



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

APPELLANT: Wojciech Jelen
DOCKET NO.: 09-33860.001-R-1
PARCEL NO.: 16-02-303-010-0000

The parties of record before the Property Tax Appeal Board are Wojciech Jelen, the appellant, by attorney Ron Justin with RMR Property Tax Solutions/ProTaxAppeal in Hawthorn Woods and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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: \$ 4,550
IMPR.: \$ 6,855
TOTAL: \$ 11,405

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 3,250 square foot land parcel improved with a 100-year old, one-story, frame, single-family dwelling. The building contains one bathroom as well as 651 square feet of living area. The property is located in West Chicago Township, Cook County. The subject is classified as a

class 2, residential property under the Cook County Real Property Assessment Classification Ordinance.

Procedurally, the Board notes that the appellant filed a pro se appeal in this matter. However, on the hearing date, attorney Ron Justin appeared verbally indicating that he was representing the appellant. However, when the Board requested a copy of the appellant's retainer of Mr. Justin signed by the appellant, he indicated that he did not have that at the hearing. Moreover, attorney Justin stated that he had left his prior agency's affiliation where his office had been previously located.

In response, the board of review's representative moved for a dismissal of this appeal due to the absence of proper representation on the scheduled hearing date. The Board denied the board of review's motion for dismissal, while leaving the record open for 24 hours in order for Mr. Justin to submit a copy of a retainer or an appearance form with the appellant's signature thereon reflecting that Mr. Justin was hired to represent this appellant in this proceeding. Within the allocated time period, the Board received a document from RMR Property Tax Solutions identified as a 'limited power of attorney' and stating that Ron Justin was hired as an attorney to represent the appellant at the Board's hearing. This document contained a signature of the appellant thereon.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant completed certain portions of Section IV of the petition and submitted a copy of a real estate multiple-listing sheet relating to the subject. The data on the petition indicated that the subject was purchased on August 7, 2008 for a price of \$43,500. The data indicated that the sale was not a transfer between related parties; that the property was advertised for sale; and that the seller's mortgage was not assumed. The form's question regarding whether the property was sold in settlement of an installment contract, a contract for deed or in lieu of foreclosure was left unanswered. In addition, a barely readable copy of only a portion of one page of a settlement statement was submitted. It indicated that the property was purchased by the appellant, while the seller was identified as 'US Bank as TTEE for the Structured Asset Securities Corporation Mortgage Loan Trust 206-BC1'. The price was listed as \$43,500. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

At hearing, Mr. Justin stated that he had no personal knowledge of whether the subject's sale was an arm's length transaction or the sale's specifics.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$11,405. The subject's assessment reflects a market value of \$128,146 or \$195.94 per square foot of living area, land included, when using the 2009 median level of assessment for class 2, residential 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 descriptive and assessment data on four suggested equity comparables. In addition, the board of review submitted a one-page printout reflecting sales within the subject property's township of class 2, small cottage or residences, which reflected 12 sales inclusive of the subject's 2008 sale.

At hearing, the board of review's representative argued that the appellant's evidence submission is incomplete, without information relating to disbursements, any broker's commissions, and/or signatures of the parties. Further, she asserted there is actually no evidence that the sale actually occurred without the remaining pages of a settlement statement. Therefore, she argued that the case should be dismissed for the appellant's failure to meet the burden of proof or that the Board render a no change decision. Thereafter, she rested on the written evidence submissions.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

In determining the fair market value of the subject property, the Board looks to the evidence presented by the parties. The

Board finds that the appellant's data on the subject's sale inconclusive. The appellant failed to disclose relevant data or submitted conflicting data pertinent to a finding that the sale was an arm's length transaction.

Specifically, the appellant failed to submit clear evidence indicating who the parties were and whether the parties were related. The seller was disclosed as some type of trust, but there was no information provided indicating that the buyer was not related to this seller. Further on this point, the portion of the settlement statement submitted by the appellant failed to include information on broker's or broker's fees. In addition, the appellant's petition failed to disclose whether the sale was in lieu of foreclosure or the time period within which the subject was advertised for sale on the open market.

Moreover, as to the subject's market value, the Board finds that based upon the limited evidence that was submitted the subject's sale appears to be a compulsory sale pursuant to the evidence submission.

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. The Board shall consider the suggested sales submitted by board of review in this case for the appellant failed to submit any suggested sales data to support that the subject's sale was at market.

In totality, the board of review submitted unadjusted, sales data on 11 sales, which the Board finds relevant. Two sales occurred from January to December, 2006, for prices that ranged from \$172,000 to \$276,000. In comparison, the subject property's current assessment reflects a market value of \$128,146 which is below the range established by the sale comparables; and therefore, no reduction is warranted, even after adjustments to the sale comparables.

Assuming arguendo that the subject's compulsory sale price of \$43,500 in July, 2008 was an arm's length transaction, the Board finds that after applying adjustments for the differences in the comparables when compared to the subject, that the subject's sale price is drastically below the range of the sale comparables. Therefore, the Board finds that this sale is not an accurate reflection of the 2009 market and that a reduction is not warranted to this property.

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. Fan

Klaus Albrecht

Member

Member

JR

Jerry White

Member

Acting Member

Robert Steffen

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: December 18, 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.