



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

APPELLANT: Keven M. Jefferis, Trustee
DOCKET NO.: 13-03388.001-R-1
PARCEL NO.: 06-209-009-00

The parties of record before the Property Tax Appeal Board are Keven M. Jefferis, Trustee, the appellant, by attorney Michael A. Toepfer of Vincent Roth Toepfer & Leinen PC, in Galena, and the Jo Daviess 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 **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$27,966
IMPR: \$182,722
TOTAL: \$210,688

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Jo Daviess County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 part one-story and part two-story single-family dwelling of cedar and limestone exterior construction with approximately 4,635 square feet of living area.¹ The dwelling was constructed in 2001. Features of the home include a partial basement with finished area, central air

¹ The appellant reported a dwelling size of 4,534 square feet, but provided no substantive evidence to support the contention. The board of review provided a property record card of the subject with a schematic drawing depicting the exterior measurements.

conditioning, two fireplaces² and an attached three car garage of 931 square feet of building area. The property has a 9.63-acre site and is located in Thunder Bay development, Galena, East Galena Township, Jo Daviess County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased via a sales contract executed on March 4, 2013 and which closed on September 9, 2013. The appellant reported the sale price was \$675,000. The parties to the transaction were not related, the property was sold through a Realtor with Galena Realty Ltd., Agent Linda Yutmeyer and the property was advertised in the Multiple Listing Service for a period of 262 days.

In further support, the appellant submitted a copy of the multi-page Contract for Purchase that reflects an original offer to purchase for \$650,000 along with addendums, a well and septic inspection rider and a corner pin location rider. The appellant also provided a copy of the PTAX-203 Illinois Real Estate Transfer Declaration reflecting a purchase price of \$650,000 with \$10,000 attributed to personal property with a date of September 2013.

The appellant argued that the actual sales price of the subject property is the most accurate measure of fair market value and should be used for purposes of the assessment as of January 1, 2013.

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 Appeal" disclosing the total assessment for the subject of \$276,123. The subject's assessment reflects a market value of \$838,770 or \$180.96 per square foot of living area, land included, when using the 2013 three year average median level of assessment for Jo Daviess County of 32.92% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review provided a memorandum outlining the evidence along with a copy of the subject's property record card and a grid analysis of three comparable sales along with copies of applicable property record cards. The subject's property record card reflects the transfer of the subject as of September 9, 2013 for an indicated price of \$640,000. In the memorandum, the board of review acknowledged that the subject property was purchased in September 2013 as depicted by the deed, transfer declaration and closing statement

² The appellant reported there were no fireplaces in the dwelling whereas the assessing officials reported two fireplaces. While this amenity would be an assessable feature, due to the basis of the appeal and determination by the Property Tax Appeal Board, this descriptive dispute does not prevent issuance of a decision on the merits.

(Board of Review Exhibit C). The transfer declaration and closing statement both reflect a purchase price of \$650,000 with \$10,000 attributed to personal property in the transfer declaration.

The board of review argued that the subject's September 2013 purchase date is closer to the next January 1, 2014 assessment date than to the January 1, 2013 assessment date. Since property is to be assessed as of January 1 of the year at issue, the board of review contends that the sale of the subject which occurred three months prior to January 1, 2014 "should not be considered for a value" as of January 1, 2013. Instead, the argument was that the sale should be considered for the following year value.

In further support of its contention of the correct assessment, the board of review submitted information on three comparable properties located an unknown distance from the subject property. The comparable parcels range in size from .69 of an acre to 3.01-acres of land area. The parcels are improved with a one-story, a 1.5-story and a part one-story and part two-story dwelling, respectively. The homes are of frame or frame and stone exterior construction and were built between 2000 and 2007. The dwellings range in size from 2,382 to 2,816 square feet of living area and feature basements with finished area, central air conditioning, one to three fireplaces and a garage ranging in size from 480 to 750 square feet of building area. The properties sold between September 2011 and February 2013 for prices ranging from \$520,000 to \$720,000 or from \$195.64 to \$255.68 per square foot of living area, including land.

Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant contended that the board of review comparable properties are located in a different township and given the importance of location, the properties are not comparable to the subject. As to the date of sale, the appellant's counsel argued that the sales contract was executed on March 4, 2013 with a sales price of \$650,000 (less personal property) and the transaction simply did not close until September 9, 2013.

Given that the Property Tax Code calls for assessments to be made as of January 1 of the tax year in question (35 ILCS 200/9-95) and the taxpayer's tax obligation is likewise fixed as of the determination of fair market value as of that assessment date, the appellant argued that the subject property was on the market for 262 days prior to the arm's length sale transaction which occurred between unrelated parties who negotiated and agreed to a fair market value for the subject property of \$640,000 which was fixed as of the date of the sales contract of March 4, 2013. Fairness and equity indicate that the valuation should at least be computed and prorated as of the date the sales price was fixed by the sales contract.

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.

The Property Tax Appeal Board has given little weight to the comparable sales submitted by the board of review. The Board finds that the comparables were not only located in a different township as argued by the appellant in rebuttal, but the comparable dwellings differed substantially from the subject in land area, design, exterior construction, age and/or dwelling size rendering these properties dissimilar to the subject for purposes of comparison.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill. App. 3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill. 2d 158, 161, 226 N.E.2d 265, 267 (1967). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983); People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970); People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

With respect to the subject's January 1, 2013 assessment date, the Property Tax Appeal Board finds the legislature clearly contemplated subsequent events in the assessment process by inserting the language: "On or before **June 1** . . . the assessor, in person or by deputy, shall actually view and **determine as near as practicable the value of each property listed for taxation as of January 1 of that year.** . . and assess the property at 33 1/3% of its fair cash value, or in accordance with Sections 10-110 through 10-140." The Board finds assessors are statutorily bound to determine a given property's fair cash value as near as practicable **as of** the date of January 1 of a given assessment year. Illinois courts recognized that assessing officials are

not barred, as a matter of law, from considering events which occurred after the lien date in assessing properties and subsequent events assessing officials may consider in any individual case will depend on the nature of the event and the weight to be given the event will depend upon its reliability in tending to show value as of January 1. (See Application of Rosewell, 120 Ill. App. 3d 369 (1st Dist. 1983)).

The question of fair market value is to be determined as of January 1, 2013 and the Board finds the best evidence of the subject's fair market value as of the assessment date at issue is the sales contract executed on March 4, 2013 followed by the subsequent closing of the purchase transaction on September 9, 2013 for the negotiated sale price of \$640,000. The appellant provided un-refuted evidence demonstrating that the parties to the transaction were un-related; the property was advertised for sale in the open market for a period of 262 days; and there was no compulsion involved in the transaction. The foregoing undisputed facts demonstrate the sale had the elements of an arm's length transaction. The Board finds the board of review did not present any evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value.

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, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 262 days. Inexplicably, the appellant in Section IV reported the purchase price to be \$675,000 which is contradicted by all of the documentary evidence in the record reflecting a purchase price of \$650,000 less \$10,000 which was attributed to personal property. (See sales contract, settlement statement, transfer declaration and property record card of the subject property)

The Board finds the documented purchase price of \$640,000 is below the market value reflected by the assessment of \$838,770. The Board finds the subject's 2013 purchase price demonstrates the subject's property's assessed valuation as determined by the board of review is excessive. Based on this record the Board finds the subject property had a market value of \$640,000 as of January 1, 2013. Since market value has been determined the 2013 three year average median level of assessment for Jo Daviess County of 32.92% 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



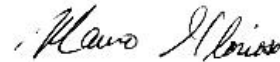
Member



Member



Member



Member



Acting 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 18, 2016



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.