



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

APPELLANT: Robert Koe
DOCKET NO.: 11-26174.001-R-1
PARCEL NO.: 16-04-113-037-1004

The parties of record before the Property Tax Appeal Board are Robert Koe, the appellant(s), by attorney Kevin P. Burke, of Smith Hemmesch Burke & Kaczynski in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, 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: \$1,729
IMPR.: \$10,413
TOTAL: \$12,142

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 2011 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 86-year old, five-unit, condominium building. The property is located in West Chicago 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 2009 for a price of \$10,000. The appellant included a copy of the settlement statement which showed no broker fees. The appellant requested a reduction in the assessment to 10% of the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$12,142. The subject's assessment reflects a market value of \$121,420 using the Cook County Ordinance level of assessment for class 2 property of 10%.

In support of the assessment the board of review submitted information disclosing that one unit within the condominium sold in 2004 for a total of \$80,000. The analyst deducted \$1,600 or 2% from the total sale price to account for personal property to arrive at a total adjusted consideration of \$78,400. Dividing the total adjusted consideration by the percentage of ownership in the condominium for the unit that sold of 14% indicated a full value for the condominium property of \$560,000. When applying the percentage of ownership for the subject of 25% the board of review estimated the full value of the subject at \$140,000.

In rebuttal, the appellant submitted a letter asserting that the board of review failed to submit three recent sales as directed by the Board's rules and that the sale of the subject is the best evidence of value.

At hearing, the appellant, Robert Koe, testified that he is a property manager and real estate broker. He stated he is the sole owner of several corporations and these corporations purchase properties. He testified he has been purchasing and managing properties since 2009 and has purchased 30 properties. Mr. Koe testified he purchases condominiums for rental purposes. He testified he uses the multiple listing service database to find most of the properties he considers; then he inspects them, compares them to the market and submits offers on those he wants to purchase. He testified he owns the company that is the real estate brokerage firm that he uses to find these properties.

Under cross-examination, Mr. Koe testified that he considers the price, the buildings security, if the property can be rented, and if the condominium board is solvent when considering to purchase a property. He testified he goes straight to the multiple listing service database when looking for properties and is unsure of whether a property is a short sale or foreclosure.

As to the subject property, Mr. Koe testified that the property was not advertised for sale and that real estate brokers were not involved in the sale. He testified that he looked at another unit within the building to purchase and spoke with the condominium board concerning that unit. He was unable to purchase that unit, but testified that the condominium board told him about another unit that was foreclosed by a bank. They provided him with the contact information and he testified he contacted the bank and negotiated the sale along with his attorney and a bank represented attorney. He opined that the other unit was a more desirable unit. Mr. Koe described the unit and testified it was located in the North Austin neighborhood and that there were a number of foreclosures in the neighborhood at the time of the sale.

The board of review's representative, Lester McCarroll, argued that the subject underwent a judicial sale and that this sale was therefore a compulsory sale as defined by 35 ILCS 200/1-23 and not reflective of the market. He also asserted that the sale was not an arm's length transaction because it was not listed on the open market.

In rebuttal, the appellant submitted a Hearing Memorandum addressing the law in regards to foreclosure sales. The appellant also argued that the board of review only submitted one comparable and that this sale was not recent.

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 Illinois Supreme Court defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428 (1970). In addition, Section 1-50 of the Property Tax Code defines fair cash value as:

The amount for which a property can be 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)

The Property Tax Appeal Board finds the subject's sale does not meet at least one of the fundamental requirements to be considered an arm's-length transaction reflective of fair cash value. The Board finds the preponderance of the evidence clearly shows the subject property was not advertised or exposed for sale on the open market. Therefore, the subject's sale price was given little weight and is not considered indicative of fair market value.

Illinois Courts has stated fair cash value is synonymous with fair market value and is defined as the price a willing buyer would pay a willing seller for the subject property, there being no collusion and neither party being under any compulsion. Ellsworth Grain Company v Property Tax Appeal Board, 172 Ill.App.3d 552, 526 (4th Dist. 1988). Although the appellant's evidence may suggest the subject's transaction was between a willing, knowledgeable buyer and seller, the Board finds the transaction was not advertised for sale in the open market and is not typical of the due course of business and trade. Thus, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price.

Other recognized sources further demonstrate the fact a property must be advertised or exposed in the open market to be considered an arm's-length transaction that is reflective of fair market value. Black's Law Dictionary (referencing Bourjois, Inc. v. McGowan and Lovejoy v. Michels (citation omitted)), states:

"the price a property would command **in the market**" (Emphasis added). This language suggests a property must be publicly offered for sale in the market to be considered indicative of fair market value.

The Board finds there are other credible sources that specify a property must be advertised for sale in the open market to be considered an arm's-length transaction. The Dictionary of Real Estate Appraisal [American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983), provides in pertinent part:

The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell **in a competitive market** under all conditions requisite to fair sale; the property is **exposed for a reasonable time on the open market**.

Additionally, the Property Assessment Valuation, 2nd edition, states: Market value is the most probable price, expressed in terms of money, that a property would bring if **exposed for sale in the open market** (Emphasis added) in an arm's-length transaction between a willing seller and a willing buyer; a reasonable time is allowed for **exposure to the open market**. (Emphasis added). (International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996)). Since the appellant presented no factual evidence showing the subject property was advertised for sale or exposed to the open market in an arm's-length transaction, the Board gave little weight to the subject's transaction for market value consideration.

Absent an arm-length transaction, Illinois courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989). The Board finds that neither party submitted any evidence of recent sales of comparable properties. The board of review's comparables is from 2004 which is seven years prior to the lien date in question and, therefore, not reflective of the market as of January 1, 2011.

In conclusion, the Board finds the evidence in this record does not demonstrate the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is 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



Member

Member



Member

Member

DISSENTING: _____

CERTIFICATION

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: June 24, 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.