



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

APPELLANT: Josie Nowak  
DOCKET NO.: 11-27361.001-R-1  
PARCEL NO.: 13-17-408-040-0000

The parties of record before the Property Tax Appeal Board are Josie Nowak, the appellant, by attorney Brian S. Maher, of Weis, DuBrock, Doody & Maher in Chicago; and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 6,000  
**IMPR.:** \$28,164  
**TOTAL:** \$34,164

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 is an 84 year-old, two-story dwelling of masonry construction containing 4,092 square feet of living area. Features of the home include a full finished basement, four fireplaces and a two-car garage. The property has a 3,750 square foot site and is located in Jefferson Township, Cook County. The property is a Class 2-11 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 a settlement statement

disclosing the subject property was purchased on January 5, 2011 from 5938 W. Berteau, LLC for a price of \$360,000. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$42,501. The subject's assessment reflects a market value of \$447,850 or \$109.45 per square foot of living area, when using the board of review's indicated size of 4,092 square feet and when applying the 2011 three-year average median level of assessment of 9.49% for Class 2 property as determined by the Illinois Department of Revenue. The subject's sale price of \$360,000 reflects a market value of \$87.98 per square foot of living area including land.

In support of its contention of the correct assessment, the board of review submitted information on four suggested comparable sales from 2008 through 2010 that sold from \$103.69 to \$150.91 per square foot of living area including land. The board of review also submitted a brief arguing that the subject's sale was not at fair cash value and was, therefore, not at arm's-length. Attached to the brief was a print-out from the Cook County Recorder of Deeds' website, commonly known as a deed trail. It disclosed the following documents had been recorded against the subject: 1) *lis pendens* notice of foreclosure on August 5, 2010 by grantor Citibank against grantee Kevin Montijo ; 2) releases on December 20 and 27, 2010 from grantors PNC Bank and Citimortgage Inc. to grantees Kevin and Bridgett Montijo; 3) Warranty Deed on January 7, 2011 from grantor Kevin Montijo to grantee Michael Cuevas; 4) Quit Claim Deed on January 28, 2011 from grantor Michael Cuevas to grantee 5938 W. Berteau, LLC; 5) Warranty Deed on January 28, 2011 from grantor 5938 W. Berteau, LLC to grantee Josephine Nowak; 6) Mortgage on January 28, 2011 from grantor Josephine Nowak to grantee Park Ridge Community Bank. The board of review also submitted a print-out from Redfin website disclosing that the subject was sold as a "pre-foreclosure" property on January 6, 2011.

#### 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the purchase of the subject property in January 2011 for a price of \$360,000. The appellant provided evidence demonstrating the sale

had the elements of an arm's-length transaction. In support of the transaction, the appellant submitted a copy of the settlement statement disclosing the sale from seller 5938 W. Berteau, LLC to purchasers The Margaret R. Serro Revocable Trust, Josephine Nowak and Margaret Serro. The settlement statement disclosed the subject was purchased with a mortgage loan from Park Ridge Community Bank. The board of review submitted a deed trail suggesting the transfer of title from grantor Kevin Montijo to grantee Michael Cuevas was a compulsory sale and, therefore, not at arm's-length. The Board need not address the issue of whether this transaction was compulsory. The salient issue is whether the appellant purchased the subject from 5938 W. Berteau, LLC in an arm's-length transaction. 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.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (2d Dist. 1979)).

The appellant submitted evidence that she purchased the subject property from 5938 W. Berteau, LLC and secured the purchase with a mortgage from Park Ridge Community Bank. There is no evidence that this transaction was compulsory. The board of review's argument that, as a result of Citibank recording a *lis pendens* notice against Kevin Montijo, the purchase of the subject property by the appellant from seller 5938 W. Berteau, LLC was compulsory is without merit. There is no evidence that this latter transaction was a sale for less than the amount owed to a mortgage lender or was the first sale of real estate owned by a financial institution pursuant to a foreclosure. Therefore, the Board finds the board of review did not present any evidence to challenge the arm's-length nature of the transaction or to refute the contention that the purchase price was reflective of market value. Based on this record the Board finds the subject property had a market value of \$360,000 as of January 1, 2011 and that a

reduction in the subject's assessment is justified. Since market value has been determined, the 2011 three-year average median level of assessment of 9.49% for Class 2 property as determined by the Illinois Department of Revenue shall apply (86 Ill.Admin.Code §1910.50(c)(2)).

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.

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Chairman



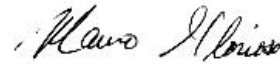
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DISSENTING: \_\_\_\_\_

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: March 18, 2016



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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.