



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

APPELLANT: Chris Bachman
DOCKET NO.: 09-27684.001-R-1
PARCEL NO.: 05-34-223-002-0000

The parties of record before the Property Tax Appeal Board are Chris Bachman, the appellant, by attorney Liat R. Meisler, of Golan & Christie LLP 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: \$ 7,881
IMPR: \$ 13,924
TOTAL: \$ 21,805

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 consists of a 134-year old, one and one-half story, single-family dwelling of frame construction with 1,518 square feet of living area. Features of the home include a full basement, one full and one half-baths, a fireplace and a one-car garage. The property has a 4,440 square foot site and is located in New Trier Township, Cook County. The subject is classified as a class 2, residential 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 December 4, 2009 for a price of \$245,000. Copies of the bill of sale, settlement statement as well as other disclosed data indicate: that the parties were unrelated; that the property was advertised on the open market for sale; that the parties were represented by real estate brokers; and that the sale was a foreclosure sale. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

At hearing, the appellant's attorney asserted that the building was in poor condition which required a complete rehabilitation, but could not point to any evidence in the pleadings to support that assertion. However, she did indicate that the property's market value has remained the same through the 2012 tax year when the property was resold.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$48,674. The subject's assessment reflects a market value of \$546,899 or \$360.28 per square foot of living area, land included, when using the 2009 three year median level of assessments for class 2 property of 8.90% 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 as well as copies of the property characteristic printouts for the subject and these properties. The subject's printouts reflect that the appellant/buyer of the subject is the taxpayer and/or resident located at this property.

At hearing, the board of review's representative testified that because the subject's sale was a foreclosure, that it did not reflect market value. Upon questioning regarding the subject's condition, the board's representative referred to the subject's printouts from the assessor's database. He testified that the average condition notation for the subject reflects construction material at the time of construction and is not reflective of the subject's current condition in tax year 2009. In addition, he testified that the evidence included a listing of sales of similar style to the subject which occurred within the subject's neighborhood. He noted that the subject's sale is included in that list, but that he had no personal knowledge of the codes listed thereon or whether the sales were arm's length transactions.

In rebuttal, the appellant's attorney pointed out distinguishing characteristics of the board of review's suggested comparables in comparison with the subject. Moreover, she asserted that no weight should be accorded the sales printout due to the unknown nature of the document and the limited data reflected thereon.

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 Board finds the best evidence of market value to be the purchase of the subject property in December, 2009 for a price of \$245,000. 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 that: the parties to the transaction were not related, the property was sold using a realtor, and the property had been advertised on the open market. In further support of the transaction the appellant submitted a copy of the bill of sale and settlement statement.

The board of review asserts that the subject's sale is a compulsory sale and not reflective of market value. 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.

Board of Educ. of Meridian Community Unit School Dist. No. 223 v. Illinois Property Tax Appeal Board, 961 N.E.2d 794, 802, 356 Ill.Dec. 405, 413 (2d Dist. 2011) (citing Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207, 211, 387 N.E.2d 351 (2d Dist. 1979)).

However, the Illinois General Assembly recently provided very clear guidance for the Board with regards to compulsory sales.

Section 16-183 of the Illinois Property Tax Code states as follows:

The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

35 ILCS 200/16-183. Therefore, the Board is statutorily required to consider the compulsory sales of comparable properties submitted by the parties to revise and/or correct the subject's assessment. However, the Board finds that the mere assertion by the board of review that the subject's sale was not at market solely because it is a compulsory sale is accorded no weight without evidence supporting that assertion.

In the instant case, even though the board of review asserted that the subject's sale was a foreclosure and thereby not equal to market value, the Board finds the board of review failed to provide any evidence either to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of the market. In further contrast, the board of review's pleadings herein included a printout of sales within the subject's neighborhood which included the subject's recent sale.

Based on this record, the Board finds the subject property had a market value of \$245,000 as of January 1, 2009. Since market value has been determined the 2009 three year average median level of assessments for class 2, residential property of 8.90% shall apply as determined by the Illinois Department of Revenue. 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

K. L. Ferr

Mark Morris

Member

Member

JR

Jerry White

Member

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: August 21, 2015

A. Proctor

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.