



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

APPELLANT: B3D Living, LLC
DOCKET NO.: 19-02754.001-R-1
PARCEL NO.: 18-34-305-034

The parties of record before the Property Tax Appeal Board are B3D Living, LLC, the appellant, by attorney Heather B. Kroencke, of Zanck, Coen, Wright & Saladin, P.C., in Crystal Lake, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 4,084
IMPR.: \$41,911
TOTAL: \$45,995

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the McHenry County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2019 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 single-family townhouse of frame exterior construction with 1,230 square feet of living area. The dwelling was constructed in 2001 and is approximately 18 years old. Features of the dwelling include a partial basement, central air conditioning and an attached two-car garage containing 400 square feet of building area. The property is located in Huntley, Grafton Township, McHenry County.

The appellant appeared by counsel Tyler Wilke, of Zanck, Coen, Wright & Saladin, P.C., contending that the subject property is overvalued given its recent sale price. In support of this argument, the appellant submitted evidence disclosing the subject property was sold on September 9, 2019 for a price of \$126,000. In Section IV of the Residential Appeal petition, the appellant reported that the property was sold by CMMD4 Ent LLC, that the parties to the transaction were not related and the property was sold by the owner. In an amended appeal

petition, it was further reported that the property was not advertised prior to the sale transaction, despite that the evidence of record as shown in the PTAX-203 depicts that the property was advertised prior to sale. A copy of the Settlement Statement was submitted reiterating the total purchase price of \$126,000 and that the settlement date was September 9, 2019. The document also depicts the payment of commissions to both Perillo Real Estate Group and to Your Choice Real Estate Services.

Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$42,000 to approximately reflect the purchase price.

Upon questioning by the board of review, counsel for the appellant indicated that the appellant is a real estate investor who works closely with a broker as does the previous owner of the subject property. Through those real estate connections, the appellant became aware of the property which resulted in the September 2019 sale transaction. When asked by the board of review, counsel for the appellant was unable to speak to the reason the subject property sold for less than its prior March 2019 purchase price which was reported by the board of review in its submission.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$49,995. The subject's assessment reflects a market value of \$150,000 or \$121.95 per square foot of living area, land included, when using the 2019 three-year average median level of assessment for McHenry County of 33.33% as determined by the Illinois Department of Revenue.

Appearing at the hearing on behalf of the board of review was member, Michael Grebenick. At hearing and without objection from appellant's counsel, the board of review submitted the PTAX-203 Illinois Real Estate Transfer Declarations for each of the sales of the subject property. BOR Hearing Exhibit 1 is the PTAX-203 for the March 2019 sale and BOR Hearing Exhibit 2 is the PTAX-203 for the September 2019 sale.

In support of its contention of the correct assessment, the board of review submitted a memorandum written by James Burke, Grafton Township Deputy Assessor. In the letter, Burke asserted that the subject property sold twice within a six-month period. While the assessor acknowledged the September 2019 sale price of \$126,000 set forth by the appellant, Burke stated that there was a previous arm's length transaction that occurred more proximate to the lien date of January 1, 2019 from a sale that closed on March 12, 2019 for \$150,000. As this latter sale is closer to the applicable lien date, the board of review contends it is more accurately reflective of the market value of the subject property. The only other documentation filed by the board of review in this proceeding was a copy of the subject's property record card. Based on the foregoing argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant reiterated the contention that the second sale of the subject was an arm's length transaction and was not a distress sale.

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 assessment should be reduced based on the sale of the subject that occurred in September 2019 for \$126,000 whereas the board of review contends that the sale of the subject that occurred more proximate in time to the lien date, on March 12, 2019 for \$150,000, should be used for assessment purposes. The evidence disclosed that the subject sold on each of the foregoing dates for the sales prices set forth. In each sale, the applicable PTAX-203 Illinois Real Estate Transfer Declaration supplied by the board of review during the hearing without objection, depicts that the property was advertised prior to sale. In each transaction, the subject property transferred via Warranty Deed. Each of these sales had the elements of arm's length transactions in that they were reportedly advertised. The Board also finds neither party objected to the arm's length nature of each of the sales that occurred in 2019. The appellant's Settlement Statement for the second sale specifically depicts that two realty firms were involved in the transaction and appellant averred that the parties to the transaction were not related for the September 2019 sale transaction.

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).

In light of these holdings, the Board finds that the subject property sold on two separate occasions without six months of one another in 2019. The parties both agree that the sales occurred as reported above and neither party has any specific information to establish that either sale was distressed or in some manner was not an arm's length transaction. Therefore, the Board finds that giving dual consideration to the two sales of the subject property which occurred within six months of one another and within nine months of the assessment date at issue of January 1, 2019, based on its assessment, the subject property was overvalued as of January 1, 2019. The subject has an estimated market value of \$150,000 based on its assessment which is identical to the higher March 2019 sale price and fails to consider the September 2019 sale price of \$126,000. Based on these two sales of the subject which both occurred within nine months of the lien date at issue herein, the subject property has an estimated market value of \$138,000 in 2019. Therefore, the appellant has shown overvaluation by a preponderance of the evidence and the estimated market value of the subject property is excessive. The Board finds that a reduction

in the subject's assessment is warranted to reflect the two sales of the subject property that occurred within six months without any specific, detailed explanation in the record.

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

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: February 21, 2023



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

AGENCY

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COUNTY

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