hartman as an adverse witness. In response to the inquiry, Hartman testified that an appraisal was done on the subject property which reflected a market value of approximately $100,000 "on both of them."

Hayes next asked Hartman why he did not provide a copy of the appraisal report to the Jersey County Board of Review at the time of that hearing. Counsel for the appellants interjected that in his representation of the appellants at the board of review hearing, counsel was of the opinion that the appraisal belonged to the bank, not the appellants. Moreover, the licensed appraiser, Andrew Sourwine (spelling?), who performed the appraisal had been suspended for inaccurate communication(s).

Based on this evidence of comparable area sales, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellants contend 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 appellants 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 Illinois Supreme Court 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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). 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 if reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967).

The Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in August 2010, for a price of $70,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellants 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, the property had been advertised on the open market with the Multiple Listing Service and a listing on the Realtor's website and it had been on the market for 66 days prior to the execution of a sales contract. In further support of the transaction, the appellants submitted a copy of the sales contract depicting a purchase price of $70,000 (Exhibit B) and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration depicting that the property was advertised prior to its sales and the actual consideration was $70,000.

The Board finds the purchase price of $70,000 is below the market value reflected by the assessment of $90,689. The Board finds the board of review did not present any substantive evidence to challenge the arm's length nature of the transaction. The mere assertion that the seller was a "divorcee" and the implication that the short time period between the original listing in June 2010 for $110,000, followed 42 days later by a price reduction to $98,500 which was then followed 28 days later by acceptance of a sales contract without more substantive evidence is not

sufficient to allege 'duress' in the sale. Moreover, the board of review did not provide evidence to refute the contention that the purchase price was reflective of market value.

Based on this record the Board finds the subject property had a market value of $70,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for Jersey County of 33.08% 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: June 20, 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.