



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

APPELLANT: Andrew Maxwell c/o Timothy E. Moran  
DOCKET NO.: 11-26789.001-R-1  
PARCEL NO.: 13-36-428-002-0000

The parties of record before the Property Tax Appeal Board are Andrew Maxwell c/o Timothy E. Moran, the appellant(s), by attorney Timothy E. Moran, of Schmidt Salzman & Moran, Ltd in Chicago; 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: \$ 10,125**  
**IMPR.: \$ 25,857**  
**TOTAL: \$ 35,982**

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 three-story apartment building of masonry construction with 5,137 square feet of building area. The building was constructed in 1913. Features of the building include four units, four baths, and a two-car garage. The property has a 3,750 square foot site and is located in Chicago, West Chicago Township, Cook County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted a copy of the real estate contract including addenda/disclosures and the

settlement statement confirming the sale of the subject in October 2010 for \$182,000. In addition, the appellant submitted a vacancy affidavit attesting that the subject was 48% vacant in 2011 due to rehab work and porch replacement. The appellant also submitted a 2011 rent roll.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$35,982. The subject's assessment reflects a market value of \$379,157 or \$73.81 per square foot of building area, land included, when using the 2011 three year median level of assessment for Cook County of 9.49% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on four equity comparables and sales data for each comparable. Also, the board of review submitted a brief stating that the subject's 2010 sale was not at fair market value due to the subject's deed trail showing that two *lis pendens* liens were placed on the subject in 2007 and a lien recorded in 2009 by the Chicago Department of Water Management.

#### 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted a documentation showing the vacancy and income of the subject property. The Board gives the appellant's argument little weight. In Springfield Marine Bank v. Prop.Tax Appeal Bd., 44 Ill.2d 428 91970), the Illinois Supreme Court stated:

[I]t is clearly the value of the "tract or lot of real property which is assessed, rather than the value of the interest presently held...[R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved...[E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value". Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes.

Id. At 431.

AS the Court stated, actual vacancy, income, and expenses can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate, through an expert in real estate valuation, that the subject's actual vacancy, income, and expenses are reflective of the market. To demonstrate or estimate the subject's market value using vacancy, income, and expenses one must establish through the use of market data, the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The mere assertion that vacancies in a property exist, does not constitute proof that the fair market value of a property is negatively impacted. No evidence such as building permits, contractor statements, and/or pictures were submitted to substantiate the appellant's claim that the subject was uninhabitable. There was no showing that the subject's market value was impacted by its vacancy during 2011. The appellant did not provide such evidence and therefore, the Board gives this argument no weight. Thus the Board finds that a reduction is not warranted based on the appellant's vacancy analysis.

In addressing the appellant's market value argument, the Board finds that the sale of the subject in October 2009 for \$182,000 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 the 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 the 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 sale of comparable properties submitted by the parties to revise and/or correct the subject's assessment. The Board finds that the mere assertion 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 determining the fair market value of the subject property, the Board looks to the evidence presented by the parties. The Board finds the board of review's comparables set the range of market value for the subject. They sold for \$56.22 to \$101.16 per square foot of building area, including land. The subject's assessment reflects a market value of \$73.81 per square foot of building area, including land, which is within the range established by the best comparable sales in this record.

Accordingly, in determining the fair market value of the subject property, the Board finds that the appellant failed to submit sufficient evidence to show the subject was overvalued. Therefore, the Board finds that the appellant has not met its burden by a preponderance of the evidence and that the subject does not warrant a reduction based upon the market data submitted into evidence.

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.

*Mario Alvares*

Chairman

*K. L. Ferr*

Member

*JR*

Member

*Jerry White*

Acting Member

*Robert Hoffmann*

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: April 22, 2016

*A. Heston*

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.