



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

APPELLANT: David Tenclay
DOCKET NO.: 10-32309.001-R-1
PARCEL NO.: 25-16-111-033-0000

The parties of record before the Property Tax Appeal Board are David Tenclay, the appellant, 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 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: \$ 2,160
IMPR.: \$ 7,974
TOTAL: \$ 10,134

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 3,600 square foot land parcel improved with an 80-year old, one-story, masonry, single-family dwelling, which is not owner-occupied. Amenities include: one bathroom, a full basement and 1,007 square feet of living area. The property is located in Lake 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 an appeal in this matter identifying attorney Ron Justin as the attorney of record. At hearing, attorney Ron Justin appeared verbally indicating that he was representing the appellant and stating that he had left his prior agency's affiliation where his office had been previously located. 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.

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. The Board stated that this was especially relevant due to attorney Justin's verbal statements that he had left his prior agency. 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. The data on the petition indicated that the subject was purchased on August 12, 2009 for a price of \$12,500. 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, an unsigned copy of one page of a settlement statement was submitted. The sheet identified the owner or seller as 'Homevestors' and did not disclose any disbursements to a real estate broker. 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. However, at hearing, he stated that the seller in this case was a 'corporate owned foreclosure'.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$10,134. The subject's assessment reflects a market value of \$113,356, when using the 2010 median level of assessment for class 2, residential 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 descriptive and assessment data on four suggested equity comparables as well as corresponding property characteristic printouts for each property. Moreover, the board of review submitted a one-page printout of sales of "class 03, medium size cottage/bungalow within neighborhood 72321 of Lake Township". This printout reflects 13 sales including the subject's 2007 and 2009 sales.

At hearing, the board of review's representative, Ms. Henderson, rested on the written evidence submission, while asserting that the subject's sale was a compulsory sale and moving to admit 'bor Hearing Exhibit #1'. After considering the parties' positions, the Board admitted this Exhibit into evidence over the objection of the appellant. Ms. Henderson testified that she obtained this two-page exhibit in preparation of this hearing from the Cook County Recorder of Deed's website. She also stated that the Exhibit depicts a deed trail indicating that the subject's 2009 sale was a deed in lieu of foreclosure.

In rebuttal, the appellant's attorney asserted that a recent sale is the best evidence of market and that he had not raised a comparable argument.

Conclusion of Law

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or

recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the market value evidence presented, the Board concludes that this evidence indicates a reduction 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 parties' evidence reflects that the subject's 2009 sale is 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 the compulsory sales of comparable properties, and the Board shall consider the suggested sales submitted by both parties.

In this appeal, the appellant did not submit any sales data on suggested properties to reflect the nature of the 2010 residential market. In contrast, the Board finds that the board of review submitted a one-page printout of sales of "class 03, medium size cottage/ bungalow within neighborhood 72321 of Lake Township". This printout reflects 13 sales of buildings similar to the subject and which included the subject's 2007 and 2009 sales. The Board gives most weight to the sales from October, 2009 through June, 2010 as most relevant to the assessment date at issue. These two properties sold for prices that ranged from \$75,000 to \$145,150. In comparison, the subject property's sale price of \$12,500 is drastically below the range established by the sale comparables in this record. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's sale price is not supported and that a reduction is not 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. Fan

Mario Alvino

Member

Member

JR

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: February 19, 2016

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.