



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

APPELLANT: Mike Piatek
DOCKET NO.: 11-28003.001-R-1
PARCEL NO.: 13-20-128-025-0000

The parties of record before the Property Tax Appeal Board are Mike Piatek, the appellant(s), by attorney Scott Shudnow, of Shudnow & Shudnow, Ltd. 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: \$5,775
IMPR.: \$22,695
TOTAL: \$28,470

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 consists of a two-story, apartment building of masonry construction with 2,862 square feet of living area. The property is located in Chicago, Jefferson Township, Cook County. The subject is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted evidence showing that the subject sold to the appellant on May 20, 2010 for \$287,175. This evidence included a copy of the settlement statement and multiple-listing database printout (MLS) which stated the subject was a pre-foreclosure sale. The appellant's pleadings regarding Section IV- Recent Sale Data confirmed: the closing date; sale price; the parties to the transaction were not related; the subject was advertised for sale on the open market for nine days with a realtor; and was a foreclosure sale. In further support, the appellant

submitted an appraisal estimating the subject property had a market value of \$300,000 as of May 4, 2010. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$39,260. In support of the correct assessment, the board of review submitted four sale comparables and a brief stating that the appellant has not submitted evidence that the subject was sold in the "due course of business and trade, not under duress, between a willing buyer and a willing seller." In addition, the board of review submitted a deed trail printout from the Cook County Assessor.

Lastly, the appellant submitted a "Motion to Dismiss" which argues that the appellant's appraisal should not be accepted because it renders an opinion of value outside the appeal's 2011 lien date. The board argues that the appraisal should value the property as of the lien date of the instant assessment year. The appellant's appraisal includes a lien date prior to January 1 of the instant assessment year and therefore, the appeal should be dismissed. In support, the board of review submitted a prior unrelated Board decision.

In rebuttal and response to Motion to Dismiss, the appellant's attorney states that the board of review's evidence is not responsive to appellant's fair market value argument while asserting that the sale of the subject in 2010 and the appraisal is an accurate representation of the subject's value for the 2011 year. In support, the appellant submitted prior unrelated Board decisions.

Conclusion of Law

Initially, the Board denies the board of review's motion to dismiss.

- a) Under the principles of a de novo proceeding, the Property Tax Appeal Board shall not presume the action of the board of review or the assessment of any local assessing officer to be correct. However, any contesting party shall have the burden of going forward.
- b) Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. Failure to do so will result in the dismissal of the appeal.

86 Ill.Admin.Code §1910.63(a)-(b). The board of review's motion to dismiss challenges the relevancy and credibility of the appellant's appraisal, but is submitted under the guise of the appellant's alleged failure to go forward with the appeal. The appellant's burden is to "provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property." *Id.* An appraisal of the subject property is "substantive, documentary evidence" that "challenge[s] the correctness of the assessment of the subject property." As such, the appellant has met its burden of going forward with the appeal. Whether such evidence is *relevant* is an evidentiary question for the Board to determine in its role as an independent quasi-judicial body. Whether such evidence is *credible* is another determination to

be made by the Board, in its role as the impartial trier of fact. The board of review's opportunity to challenge the relevancy and/or credibility of the appellant's appraisal is not in a motion to dismiss. Instead, the opportune time would have been in its evidentiary submission, or at a hearing. As such, the board of review's motion to dismiss is denied.

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 May 20, 2010 for \$287,175 or \$100.34 per square feet of living area is a "compulsory sale." The evidence disclosed the subject was a foreclosure/short 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)).

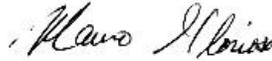
However, the Illinois General Assembly recently provided very clear guidance for the Board with regards to compulsory sales. Section 16-183 of the Illinois Property Tax Code states as follows:

The Property Tax Appeal Board shall consider compulsory sales of 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 evidence submitted disclosed the subject's sale was compulsory. The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The subject's assessment reflects a market value of \$392,260 which is above the best evidence of market value in the record. The Board finds the subject property had a market value of \$300,000 as of the assessment date at issue. Since market value has been established, the 2011 median level of assessment of 9.49% for class 2-11 properties as determined by the Cook County Real Property Classification Ordinance 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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Acting 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:

October 20, 2017



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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