



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

APPELLANT: Aleksandr Kagan
DOCKET NO.: 10-20639.001-R-1
PARCEL NO.: 11-32-314-040-1010

The parties of record before the Property Tax Appeal Board are Aleksandr Kagan, the appellant(s), by attorney David C. Dunkin, of Arnstein & Lehr, 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: \$628
IMPR: \$2,599
TOTAL: \$3,227

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 2013 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 condominium unit within an 89-year old, four-story, 18 unit, condominium building. The property is located in Rogers Park Township, Cook County. The property is a class 2-99 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 in January 2011 for a price of

\$36,101. The appellant included a copy of the settlement statement which showed broker fees.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$14,517. The subject's assessment reflects a market value of \$162,383 using the Illinois Department of Revenue's 2010 three-year median level of assessment for class 2 property of 8.94%.

In support of the assessment the board of review submitted a memo asserting that the total consideration for sales of residential units in 2008 was \$3,449,000. The analyst deducted \$68,980 or 2% from the total sale price to account for personal property to arrive at a total adjusted consideration of \$3,380,020. Dividing the total adjusted consideration by the percentage of ownership in the condominium that sold of 83.12% indicated a full value for the condominium property of \$4,066,434. When applying the percentage of ownership for the subject of 3.19% the board of review estimated the full value of the subject at \$129,719. However, the board of review did not submit any further evidence to support this analysis.

At hearing, the appellant's attorney asserted that the subject was purchased in November 2011 for \$36,101. He acknowledged that the sale was a lender sale, but argued that the property was listed on the open market and under contract in September 2010. The appellant submitted *Appellant's Hearing Exhibit #3*, a copy of the multiple listing service database printout offering the subject for sale and providing information pertaining to the sale contract. The appellant's attorney asserted that the subject was listed on the open market for \$26,900 which is less than the actual contract price.

The board of review's representative, Elly Drake, argued that the subject was a compulsory sale and not reflective of the market. She argued that the evidence submitted by the board of review supports the subject's assessment. Ms. Drake testified that the subject's sale was not considered at market value because it is a compulsory sale and sold under duress due to the financial situation of the property owner.

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).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in November 2011 was 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.

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 compulsory sales of comparable properties. 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 submit any evidence to support this assertion. Moreover, 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. The board of review merely argued that the sale was not at market because it was a compulsory sale which is a sale under duress; the board of review failed to show to the bank's financial situation made it compelled to sell.

In further contrast, the appellant submitted the multiple listing service database printout which shows the subject was listed on the open market for 14 days and the settlement statement which discloses that there were broker's fees and that the parties were not related. Therefore, the Board finds the subject's sale was an arm's length transaction by a buyer and seller willing to buy and sell, but not compelled to do so.

Based on this record the Board finds the subject property had a market value of \$36,101 as of January 1, 2010. Therefore, the Board finds the subject overvalued and a reduction is warranted.

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.