



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

APPELLANT: Jean Jodoin
DOCKET NO.: 11-05909.001-R-1
PARCEL NO.: 07-01-03-201-014-0000

The parties of record before the Property Tax Appeal Board are Jean Jodoin, the appellant, by attorney Patrick J. McNerney of Mayer Brown LLP, in Chicago, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$49,240
IMPR: \$86,921
TOTAL: \$136,161

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the 2011 appeal from a 2010 decision of the Property Tax Appeal Board pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185). 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 parcel is improved with a two-story single family brick dwelling that contains approximately 4,284 square feet of living area. The dwelling is 13 years old and features a basement, central air conditioning, a fireplace and an attached three-car garage. The property is located in Naperville, Wheatland Township, Will County.

The appellant's appeal is based on both a contention of law and upon overvaluation. As to the contention of law, counsel for the appellant argued that the 2010 assessment of the subject property was reduced and this appeal for 2011 is being filed within 30 days of the decision of the Property Tax Appeal Board. Moreover, counsel argued that the 2010 decision was based upon the recent sale price and this 2011 decision should likewise be based upon this recent arm's length sale transaction.

Additionally, in support of the overvaluation argument, the appellant completed Section IV indicating the subject property was purchased in September 2010 for a price of \$410,000 or \$95.70 per square foot of living area, including land. The appellant indicated the subject property was sold by Mary K. Kopp, the parties to the transaction were not related and the property was sold using ReMax of Naperville with agent Martha Lopez. The copy of the City Transfer Tax, real estate contract and Settlement Statement each disclosed a sales price of \$410,000.

Based upon this evidence, the appellant requested an assessment of \$136,284 which would be reflective of the September 2010 purchase price and the 2010 assessment decision of the Property Tax Appeal Board.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$205,850. The subject's assessment reflects a market value of \$619,843 or \$144.69 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Will County of 33.21% as determined by the Illinois Department of Revenue.

In rebuttal, the board of review through the Wheatland Township Assessor's Office submitted a memorandum arguing that the 2010 assessment decision of the Property Tax Appeal Board does not apply to the subject's 2011 assessment because 2011 was a quadrennial reassessment year.

In support of its contention of the correct assessment, on behalf of the board of review the assessor argued that the 2010 sale price of the subject property was "substantially under the market average in this subdivision." The assessor also reported that the subject property sold again in August 2011 for \$623,000. A copy of the PTAX-203 Illinois Real Estate Transfer

Declaration indicated that the subject property was advertised prior to this sale in August 2011.

Based on this latest sale of the subject property, while the 2011 assessment may be too low, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant argued that the sale relied upon by the assessing officials occurred nine months after the lien date of January 1, 2011. Counsel then concludes that "our request for rollover should be sustained."

Conclusion of Law

As to the appellant's legal contention, the Board finds that pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), a taxpayer may file within 30 days of the date of written notice of the Property Tax Appeal Board's decision an appeal for the subsequent year when the Property Tax Appeal Board rendered a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review.

There is no dispute on the record that the subject property was under appeal before the Property Tax Appeal Board in the prior year under Docket Number 10-00489.001-R-1 wherein the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$136,284 based on the September 2010 sale of the subject property for \$410,000.

The appellant also presented a legal contention that the Board's prior year decision for 2010 should be carried forward to the subsequent year of 2011 in accordance with Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) which provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect **for the remainder of the general assessment period as provided in Sections 9-215 through 9-225**, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax

Appeal Board is reversed or modified upon review.
[Emphasis added.]

The Board finds that the evidence submitted by the Will County Board of Review establishes that 2010 and 2011 are not within the same general assessment period in Will County. In conclusion, the record contains evidence that the assessment year in question, 2011, is in a different general assessment period than 2010. For these reasons the Property Tax Appeal Board finds that Section 16-185 of the Property Tax Code is not applicable to the instant appeal for tax year 2011 for purposes of a "rollover," although a timely 2011 appeal was filed in accordance with the provisions of Section 16-185 for a "direct appeal."

The appellant also 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 appellant contends the subject's assessment should be reduced based on the sale of the subject of \$410,000 in September 2010. The evidence also disclosed that the subject sold for \$623,000 in August 2011. Thus, the sale of the subject reported by the appellant occurred about 4 months before the assessment date at issue and the sale of the subject reported by the board of review occurred about 7 months after the assessment date at issue.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club v. Property Tax Appeal Board, 263 Ill.App.3d 410, 418 (4th Dist. 1994); see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill.2d 158, 161, 226 N.E.2d 265, 267 (1967).

A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983); People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970); People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). In light of this holding, the August 2011 sale of the subject property submitted by the board of review has been given less weight as the Property Tax Appeal Board finds this later sale of the subject presented by the board of review for \$623,000 is less proximate in time to the assessment date of January 1, 2010 than the sale of the subject property in September 2010 for \$410,000.

In conclusion, the Board finds the best evidence of the subject's fair market value in the record as of January 1, 2011 is the September 2010 sale for \$410,000. The subject's assessment reflects an estimated market value of approximately \$619,843, which is higher than its September 2010 sale price that occurred approximately four months prior to the lien date. Therefore, based on this evidence, the Board finds a reduction in the subject's 2011 assessment is warranted. Since the fair market value of the subject of \$410,000 has been established as of January 1, 2011, the Board finds that the 2011 three-year median level of assessments for Will County of 33.21% shall apply.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy A. Huff

Member

Mario Morris

Member

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 23, 2015

Allen Castrovillari

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.