



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

APPELLANT: Robert Koe
DOCKET NO.: 11-26271.001-R-1
PARCEL NO.: 16-02-103-037-1001

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 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: \$893
IMPR.: \$1,207
TOTAL: \$2,100

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, 9-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 April 2009 for a price of \$21,000. The appellant included a copy of the settlement statement which showed 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 \$8,563. The subject's assessment reflects a market value of \$85,630 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 2005 for a total of \$160,000. The analyst deducted \$3,200 or 2% from the total sale price to account for personal property to arrive at a total adjusted consideration of \$156,800. Dividing the total adjusted consideration by the percentage of ownership in the condominium for the unit that sold of 10.24% indicated a full value for the condominium property of \$1,531,250. When applying the percentage of ownership for the subject of 8.88% the board of review estimated the full value of the subject at \$135,975.

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 advertised for sale and that real estate brokers were involved in the sale. He testified he inspected the property prior to making an offer on it. He further testified that the property was sold at auction and that he was the highest bidder after multiple bids. He described the subject and testified it was located in the West Humboldt Park neighborhood and that there were lots of foreclosures in the neighborhood at the time of purchase.

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.

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).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in April 2009 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. 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.

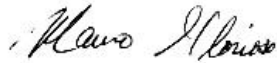
35 ILCS 200/16-183. Therefore, the Board is statutorily required to consider compulsory sales of comparable properties. However, the Board finds that the mere assertion by the board of review that the subject's sale was not at market solely because it is a compulsory sale is accorded no weight without evidence supporting that assertion.

In the instant case, even though the board of review asserted that the subject's sale was a compulsory sale and thereby not equal to market value, the Board finds the board of review's sale in 2005 not reflective of the market on January 1, 2011. The Board gives no weight to this sale. Moreover, the board of review failed to provide any evidence to challenge the arm's length nature of the transaction. The board of review merely argued that the sale was not at market because it was a compulsory sale which is a sale under duress; the board of review failed to show the bank's financial situation made it compelled to sell.

In further contrast, the appellant testified the subject was listed on the multiple listing service database, that real estate brokers for both the seller and buyer were involved in the sale with multiple offers at auction. Therefore, the Board finds the subject's sale was an arm's length transaction by a buyer and seller willing to buy and sell, but not compelled to do so.

Based on this record the Board finds the subject property had a market value of \$21,000 as of January 1, 2011. Therefore, the Board finds the subject overvalued and a 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.