



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

APPELLANT: Gary Moberly
DOCKET NO.: 10-26356.001-R-1
PARCEL NO.: 15-16-106-040-0000

The parties of record before the Property Tax Appeal Board are Gary Moberly, the appellant(s), by attorney Ronald M. Justin, of RMR Property Tax Solutions in Hawthorn Woods; 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: \$ 2,268
IMPR: \$ 4,884
TOTAL: \$ 7,152

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 (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a one-story dwelling of masonry construction with 1,072 square feet of living area. The dwelling is 54 years old. Features of the home include a full unfinished basement and a two-car garage. The property has a 5,040 square foot site, and is located in Bellwood, Proviso Township, Cook County. The subject is classified as a class 2-03 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 completed certain portions of Section IV of the petition. The data on the petition indicated that the subject was purchased on March 9, 2009 for a price of \$80,000. 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 copy of the settlement statement was submitted. It indicated that the property was purchased by "Equity Trust Company Custodian FBO Gary Moberly IRA 75% Undivided Interest and Equity Trust Company Custodian FBO Karen Moberly IRA 25% Undivided Interest," while the seller was identified as "HSBC Bank USA National." The price was listed as \$80,000, or \$74.63 per square foot of living area, including land. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$15,036. The subject's assessment reflects a market value of \$168,188, or \$156.89 per square foot of living area, including land, when applying the 2010 three year average median level of assessment for class 2 property of 8.94% 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 equity comparables.

At hearing, Ronald Justin, counsel for the appellant, stated that he had no personal knowledge of whether the subject's sale was an arm's length transaction or the sale's specifics. He argued that a recent sale is the best evidence of market value. The board of review's representative rested on the evidence previously submitted. At the conclusion of the hearing, the Board's Administrative Law Judge ("ALJ") asked Mr. Justin to answer the following question: "Was the sale of the subject pursuant to a foreclosure, a short sale, or was it otherwise a 'compulsory sale' as that term is defined in the Property Tax Code?" The ALJ granted Mr. Justin two weeks to submit an answer to this question.

After two weeks, Mr. Justin submitted a spreadsheet to the ALJ. The Board notes that the spreadsheet contained information for other appeals that were set for hearing before the Board on the same day as the hearing for the subject. "Column A" of the spreadsheet listed the PIN, "column B" stated whether the subject was a compulsory sale or not, while "column C" stated the time the property was listed on the MLS. For the subject, column B said "Foreclosure."

After receiving the spreadsheet, the Board issued a written Order (the "Order"). The Order, *inter alia*, excluded from the record all information in column C of the spreadsheet, as it was new evidence and not responsive to the ALJ's question at hearing regarding whether the sale of the subject was a compulsory sale. The Order also allowed the board of review two weeks to respond to the information contained in column B. The board of review did not submit anything in response to column B.

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 that the sale of the subject in March 2009 for \$80,000 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. The Board finds that the sale of the subject in March 2009 is a compulsory sale, in the form of a

foreclosure, based on the appellant's admission in the spreadsheet submitted after hearing.

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 there is no evidence in the record to contradict the fair market value of the subject's sale price.

Therefore, the Board finds the best evidence of market value to be the purchase of the subject property in March 2009 for a price of \$80,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction, including disclosing that the parties to the transaction were not related and that the property was advertised on the open market with a listing on the MLS. In further support of the transaction, the appellant submitted the settlement statement. Therefore, the Board finds the purchase price is below the

market value reflected by the assessment. Based on this record the Board finds the subject property had a market value of \$80,000 as of January 1, 2010. Since market value has been determined the 2010 three year average median level of assessment for class 2 property of 8.94% 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



Member



Member



Acting 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: January 22, 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.