



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

APPELLANT: Roy McLaughlin
DOCKET NO.: 16-06322.001-R-1
PARCEL NO.: 05-04-308-028

The parties of record before the Property Tax Appeal Board are Roy McLaughlin, the appellant, by Jessica Hill-Magiera, Attorney at Law, in Lake Zurich, and the LaSalle County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the **LaSalle** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$27,920
IMPR.: \$67,071
TOTAL: \$94,991

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the LaSalle County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2016 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 masonry and vinyl siding exterior construction with 3,958 square feet of living area. The dwelling was constructed in 1997. Features of the home include a basement with finished area, central air conditioning, two fireplaces and an attached 1,530 square foot garage with 267 square feet of finished attic above the garage. The property is located in Somonauk, Northville Township, LaSalle 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 August 11, 2016 for a price of \$285,000. The appellant partially completed Section IV of the Residential Appeal petition reporting the property was purchased from the owner of record, the parties to the transaction were not related and the property was advertised by a Realtor in the Multiple Listing Service (MLS). In further support, the appellant provided a copy of the Settlement Statement depicting

the seller as Fannie Mae a/k/a Federal National Mortgage Association REO #C150JH7, reiterating the date of purchase, the sale price and depicting the distribution of commissions to two real estate entities. The appellant also provided a copy of the MLS data sheet depicting the listing date of the subject property with an original asking price of \$414,900 which was eventually reduced to \$299,900 before being sold by a contract in May 2016 for \$285,000. The data sheet depicts the property was on the market for 144 days and as an REO/Lender Owned property. 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 \$148,461. The subject's assessment reflects a market value of \$449,609 or \$113.59 per square foot of living area, land included, when using the 2016 three year average median level of assessment for LaSalle County of 33.02% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review through its chairman submitted a two-page letter along with Attachments #1 through #7. The board of review set forth data in Attachment #1 related to the statutorily required sales ratio studies reciting that the Illinois Department of Review (IDOR) includes compulsory sales that occur on or after January 1, 2011 in the sales ratio studies and noting the Department of Revenue will also consider "whether the compulsory sale would otherwise be considered an arm's length transaction, based on existing sales ratio study standards." [Emphasis in letter.] Attachment #2 is described as depicting how IDOR "uses the PTAX-203 to determine what sales are to be included in the Sales Ratio Study." The board of review contends based upon this data, the subject's sale was not in the study and was not deemed to be an arm's length transaction; the subject parcel was not included in the Northville Township's detail list for the 2016 study year (Attachment #3).

Attachment #4 is a copy of the PTAX-203 Illinois Real Estate Transfer Declaration related to the sale of the subject property which depicted the property was advertised, was a Bank REO (real estate owned), transferred by a Special Warranty Deed and the seller was a financial institution or government agency. The chairman's letter relies upon the IDOR directives for the proposition that the subject's sale was not considered to be arm's length.

On page 2 of the letter, the chairman wrote the following paragraph:

A foreclosure property is a piece of real estate that a mortgage lender sells to pay off a defaulted mortgage loan. Every foreclosure culminates in a public auction where the lender sells the property and anybody can purchase the property. If a home doesn't sell, the lender will hold on to the property, which is known as real estate-owned, or REO which is owned by the lender-typically a bank, government agency, or government loan insurer-after an unsuccessful sale at a foreclosure auction. Banks often negotiate on their sale prices in order to finally get them off their books. As assessment officials we may not 'chase' a sale in setting the assessment. We feel this to be the same for any type of a Foreclosure/REO even if it has been advertised on the open market. It goes on the market as a sold under duress to begin with and we feel this to violate what we call uniformity of assessment and this may artificially inflate or deflate sales prices.

In support of its contention of the correct assessment, the board of review submitted Attachment #5 with information on eight comparable sales that were deemed by the assessing officials to be arm's length transactions and were "within the proximity" of the subject with conventional sales. Attachment #6 depicts the proximity of the comparables to the subject on a map with reported distances from the subject ranging from .07 of a mile to 3.4-miles. The submission also included copies of the property record cards and transfer declarations for each of these properties. No land sizes were provided for the subject or any of the comparable properties. The parcels were each improvement with a two-story dwelling of frame, stucco or frame and masonry exterior construction. The dwellings were built between 1978 and 2001 and range in size from 2,041 to 3,271 square feet of living area. Each comparable has a basement, five of which have finished areas, central air conditioning, one to three fireplaces and a garage ranging in size from 506 to 938 square feet of building area. The comparables sold from June 2013 to December 2015 for prices ranging from \$275,000 to \$500,000 or from \$84.43 to \$210.68 per square foot of living area, including land. Within the chairman's letter, it was reported the board of review placed greatest weight on sales #1, #5 and #6.

Attachment #7 is a copy of the same MLS listing data sheet which the appellant submitted along with additional interior photographs. The board of review contends the listing describes a connecting coach house and noted no condition issues were mentioned in the listing. Additionally, as required by procedural rules of the Property Tax Appeal Board, the board of review submitted a copy of the subject's property record card which displays an August 28, 2017 sale of the subject property via Warranty Deed for \$340,000.

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

In rebuttal, counsel for the appellant argued that the board of review did not dispute the recent sale of the subject property and did not provide any evidence that the recent sale was not valid. The appellant argued that the sale of the subject meets the criteria of an arm's-length transaction in that it was advertised for sale and the sale was not between related parties. The appellant's counsel also argued that the board of review was "converting" the appellant's appeal to comparable sales instead of a recent sale argument. (But see, 86 Ill.Admin.Code §1910.65(c)).

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 appellant contends the subject's 2016 tax year assessment should be reduced based on a recent purchase in August 2016. The board of review responded with data concerning the mandated sales ratio study as guided by IDOR and eight suggested comparable sales. The Board gives no weight to the directives related to the sales ratio studies that local assessing officials

must perform. The process of developing an assessment differs from the appeal process wherein the question is what is best evidence of the market value of the subject property based on the evidence presented. The Board has thoroughly examined the eight sales presented by the board of review and finds that sales #2, #4, #7 and #8 sold in either 2013 or 2014 which dates are deemed too remote in time to be indicative of the subject's estimated market value as of January 1, 2016. In addition, the Board finds that board of review comparables #3 through #8 were each significantly smaller in living area square footage than the subject dwelling of 3,958 square feet of living area and/or differed in age making these comparables each dissimilar to the subject.

The evidence of record disclosed that the subject sold for a price of \$285,000 or \$72.01 per square foot of living area, including land. The information provided by the appellant indicated the sale had the elements of an arm's length transaction and the sale occurred only eight months after the assessment date at issue of January 1, 2016 with the sale contract entered in May 2016. The Property Tax Appeal Board finds that the board of review's responsive evidence contesting the validity of the sale because the property was REO/bank owned, transferred via Special Warranty Deed and sold by a financial institution are not reasons on this record to disregard the reported sale price.

As a general proposition, except in counties with more than 200,000 inhabitants that classify property for taxation purposes, each tract or lot of property is to be valued at 33 1/3% of its fair cash value. 35 ILCS 200/9-145. Section 1-50 of the 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 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). "Fair cash value can only be established where there is an offer, *and* an acceptance, in a *bona fide* transaction." Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 492, 559 (4th Dist. 1988) [emphasis in original]. As further stated in Residential Real Estate Co. v. Property Tax Appeal Board, 188 Ill. App. 3d 232 at 242 (5th Dist. 1989):

A contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value but would be practically conclusive on the issue of whether an assessment was at full value. [citation omitted.] However, the sale price of property does not necessarily establish its value without further information on the relationship of the buyer and seller **and other circumstances**. Citing Ellsworth Grain, *supra*, 72 Ill.App.3d 552. [Emphasis added.]

Black's Law Dictionary (9th ed. 2009) defines "arm's length" as "relating to dealings between two parties who are not related or not on close terms and who are presumed to have roughly equal bargaining power; not involving a confidential relationship."

The concept that a sale price is reflective of 'market value' also includes a number of other factors, including but not limited to, exposure on the open market for a reasonable period of time. See also, Calumet Transfer, LLC v. Property Tax Appeal Board, 401 Ill.App.3d 652 (1st Dist. 2010). In the context of condemnation proceedings and the consideration of comparable sales data to ascertain market value, the Illinois Supreme Court has previously stated:

. . . sales, when made in the free and open market, where a fair opportunity for competition has existed, become material and often very important factors in determining the value of the particular property in question. But it seems very clear that, to have that tendency, they must have been made under circumstances where they are not compulsory, and where the vendor is not compelled to sell at all events, but is at liberty to invite competition among those desiring to become purchasers.

Peoria Gaslight & Coke Co. v. Peoria Terminal Ry. Co., 146 Ill. 372 (1893). On this record, there is no evidence to contradict the assertion made by the appellant that the property was advertised as reported in the appeal petition and in the transfer declaration. The subject property was on the market for 144 days with an original asking price of \$414,900 which was subsequently reduced to an asking price of \$299,900. The subject was off the market in May 2016 after an agreed upon contract price of \$285,000.

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). In light of this holding, comparable sale #1 submitted by the board of review has also been given less weight.

In conclusion, the Board finds the best evidence of the subject's fair market value in the record is the August 2016 sale for \$285,000. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale in the MLS and involved a realtor. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value at the time of the sale. Thus, based on the foregoing facts and case law, the Property Tax Appeal Board finds the subject's August 2016 sale price of \$285,000 was arm's-length in nature under these circumstances in this record. The subject's assessment reflects an estimated market value of approximately \$449,609, which is higher than its recent arm's-length sale price, higher than its original asking price when the property was listed and higher than its August 2017 sale price of \$340,000 via Warranty Deed as depicted on the subject's property record card. Therefore, the Board finds that a reduction in the subject's assessment commensurate with the appellant's request 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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



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: September 15, 2020



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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