



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

APPELLANT: Lamp Rd LLC
DOCKET NO.: 17-06100.001-R-1
PARCEL NO.: 09-17-329-007

The parties of record before the Property Tax Appeal Board are Lamp Road LLC, the appellant, by attorney Nicholas Cronauer of Burns, Cronauer & Brown, LLP in Sycamore; and the DeKalb 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 **DeKalb** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$3,333
IMPR.: \$0
TOTAL: \$3,333

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant 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 2017 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 site containing 6,534 square feet of land area. The site contains no building improvements and is part of a neighborhood subdivision which is serviced by city water, city sewer, streets, sidewalks, street lighting and electricity.¹ The property is located in Cortland, Cortland Township, DeKalb County.

¹ The subject lot is one of multiple unimproved lots purchased in bulk by the appellant. Most of the information regarding the subject lot was obtained via the parties' testimony at the hearing at which 43 individual appeals were consolidated for purposes of hearing. The lots are reported to be all in the same subdivision and similar in size with the exception of PINs 09-29-252-001 and 09-17-327-001 which are larger lots. The parties agree that there are no distinguishable features of these lots to affect their value, therefore, the Property Tax Appeal Board finds that the most equitable way of determining the subject's assessment is by site value, regardless of individual lot sizes.

The appellant appeared before the Property Tax Appeal Board through Michelle Work, member of the LLC, and by her attorney, Charles Cronauer, contending overvaluation as the basis of the appeal. In support of the overvaluation argument, the appellant submitted evidence disclosing the subject property was purchased in January 2017 for a price of \$650. The appellant completed Section IV – Recent Sale Data of the residential appeal form disclosing the property was sold at auction by the DeKalb County Trustee as the seller. Also disclosed was that this was not a transfer between family or related corporations, that the property was advertised for sale for nine months through various media sources and that the sale was following a foreclosure and a subsequent tax sale. The appellant also submitted a copy of the “Binding Purchase Contract/Real Estate/Sealed Bid” along with a copy of a Quit Claim Deed granting the subject property to appellant, Lamp Road LLC.²

Ms. Work testified before the Property Tax Appeal Board on behalf of the appellant, Lamp Road LLC, that she submitted a “sealed bid contract” to the DeKalb County Trustee to purchase the subject lot. Work testified that there was no warranty as to the condition of the title and that the property was purchased “as is”. Work testified that there were no other bidders for the subject property and that she submitted the minimum bid of \$650 which was set and accepted by the DeKalb County Trustee. Work testified that the subject property was part of a bulk purchase of multiple individual lots in the same subdivision and all sold by the DeKalb County Trustee. Ms. Work contended that the sale met all the elements of an arm’s-length transaction; that the properties were sold in due course of business; that DeKalb County set the minimum bid price; there was no duress or undue influence; and that the transaction was between a willing buyer and willing seller. Work also emphasized that this transaction was a purchase and sale of real estate rather than a tax sale.

On cross-examination, Work stated that no homes were built on any lots in this neighborhood in 2017, the assessment year in question. Upon questioning by the Administrative Law Judge, Work testified that she purchased the properties in bulk (of which the subject lot is a part) with the intention of selling them at a future date. During calendar year 2017, Work testified that she had not sold, marketed nor listed for sale the subject property or any other lots which she purchased from DeKalb County Trustee.

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 property of \$5,000. The subject's assessment reflects a market value of \$15,010 or \$2.30 per square foot of land area when using the 2017 three-year average median level of assessment for DeKalb County of 33.31% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted limited information on four comparable lot sales located outside of the subject’s neighborhood and in three differing subdivisions. The comparable vacant parcels range in size from 15,862 to 27,443

² The deed disclosed the transfer was exempt from the real estate transfer tax imposed by the Real Estate Transfer Tax Law pursuant to Section 31-45(f) as a tax deed. (35 ILCS 200/31-45(f)).

square feet of land area. The sales occurred from August 2015 to May 2017 for prices ranging from \$27,000 to \$90,000 or from \$1.53 to \$3.50 per square foot of land area. The board of review also submitted copies of the "Parcel Information Report" for the subject property and the four comparable sales containing information regarding the parcels such as assessment and sale history, owner name and address along with lot size/location.

Appearing on behalf of the DeKalb County Board of Review was the Chief County Assessment Officer, Robin Brunschon, who called the Cortland Township Assessor, Melody Birdsell for testimony. Birdsell testified regarding the evidence she prepared on behalf of the board of review, specifically the four comparable lot sales that were submitted. Birdsell first testified as to the factors she considered to calculate the subject's assessment in order to bring the subject to an equal assessment with other unimproved lots in the subject's neighborhood. Birdsell testified that there was only one sale of an unimproved site similar to the subject property that was sold in the subject's subdivision and close in time to the assessment date. That sale occurred in September 2017 for a price of \$10,000. Ms. Birdsell testified that this lot was approximately the same size as the subject and that the sale met all the elements of an arm's-length transaction.

On cross-examination, Birdsell was questioned as to why the appellant's land assessment is almost three times that of this one single sale. Birdsell testified that she did not determine the subject's assessment based on the aforementioned single sale because a single sale doesn't typically establish a market. Birdsell reasoned that she based the subject's assessment on the remaining lots in the subdivision which had improvements on them and determined the subject lot's assessment at one-half of the assessment of the improved lots which in her opinion more accurately reflected market value.

In the course of the hearing, Chief County Assessment Officer, Robin Brunschon, testified on behalf of the board of review that she offered to lower the subject's assessment to equal that of this single sale, but said offer was refused by the appellant.

The board of review also called as a witness Christine Johnson, DeKalb County Treasurer, to testify regarding the circumstances surrounding the subject's sale. Johnson testified that the subject property was part of a bulk sale of unimproved lots which had a significant amount of delinquent property taxes and had been subject to a Special Service Area (SSA) Lien. As such, initially there was very little interest by investors to purchase these properties. Johnson testified that the subject property eventually defaulted to the DeKalb County Trustee to be sold on behalf of the taxing districts. Johnson clarified that DeKalb County did not own the subject property as a county government, but rather took title as Trustee tasked with the obligation to act in the best interest of the taxing districts. Johnson testified that the subject property was offered for sale at a sealed-bid auction. Johnson explained that the minimum bid of \$650 was set by the DeKalb County Board at the recommendation of a financial corporation that manages the County Trustee program. Johnson stated that the minimum bid of \$650 was determined in order to simply recoup the costs and fees such as cost of publication, notices to the previous property owners and fees to the DeKalb County Trustee's, with the remainder, if any, paid to the taxing districts. Johnson affirmed that the minimum bid amount of \$650 was never intended to reflect market value.

On cross-examination, Johnson testified that the Treasurer's Office did not attempt to do a market analysis in order to come up with a market value because the goal was to only recoup the out-of-pocket costs and expenses the County incurred for the transfer of the lots. Johnson explained that due to the extremely high tax burden on these properties as a result of delinquent taxes along with the imposed Special Service Area (SSA) lien against the properties, no investor was inclined to purchase these lots with the existing tax liens attached. Consequently, the current sale program was implemented by the County in order to provide an incentive to buyers by waiving the delinquent taxes and liens and setting a minimum bid at an amount which would only reflect the transaction costs, rather than set a fair cash value. As a result, Johnson asserted that the sale price of \$650 has no relation whatsoever to fair market value.

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 evidence in this record supports a reduction in the subject's assessment.

The Board finds the parties submitted for the Board's consideration evidence by the appellant consisting of the purchase of the subject property in January 2017 for a price of \$650 along with a grid analysis of four comparable unimproved lot sales in addition to testimony regarding one unimproved lot sale proffered by the board of review.

As an initial matter, the Board finds that the sale of the subject property did not meet all elements of an arm's-length transaction. Section 1-50 of the Illinois Property Tax Code defines "fair cash value" as follows:

Fair cash value. 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 has 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).

The Board finds that the DeKalb County Trustee acquired title to the subject property by way of unredeemed delinquent property taxes. The Board further finds that DeKalb County as a government entity was not a willing owner/seller of the subject property obtained in an arm's length transaction as defined by the aforementioned statutory and case law authority. The Board finds that the evidence in the record supports the fact that the DeKalb County Trustee was merely a temporary custodian of the subject property tasked with the obligation of selling the subject lot by way of a closed bid for the benefit of the taxing districts. Furthermore, the Board

finds persuasive the unrefuted testimony of the DeKalb County Treasurer, Christine Johnson, that the subject property defaulted to the County following the failure of the property owner to redeem the delinquent taxes. She further testified that the minimum bid of \$650 was established to recoup the costs associated with selling the properties and was not to be reflective of fair cash value. The Board finds that the presence of compulsion or duress detracts and undermines the argument that the appellant purchased the subject property at an arm's-length transaction. Therefore, the Board finds that the subject's purchase price of \$650 is not reflective of market value.

As to the grid analysis of the four comparable lot sales submitted by the board of review, the Board finds these four sales for prices ranging from \$27,000 to \$90,000 help to demonstrate that the purchase of the subject lot for \$650 was not indicative of fair cash value.

The Board finds, however, the best evidence of market value in the record to be the sale of the single lot in the subject's subdivision as attested to by the board of review and unrebutted by the appellant. The Township Assessor testified that this lot was similar to the subject in size, location and city amenities such as water, sewer, electricity and city street. This unimproved site sold for \$10,000 in September 2017 which is proximate in time to the subject's January 1, 2017 assessment date. Additionally, both parties testified that there were no other sales of unimproved lots in the subject's subdivision in 2016, 2017 or 2018 other than this single sale. The subject's assessment reflects a market value of \$27,286 which is substantially higher than the price of the best evidence of market value in this record. After hearing the testimony and considering the record on the market value argument, the Property Tax Appeal Board finds the subject's assessment is not reflective of market value and a reduction in the subject's assessment is justified.

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



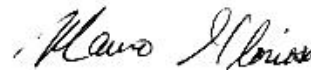
Member

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: December 23, 2019



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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