



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

APPELLANT: Guy R. & Penelope A. C. Youman
DOCKET NO.: 19-03381.001-C-1
PARCEL NO.: 09-26-355-008

The parties of record before the Property Tax Appeal Board are Guy R. & Penelope A. C. Youman, the appellants, 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: \$ 9,970
IMPR.: \$38,359
TOTAL: \$48,329

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 mixed-use commercial building of masonry exterior construction. The building has an upstairs apartment and first floor commercial space with a total of 4,112 square feet of building area which was constructed in 1900. Features include a partial basement and central air conditioning. The property has a 4,356 square foot site and is located in McHenry, McHenry Township, McHenry County.

Appellant Guy Youman appeared *pro se* on behalf of the appellants before the Property Tax Appeal Board contending overvaluation of the subject property.¹ In support of this argument, the appellants through counsel completed Section IV of the Commercial Appeal petition disclosing that the subject property was purchased on May 10, 2018 for a price of \$105,000 or \$24.10 per square foot of building area, including land. Furthermore, the appellants reported that the

¹ While the appeal was originally filed on the appellants' behalf by James F. Bishop, counsel retired in 2020 and was no longer authorized to practice law in the State of Illinois.

transaction was not between family members or related corporations. While in Section IV, it was reported that the property was advertised for sale for one year by "local paper, multiple listing and other" there was no documentation submitted to support the marketing of the subject prior to sale. The appellants provided a copy of the two-page Real Estate Contract depicting the sale of the subject to the appellants for \$105,000; the document further makes reference to "Exhibit A – Lease" which was not submitted as part of the appeal.

Additionally, a three-page Settlement Statement was submitted with the appeal depicting the sale of the property on May 10, 2018 for \$105,000 along with a first mortgage payoff. No commissions or brokers' fees were depicted as associated with the transaction. When the appellant was questioned by the Administrative Law Judge (ALJ) about the line "See Addendum for Additional Properties" associated with the Property Address data on the Settlement Statement, the appellant produced a four-page copy of the same Settlement Statement. The document was marked at hearing as Appellants' Hearing Exhibit #1 and submitted without objection. Page 4 of Exhibit #1 depicts additional collateral which the appellant characterized as "cross-collateralized" for purposes of the mortgage associated with the purchase of the subject; appellant testified that the property identified on page 4 of Appellants' Exhibit #1 has been owned by the appellant(s) since 1998.

In testimony, Mr. Youman explained how the sale occurred. He testified that the subject property has been operated as a Chinese restaurant for about 40 years. The owner approached Mr. Youman about the possibility of purchasing the property and the appellant agreed to do so for what he deemed to be acceptable rental income for the property. The appellant testified the purchase was a nice investment and helped save the restaurant. The sale price of the subject was determined, in part, by a property across the street referred to "as the antique store" which was sold for a little over \$100,000 and was a larger building. Additionally, a building next door to the subject was sold to a physician for approximately the same sale price. When questioned by the ALJ about the negotiation process and the length of the negotiations, Mr. Youman testified that the owner "wanted more" but the appellant pointed out the recent sale of the neighboring property and asserted the purchase price was "the best I could do."² Based on his records, the appellant contends that the negotiations occurred over several months prior to the closing date. The appellant also acknowledged that the purchase price per-square-foot was slightly lower for the subject than the neighboring property, but not by much.

Since the sale, the subject building in its entirety has continued to be rented to the restaurant. Mr. Youman testified that neither improvements nor remodeling have been done to the property since the purchase. He further stated that the second floor of the building is gutted and vacant with no current apartment use; he contends that, unless the second floor were remodeled, it is currently uninhabitable.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

² Mr. Youman noted that he was involved on behalf of clients with the sale of the neighboring property so was familiar with the transaction, the conditions and the final sale price.

On cross-examination, Mr. Youman confirmed that, via his private conversation while frequenting the restaurant with the owner of the building, Perry Moy, he learned of the sale of the property. The appellant further acknowledged this was a private sale without involvement of a realtor. Mr. Youman stated that Perry Moy kept the sale very private for fear that a more public offering could have a negative impact on the restaurant which was leasing the property.

The appellant reported upon questioning that the 2019 monthly rent for the building was \$2,500 with no additional contingencies.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$69,806. The subject's assessment reflects a market value of \$209,439 or \$50.93 per square foot of building 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 Clifton Houghton. In part, the board of review contends that the subject property was not marketed to the public on the open market in order to allow the opportunity to obtain the highest and best offer to reflect an accurate market value.

For purposes of the hearing, the board of review called Mary Mahady, McHenry Township Assessor, as a witness. Mahady opined that the sale of the subject was not an arm's length transaction since it was not offered on the open market; she further opined that had the subject been offered on the open market it "may have" carried another value. She also noted that sale price of \$105,000 in the Closing Statement, which the appellant submitted, covers all of the existing mortgage and fees associated with the transaction.

In addition, Mahady testified and pointed out in her letter that the subject building is connected through the first-floor restaurant to an adjacent building. In her letter, she stated that in 2013 the restaurant expanded its seating capacity into the adjoining structure after that building was purchased by an LLC.

In the course of testimony, Mahady asserted that the second story of the subject building is "being used for storage" of equipment and supplies for the restaurant, although she had not performed a personal inspection. She further opined and stated she was unaware of any reason not to convert the second floor back into apartment use. Further and without any personal knowledge, but merely based upon her understanding of typical commercial transactions, Mahady presumed that the lessee was paying rent for the entire building.

In support of its contention of the correct assessment, the board of review through the township assessor's office submitted a single page Multiple Listing Service (MLS) data sheet depicting a February 2019 sale of a two-story brick mixed-use commercial building with two upstairs apartments located in downtown McHenry. The building was reportedly built in 1927 according to the listing sheet and the vacant commercial space reportedly contains 1,900 square feet of building area. The listing further indicates that the apartments were currently leased. Additional features include a basement with a half-bath and a two-car garage. The MLS sheet depicts an approximate total building size of 4,258 square feet and a sale price of \$191,000 or \$44.86 per

square foot of building area, including land. Besides two exterior photographs of this property, no other documentation related to this comparable property or related to the sales transaction were supplied with the board of review evidence.

Based on the foregoing arguments and evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

In cross-examination of Mahady, she testified that the last sale of the adjacent building to the subject occurred in 2012 for \$100,000. It was after that sale, that the restaurant expanded into the adjacent building. Mahady opined that a 2012 sale was not relevant to 2018. When asked how it was a different market besides time, she responded, "different sales" and further responded, "You have your sale" and she submitted another sale. Mahady further volunteered "there are other values of other buildings." When asked if the appellant's testimony regarding sale negotiations was consistent with the sale of the neighboring property, Mahady replied she did not consider the neighboring sale to be relevant in 2018.

When questioned about the single comparable sale presented by the board of review, Mahady characterized the comparable as not directly across Main Street and at least three buildings down, but in the same area as the subject property. Mahady acknowledged that the building adjacent to the subject was nearly a duplicate of the subject structure.

At hearing, the ALJ ordered the production of the PTAX-203 Illinois Real Estate Transfer Declaration related to the 2018 sale of the subject property. The document was marked at hearing as Board of Review Hearing Exhibit #1 and depicts that the subject property was not advertised prior to the sale transaction. Both the sale price and date of sale were reiterated in the exhibit.

In rebuttal, Mr. Youman testified that the second floor of the subject building is not being used for storage. He stated the area was not qualified to store food or anything the restaurant might use for its operations; he described the second floor as "a mess" and noted there was no interior access to the second floor. The only access to the second floor is a set of stairs from the exterior. As to the lease/rental of the subject property and absent a significant investment in the second-floor area, he testified that the lease of the building does not include the second floor. The anticipated rental income associated with the purchase would be from the first floor according to the appellant with the second floor being residue.

As to the board of review comparable sale, the appellant contends that property has a remodeled commercial space used for a doggie daycare and two rented upper floor apartments. Therefore, the appellant contends this board of review comparable is dissimilar to the subject property.

Concerning the 2012 sale of the adjacent property, the appellant reiterated that he utilized that sale price in negotiating the sale of the subject. He further acknowledged that the sale price was increased to \$105,000 in order to cover the existing mortgage payoff amount and all the associated costs with the transaction. Regardless, Mr. Youman contends the sale price was reflective of the value of the building and while five years have passed since the sale of the adjacent property, he contends that there were vacancies in the area and businesses were changing hands. In conclusion, the appellant believes the adjacent property sale supports that the

sale of the subject was reflective of market value and was an arm's length transaction between unrelated parties.

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 record evidence supports a reduction in the subject's assessment based on grounds of overvaluation.

Illinois law requires that all real property "shall be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale." (Ill. Rev. Stat. 1971, ch. 120, par. 501.) Fair cash value is normally associated with fair market value: 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 likewise ready, willing and able to buy, but not forced to do so. (See Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979)).

The Property Tax Appeal Board finds the appellant provided evidence that the subject property was purchased in May 2018, approximately seven months prior to the assessment date at issue, for a price of \$105,000 or \$24.10 per square foot of building area, including land, which is less than the market value reflected by the subject's assessment. The board of review provided a single comparable sale in support of its contention of the correct assessment.

The Board finds the board of review comparable sale is somewhat superior to the subject in age and has two leased second-floor apartments at the time of sale. In contrast, the subject building lacks a habitable second floor. Thus, the Board finds the single comparable sale presented by the board of review is superior to the subject and a downward adjustment would be needed to make it more comparable to the subject property. This comparable sold in February 2019 for \$191,000 or \$44.86 per square foot of building area, including land, which is also less than the estimated market value of the subject property based upon its assessment. This nearby recent sale transaction, however, also suggests that the subject's private sale transaction may not be reflective of market value. As shown herein, the subject's assessment reflects a market value of \$209,439 or \$50.93 per square foot of building area, including land, which is both above the subject's May 2018 purchase price and above the only comparable sale in the record presented by the board of review.

After considering the sale of the subject property and the single superior comparable sale presented by the board of review, the Property Tax Appeal Board finds a reduction in the subject's assessment is appropriate.

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: March 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

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