



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

APPELLANT: Mark Foreit
DOCKET NO.: 09-27261.001-R-1
PARCEL NO.: 25-17-313-030-0000

The parties of record before the Property Tax Appeal Board are Mark Foreit, the appellant, by attorney Michael T. Reynolds, of Rieff Schramm Kanter & Guttman in Chicago; and the Cook County Board of Review.

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

**LAND: \$2,625
IMPR: \$4,050
TOTAL: \$6,675**

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2009 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 is two years old, and consists of a three-story dwelling of masonry construction containing 4,980 square feet of living area. The property has a 3,750 square foot site and is located in Lake Township, Cook County. The subject is

classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted evidence disclosing the subject property was purchased on April 9, 2009 for a price of \$75,000. The appellant submitted a copy of the Multiple Listing Service listing and the settlement statement. The appellant purchased the subject property from Deutsche Bank Trust Company. The appellant submitted a brief in which he argued the subject was unoccupied for part of 2009 due to damage. Attached to the brief is a copy of the Vacancy-Occupancy Affidavit the appellant submitted to the board of review. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$17,419. The subject's assessment reflects a market value of \$195,719 or \$39.30 per square foot of living area, when using the board of review's indicated size of 4,980 square feet and when using the 2009 three-year median level of assessment of 8.90% for class 2 property as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on four suggested equity comparables with sales data on one comparable that sold in 2006.

In rebuttal, the appellant submitted a brief in support of his argument that the recent sale is the best evidence of fair cash value of the subject. The appellant appended two cases decided by the Board in the years 2000 and 2005. The appellant argues these cases presented "the same set of factual circumstances" as in the appeal in this case.

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 has met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant's position that the Board should decide this appeal in accord with the two prior decisions of the Board is without merit. The appellant did not submit any evidence in support of his contention that those prior cases presented "the same set of factual circumstances" as in this appeal.

In addressing the appellant's market value argument, the Board finds that the sale of the subject in April, 2009 for \$75,000 is a "compulsory sale." A "compulsory sale" is defined as:

(i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair 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 is not forced to do so.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (2d Dist. 1979)).

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties. Although the appellant's recent sale appears to have been a compulsory sale, it does reflect the fair market value based upon all evidence submitted.

The Board finds the best evidence of market value to be the purchase of the subject property in April, 2009 for a price of \$75,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant

completed Section IV - Recent Sale Data of the appeal disclosing: the parties to the transaction were not related; the property was sold using a Realtor; the property had been advertised on the open market, the Multiple Listing Service and various other websites; and it had been on the market for six months. In further support of the transaction, the appellant submitted a copy of the settlement statement. The Board finds the board of review did not present any evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value.

As to the issue of whether there should be a further reduction of assessment due to what the appellant calls "Serious Vacancy Problem-Field Check Requested," the Board finds the appellant's argument unpersuasive. The appellant did not submit sufficient evidence to support his conclusory statement that the subject property was unoccupied due to damage. Even assuming damage existed, the appellant did not submit evidence as to when the damage occurred. Yet, the Vacancy-Occupancy Affidavit he filed with the board of review is relevant to establish when the vacancy existed. The Affidavit disclosed that none of the living area square footage was occupied as of April 2009, the very same time when the appellant purchased the subject. If damage existed and was the cause of the vacancy, it existed at the time of the sale and was reflected in the sale price.

Based on this record the Board finds the subject property had a market value of \$75,000 as of January 1, 2009. Since market value has been determined, the 2009 three-year median level of assessment of 8.90% for class 2 property as determined by the Illinois Department of Revenue shall apply (86 Ill.Admin.Code §1910.50(c)(2)).

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.

Chairman

Mark Albino

Member

[Signature]

Member

Member

Jerry White

Acting Member

DISSENTING: _____

C E R T I F I C A T I O N

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: July 24, 2015

[Signature]

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 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.