



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

APPELLANT: Hythem Shadid
DOCKET NO.: 15-05352.001-R-1
PARCEL NO.: 05-16-124-006

The parties of record before the Property Tax Appeal Board are Hythem Shadid, the appellant, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$20,080
IMPR.: \$49,610
TOTAL: \$69,690

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 2015 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 dwelling of frame construction with 1,260 square feet of living area. The dwelling was constructed in 1912. Features of the home include a full unfinished basement, a fireplace and a 216 square foot garage.¹ The property has a 6,649 square foot site and is located in Wheaton, Milton 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 October 31, 2014 for a price of \$185,000. In Section IV – Recent Sale Data of the Residential Appeal petition, the appellant indicated the subject property was sold by Michael Mangis, the property was

¹ In Section III of the Residential Appeal petition, the appellant reported the subject property does not have a garage. The assessing officials reported a garage improvement in their grid analysis; the assessing officials failed to provide a copy of the subject's property record card as required. The Board finds this small descriptive discrepancy does not prevent a determination of the subject's correct assessment.

advertised on the open market with a Realtor, although the property was not advertised for sale. The appellant also reported the parties to the transaction were not related and \$1,000 was expended in renovations before the property was occupied on January 1, 2016. The appellant also submitted a copy of the Warranty Deed, the Settlement Statement disclosing the sales price and depicting the payment of brokers' fees to one entity, an Affidavit of Title, a Bill of Sale and a hand-written Post Closing Possession Agreement. 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 \$69,690. The subject's assessment reflects a market value of \$209,279 or \$166.09 per square foot of living area, land included, when using the 2015 three year average median level of assessment for DuPage County of 33.30% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a memorandum and a grid analysis of comparable sales prepared by the Milton Township Assessor's Office. In the memorandum, the assessor noted that the subject's sale was not an arm's length transaction. Despite reporting the sale was not arm's length, the assessor provided a copy of a PTAX-203 Illinois Real Estate Transfer Declaration indicating the property had been advertised prior to its sale.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on six comparable sales located in the same neighborhood code assigned by the assessor as the subject property. The comparable parcels range in size from 7,528 to 9,210 square feet of land area and are improved with two-story frame or masonry dwellings that were built between 1887 and 1964. The homes range in size from 1,548 to 1,944 square feet of living area with basements, one of which has finished area. Two of the comparables have central air conditioning and four comparables have one or two fireplaces. Each comparable has a one-car or a two-car garage ranging in size from 396 to 528 square feet of building area. The comparables sold between August 2012 and June 2014 for prices ranging from \$261,000 to \$380,000 or from \$168.60 to \$203.16 per square foot of living area, including land.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Illinois Supreme Court defined fair cash value as 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). In addition, 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)

The Property Tax Appeal Board finds the subject's sale does not meet at least one of the fundamental requirements to be considered an arm's-length transaction reflective of fair cash value. The Board finds the preponderance of the evidence shows the subject property was not advertised or exposed for sale on the open market as reported by the appellant in Section IV of the appeal petition. Therefore, the subject's sale price was given reduced weight and is not considered indicative of fair market value.

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. Ellsworth Grain Company v Property Tax Appeal Board, 172 Ill.App.3d 552, 526 (4th Dist. 1988). Although the appellant's evidence may suggest the subject's transaction was between a willing, knowledgeable buyer and seller, the Board finds the transaction was not advertised for sale in the open market and is not typical of the due course of business and trade. The appellant's appeal petition established that the subject property was not advertised for sale. Thus, the general public did not have the same opportunity to purchase the subject 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 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. 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**.

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** (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)). Since the appellant presented no factual evidence showing the subject property was 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.

Absent an arm-length transaction, Illinois courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989). The Board finds there is one credible market arm's-length sale contained in this record submitted by the board of review and probative of the subject's January 1, 2015 assessment date. Board of review comparable #2 is located in the subject's neighborhood code and is similar to the subject in several respects. The property sold in June 2014 for \$335,000 or \$178.10 per square foot of living area, including land. The subject's assessment reflects an estimated market value of \$209,279 or \$166.09 per square foot of living area, including land. After considering adjustments to the comparable for differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction is warranted.

In conclusion, the Board finds the evidence in this record does not demonstrate the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

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.