



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

APPELLANT: Gerald & Linda Wahlstrom
DOCKET NO.: 14-01727.001-R-1
PARCEL NO.: 08-13-353-017

The parties of record before the Property Tax Appeal Board are Gerald & Linda Wahlstrom,¹ the appellants; and the DeKalb County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** in the assessment of the property as established by the **DeKalb** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$13,727
IMPR.: \$10,273
TOTAL: \$24,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the DeKalb County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 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 frame dwelling that contains 936 square feet of living area. The dwelling was constructed in 1965. Features include a crawl space foundation, central air conditioning and a one-car garage. The subject has a 10,074 square foot site. The property is located in DeKalb Township, DeKalb County.

The appellants' appeal is based on overvaluation. In support of this argument, the appellants submitted evidence disclosing the subject property was purchased on June 20, 2014 for \$50,000. The appellants completed Section IV—Recent Sale Data of the appeal petition. The petition indicated the sale was not between family or related corporations, but the subject property was not advertised for sale on the open market.

¹Gerald Wahlstrom is the Chairman of the DeKalb County Board of Review.

In further support of the overvaluation argument, the appellants submitted three comparable properties located from ½ of a block to two miles from the subject. The comparables consist of one-story dwellings of frame exterior construction that are from 50 to 54 years old. Features had varying degrees of similarity when compared to the subject. The dwellings contain 925 or 1,225 square feet of living area and are situated on sites that contain from 7,950 to 9,600 square feet of land area. The comparables sold from May 2013 to April 2014 for prices ranging from \$52,500 to \$80,000 or from \$56.76 to \$65.31 per square foot of living area including land. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted a revised "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$24,000. The subject's assessment reflects a market value of \$72,029 or \$76.95 per square foot of living area when applying the 2014 three year average median level of assessment for DeKalb County of 33.32% as determined by the Illinois Department of Revenue. In support of its contention of the correct assessment the board of review submitted a letter addressing the appeal and four comparable sales.

The comparables consist of one-story dwellings of frame exterior construction that were built from 1956 to 1960. Features had varying degrees of similarity when compared to the subject. The dwellings range in size from 864 to 1,008 square feet of living area and are situated on sites that contain from 6,710 to 9,108 square feet of land area. The comparables sold from May 2013 to June 2014 for prices ranging from \$75,000 to \$104,500 or from \$81.08 to \$103.67 per square foot of living area including land.

With respect to the evidence submitted by the appellants, the board of review argued the subject's sale was not an arm's-length transaction because the property was not properly advertised for sale according to the Real Estate Transfer Declaration (PTAX-203), which was submitted by the board of review. The board of review argued appellants' comparable #1 resold in November 2013 for \$80,000 or \$86.49 per square foot of living area including land. The board of review also submitted a location map depicting the proximate location of both parties' comparables in relation to the subject. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under rebuttal, the appellants contend the subject's sale should be considered even though it was not advertised for sale. The appellants contend the parties were not related, were knowledgeable of the market and not under any undue duress to buy or sell. The appellants asserted the 2014 re-sale amount for its comparable #1 was due to a complete remodel with numerous improvements that resulted in the higher sale price, according to the Multiple Listing Service (MLS) sheet submitted. The appellants contend board of review comparable #3 should not have been used because it has a full finished walkout basement, a 2.5-car garage and numerous updates according to the MLS sheet.

In response to the appellants' rebuttal, the Chief County Assessment Officer, Robin Brunschon, indicated she interviewed counsel that completed the Real Estate Transfer Declaration (PTAX-203) associated with the sale of the subject property. According to counsel, Gerald Wahlstrom was the agent "that handled" the seller's rental properties. As a result, Brunschon concluded the parties to the transaction had a pre-existing business relationship. The board of review also

noted the subject's sale price was lower than any of the comparable sales contained in the record. With regard to the updated condition of board of review comparables #1 and #3 based on the MLS sheets, the board of review argued the appellants failed to provide any information regarding the subject's overall condition.

The appellants submitted various responses asserting the buyer and seller did not have a pre-existing business relationship.

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 did not meet this burden of proof and no reduction in the subject's assessment is warranted.

The Property Tax Appeal Board finds the subject's sale does not meet one of the fundamental requirements of an arm's-length transaction. The Board finds the evidence submitted by the board of review and admission by the appellants clearly shows the subject property was not advertised or exposed for sale on the open market to meet one of the fundamental elements of an arm's-length transaction. Therefore, the subject's sale price was given little weight and is not considered indicative of fair market value. Section 1-50 of the Property Tax Code defines fair cash value as:

The 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)

Similarly, Illinois Courts have stated fair cash value is synonymous with fair market value and is defined as the price a willing buyer would pay a willing seller for the subject property, there being no collusion and neither party being under any compulsion. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 256 (1970) and Ellsworth Grain Company v Property Tax Appeal Board, 172 Ill.App.3d 552, 526 (4th Dist. 1988). Although the appellants' evidence indicates the subject's transaction was between a willing, knowledgeable buyer and seller, the Board finds the transaction was not advertised for sale on the open market and is not typical of the due course of business and trade. The subject's Real Estate Transfer Declaration and the appellants' appeal petition clearly established that the subject property was not advertised for sale. Thus, the general public did not have the opportunity to purchase the subject property at any negotiated sale price.

In 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.

Finally, the Board finds there are other credible sources that specify a property must be advertised for sale in the open market to be considered an arm's-length transaction that is

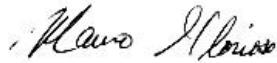
indicative of fair market value. The Dictionary of Real Estate Appraisal [American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983), 33], provides in pertinent part: The most probable price in cash, terms equivalent 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**.

Additionally, 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** 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**. International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996). Since the appellants admitted the subject property was not advertised for sale or exposed to the open market in an arm's-length transaction, the Board gave little weight to the subject's transaction for market value consideration.

The parties submitted seven comparable sales for the Board's consideration. The Board gave less weight to comparables #2 and #3 submitted by the appellants. Comparable #2 is located two miles from the subject. Comparable #3 is 24% larger in dwelling size when compared to the subject. The Board gave less weight to comparable #3 submitted by the board of review. This comparable has a finished walkout basement and a large garage, superior to the subject. The Board finds the remaining four comparables are more similar when compared to the subject in location, land area, design, age, dwelling size and features. One comparable sold twice. These comparables sold for prices ranging from \$52,500 to \$104,500 or from \$56.76 to \$103.67 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$72,029 or \$76.95 per square foot of living area including land, which falls within the range established by the most similar comparable sales contained in this record.

The Board finds the second sale for appellants' comparable #1 and comparable #1 submitted by the board of review had been updated according to their MLS sheets. They sold for prices of \$80,000 and \$104,500 or \$86.49 and \$103.67 per square foot of living area including land, which lends support to the subject's estimated market value as reflected by its assessment of \$72,029 or \$76.95 per square foot of living area including land. Based on the preponderance of the most credible market value evidence contained in this record, the Board finds no reduction in the subject's assessed valuation is warranted.

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: _____

CERTIFICATION

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: July 22, 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.