



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

APPELLANT: Hieu Nguyen
DOCKET NO.: 10-28117.001-R-1
PARCEL NO.: 09-25-220-003-0000

The parties of record before the Property Tax Appeal Board are Hieu Nguyen, the appellant, by attorney Stephanie Park of Park & Longstreet, P.C. in Rolling Meadows, 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: \$4,421
IMPR.: \$17,079
TOTAL: \$21,500

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 1.5-story single-family dwelling with 1,474 square feet of living area of frame and masonry construction. The dwelling is 57 years old. Features of the home include a crawl-space foundation, central air conditioning and a two-car garage. The property has a 6,550 square foot site and is located in Niles, Maine Township, Cook

County. The subject is classified as a class 2-03 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant partially completed Section IV - Recent Sale Data reporting that the subject property was purchased on November 12, 2008 for \$199,000 and also submitted an appraisal as an alternative argument which estimated the subject property had a market value of \$215,000 as of October 22, 2008.

In support of the argument concerning the purchase price, the appellant indicated on the appeal form the property was purchased from Saxon Mortgage Services Corporation, the parties were not related, it was "unknown" who sold the property, it was "unknown" if a Realtor/agent was involved in the sale and it was "unknown" how long the property was advertised. The appellant did, however, contend that the property was advertised for sale in the Multiple Listing Service (MLS). All other questions in Section IV of the appeal petition were marked "unknown," including the amount spent for renovations of the property and date occupied.

In further support of the purchase price, the appellant presented an affidavit executed by the appellant summarily asserting that the property was listed for sale and advertised on the open market and also contradicting a statement of "unknown" from Section IV regarding whether the property was purchased in settlement of an installment contract, a contract for deed or a foreclosure. The affiant summarily asserted this was an arm's length transaction and included a copy of the Settlement Statement reiterating the purchase price and depicting disbursements to two realty firms as part of the transaction. There was no copy of the listing from the MLS or other documentation of the advertising that purportedly occurred.

In the alternative, the appellant submitted an appraisal of the subject property prepared for the purchase transaction and valuing the fee simple rights of the property. The appraiser reported the subject's sale history as:

The MLS indicates a cancelled listing of the subject dated 9/25/08 for \$284,900 and the current listing of the home dated 10/14/08 for \$204,900. The cancelled listing was marketed for 175 days and the current

listing for 34 days. As to the subject dwelling, the appraiser reported the home was "dated and in need of general upgrading" and also had a piece of wood trim missing from around the front door.

The appraiser utilized the sales comparison approach to value and reported that the four sales were listed as dated and/or "as is" and in need of upgrades. The comparables were located from .18 to .92 of a mile from the subject property. The comparables consist of a split-level and three one-story dwellings that were similar in exterior construction and age to the subject. The comparables range in size from 983 to 1,206 square feet of living area. Three of the comparables have basements or lower levels and three of the homes have central air conditioning. Three of the comparables have a garage. The comparables sold between April and September 2008 for prices ranging from \$210,000 to \$265,000 or from \$202.12 to \$259.41 per square foot of living area, including land. The appraiser made adjustments for differences in location, room count, dwelling size, basement, basement finish, air conditioning, garage and/or fireplace. After adjustments, the appraiser opined adjusted sale prices ranging from \$208,500 to \$266,930.

Based on the purchase price of the subject, the appellant requested an assessment of \$19,900 or, in the alternative, the appellant requested an assessment reflective of the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$26,472. The subject's assessment reflects a market value of \$264,720 or \$179.59 per square foot of living area, including land, when applying the assessment level for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10%.

In support of its contention of the correct assessment the board of review submitted information on four comparable sales located an unknown distance from the subject property. The comparables consist of two, one-story and two, 1.5-story dwellings of similar age to the subject. The homes range in size from 1,332 to 1,532 square feet of living area and feature full basements, two of which are finished with recreation rooms. Two of the comparables have central air conditioning, one comparable has a fireplace and each comparable has a garage ranging from 1.5-car to 2.5-cars. The comparables sold between May and September 2009 for prices ranging from \$310,000 to \$360,000 or from

\$206.94 to \$262.97 per square foot of living area, including land.

The board of review also submitted a supplemental brief prepared by attorney Nicholas Jordan, an analyst with the Cook County Board of Review. Counsel addressed the legal standards of "fair cash value" and "arm's length transactions," also noting a statutory provision regarding compulsory sales. (35 ILCS 200/1-23, effective July 16, 2010). Based upon a printout from the Cook County Recorder of Deeds website, counsel stated that a *lis pendens* was placed on the property by First NLC Financial Services on or about July 26, 2007; Kallen Realty Services then granted the property to Saxon Mortgage Services on or about April 29, 2008, who then conveyed the property to the appellant on or about October 15, 2008. "This evidence shows that the property was distressed and foreclosed on, repossessed by a financial institution and then re-sold by a financial institution." Based on the foregoing, counsel concludes that the subject was not sold in the 'due course of business and trade, not under duress, between a willing buyer and a willing seller.' (35 ILCS 200/ 1-50)

Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant noted the statutory definition of a compulsory sale cited in the board of review's supplemental brief was not in effect as of the January 1, 2010 assessment date at issue in this appeal. Furthermore, appellant's counsel contended that the statutory changes regarding compulsory sales mandated the Property Tax Appeal Board to "consider" such sales in correcting assessments. Given precedent that the arm's length sale of a property is the best evidence of its market value, the appellant reiterates the contention that the subject's assessment should be reduced to reflect the purchase price.

As a final matter, to "contradict or disprove" the sales evidence presented by the board of review, the appellant submitted a grid analysis of three comparable sales as part of his rebuttal on the theory that the board of review's sales did not rebut the appellant's evidence of fair cash value.

The Board finds the appellant's circular argument concerning the board of review's sale's evidence is not persuasive or correct in any manner. The board of review's submission of comparable sales is deemed to be evidence that both supports the assessment

of the subject property and refutes the appellant's assertion that the appellant's evidence reflects the property's fair market value. Pursuant to its statutory authority, it is the duty of the Property Tax Appeal Board to weigh the evidence of both parties and determine the correct assessment of the subject property.

Therefore, in light of the above determination and pursuant to the rules of the Property Tax Appeal Board, as rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party, the Property Tax Appeal Board has not considered the three comparable sales submitted by appellant in conjunction with his rebuttal argument. (86 Ill.Admin.Code §1910.66(a)). The Board finds that these three sales comparables consist of newly discovered comparable properties which cannot be considered when filed in rebuttal and are not appropriate "rebuttal" to the board of review's sales evidence. (86 Ill.Admin.Code §1910.66(c)).

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 has given reduced weight to the board of review's comparable sales as the proximity of these properties to the subject is unknown. Moreover, the Board finds that each of these suggested comparable sales has a much higher value based on these 2009 purchase prices than the subject's estimated market value based upon its assessment which suggests that these comparable properties differ significantly from the subject. The board also finds that these comparables each have a full basement which is not a feature of the subject property.

The Board has also given reduced weight to the subject's October 2008 purchase price as the appellant failed to provide some of the necessary documentation and information to establish that the sale transaction was an "arm's length sale" as summarily

asserted by the appellant in his affidavit without factual support.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant with an estimated market value as of October 2008 of \$215,000. The appraiser made adjustments to the comparable sales for differences when compared to the subject property and also described the condition of the subject property. The subject's assessment reflects a market value of \$264,720 or \$179.59 per square foot of living area, including land, which is above the appraised value. The Board finds the subject property had a market value of \$215,000 as of the assessment date at issue and a reduction in the assessment is justified.

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

Member

JR

Member

Mark Albino

Member

Jerry White

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. Portol

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.