



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

APPELLANT: Jonas DaSilva
DOCKET NO.: 10-25684.001-R-1
PARCEL NO.: 13-35-422-050-1017

The parties of record before the Property Tax Appeal Board are Jonas DaSilva, the appellant(s), by attorney Christopher B. Kaczynski, of Smith Hemmesch Burke & Kaczynski 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: \$800
IMPR: \$1,435
TOTAL: \$2,235

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 2010 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 81-year old, 19-unit, condominium building. The property is located in Jefferson 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 December 2010 for a price of

\$25,000. 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 \$10,382. The subject's assessment reflects a market value of \$116,130 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 information disclosing that two units within the condominium sold in 2007 and 2008 for a total of \$319,500. The analyst deducted \$6,390 or 2% from the total sale price to account for personal property to arrive at a total adjusted consideration of \$313,110. Dividing the total adjusted consideration by the percentage of ownership in the condominium for the unit that sold of 10.40% indicated a full value for the condominium property of \$3,010,673. When applying the percentage of ownership for the subject of 5.2% the board of review estimated the full value of the subject at \$156,555.

In rebuttal, the appellant submitted a brief arguing that the board of review's sales should not take precedence over the recent purchase of the actual property under appeal. In addition, the appellant submitted the foreclosure documents for one of the board of review's sale comparables showing that it went into foreclosure in 2010 and sold in 2012. The appellant also submitted three additional sales comparables with two of the sales relating to units within the subject property. These units were listed in the board of review's evidence without any sales information.

At hearing, the appellant, Jonas DaSilva, testified that he is a property manager and rehabber. He stated he is the sole owner of four limited liability corporations and these corporations purchase properties. He testified he has been managing properties for over 22 years and has purchased over 150 properties with most of the purchases happening in 2009 and after. Mr. DaSilva testified he purchases condominiums, single-family, and multi-family dwelling for rental purposes.

Under cross-examination, Mr. DaSilva testified that his goal is to purchase properties in low income area and rent them. He testified most of his properties are rented through the Chicago Housing Authority as low income housing. He testified that he buys properties at the average selling price for the neighborhoods. He then rehabs the property and rents the property to section 8 qualifying renters. Mr. DaSilva further testified he does not receive a discount on the purchase price because he rents the property through section 8 housing. He testified he purchases the best buildings in the worst neighborhoods because prices are lower in the worst neighborhoods.

As to the subject property, Mr. DeSilva testified he drove by the property, saw the "for sale" sign and called his realtor. He

testified his realtor helped by showing him the property and submitting his offer to purchase. Mr. DeSilva further testified that the property was advertised for sale on the Multiple Listing Service and that he physically inspected the property prior to making his offer. He stated that the property was in good condition, but that the neighborhood, Hermosa, is a mixed area with violence and boarded up properties. He opined that there are some nice blocks in the neighborhood without violence and that there were a lot of foreclosures in the area at the time of purchase. He testified he attempted to sell the property a year later, but the sale fell because the property did not appraise for the sale price.

Under cross-examination, the appellant acknowledged he attempted to sell the property for a higher price, but was unable to do so because the property did not appraise for the contract price. Mr. DaSilva testified he is renting the property currently. He testified he was aware the property was a foreclosure when he purchased it.

The board of review's representative, Lester McCarroll, rested on the evidence previously submitted.

The appellant submitted a Hearing Memorandum addressing the law in regards to foreclosure sales. The board of review responded by citing 35 ILCS 200/1-23 and arguing that the subject's sale does not meet the definition of fair cash value.

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 December 2010 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's sales in 2007 and 2008 not reflective of the market on January 1, 2010. The Board gives these sales no weight. Moreover, the board of review failed to provide any evidence to challenge the arm's length nature of the transaction. 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 the bank's financial situation made it compelled to sell.

In further contrast, the appellant testified the subject was listed on the multiple listing service database, that he saw the "For sale" sign, used a real estate broker to inspect the property and submit an offer, 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 \$25,000 as of January 1, 2010. Therefore, the Board finds the subject overvalued and a reduction is warranted.

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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



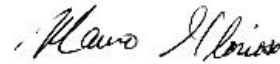
Member



Member



Member



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: March 18, 2016



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.