



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

APPELLANT: Tomasz Szwedo
DOCKET NO.: 12-24282.001-R-1
PARCEL NO.: 09-16-400-021-0000

The parties of record before the Property Tax Appeal Board are Tomasz Szwedo, the appellant, 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: \$11,085
IMPR.: \$ 1,062
TOTAL: \$12,147

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 2012 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 parties differed as to the description of the subject's improvement. The property has a 43,560 square foot site and is located in Maine Township, Cook County. The property is a class 2 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 March 15, 2011 for a price of \$92,000 in an all-cash transaction. The appellant also submitted full information in Section IV – Recent Sale Data of the Residential Appeal that the subject was sold by the prior owner and was not a transfer between related parties. The appellant also disclosed in Section IV that the subject was both a short sale and a foreclosure. The appellant also submitted an appraisal estimating the market value of the subject at \$128,000 as of January 1, 2012. The appraisal disclosed the subject was improved with a three-car garage containing 600 square feet.

The appraisal used the sales comparison approach based on two sales that did not contain an improvement and one comparable that contained a 1,427 square foot dwelling. The appraisal included six color photographs of the subject. Two of the photographs depicted a vacant lot; two other photographs depicted what is captioned a "three-car garage." In a Supplemental Addendum to the appraisal, the appraiser opined that this improvement did not contribute value to the subject "for reasons such as, but not limited to:" 1) it did not contain living area; 2) it was uninhabitable; 3) a purchaser "may have cause to raze the building which would create additional cost"; 4) the subject was exposed to the market since May 11, 2010 and was still on the market as of the appraisal's effective date of January 1, 2012. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$12,147.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$25,000. The subject's assessment reflects a market value of \$257,998 when using the 2012 three-year median level of assessment of 9.69% for class 2 property as determined by the Illinois Department of Revenue. The board of review disclosed the subject contained a 55 year-old, one-story dwelling of frame construction containing 1,445 square feet of living area and featuring a crawl space basement, central air conditioning and a three-car garage.

In support of its contention of the correct assessment, the board of review submitted information on four unadjusted suggested equity comparables and the March 2011 sale of the subject for the price of \$92,000.

In rebuttal, the appellant argued that the equity comparables submitted as evidence by the board of review should be given diminished weight because they were not responsive to the appellant's overvaluation argument. The appellant reaffirmed the request for an assessment reduction.

Conclusion of Law

As to the issue of what, if any, improvements are contained in the subject, the Board finds, for the purposes of this appeal only, that the subject contained only a three-car garage because the appraisal included two color photographs depicting a vacant lot, two other color photographs depicting a three-car garage and a statement from the appraiser that he personally inspected subject.

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

In addressing the appellant's market value argument, the Board finds that the sale of the subject in March 2011 for \$92,000 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 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)).

However, when there was a recent sale of the subject, and that sale was compulsory, the Board may consider other evidence, such as compulsory sales of comparable properties, which would show whether the sale price was representative of the subject's fair cash value. *See* 35 ILCS 200/16-183. In determining the fair market value of the subject property, the Board looks to the evidence presented by the parties.

The appellant's appraisal estimated the subject's market value at \$128,000 is given no weight. The appraisal's comparables #1 and #3 are vacant land. Comparable #2 contained a 1,427 square foot dwelling. Yet, the subject contained a three-car garage improvement. The appraiser's opinion that the three-car garage is uninhabitable is not supported by evidence. Moreover, there is no evidence to suggest the three-car garage is not suitable for its intended use, as a garage, rather than as a dwelling. The appraiser's opinion that a purchaser "may have cause to raze the building" is, at most, speculation. The appraiser's statement that because the subject was exposed to the market at a particular price for a certain period of time without a sale does not support the opinion that the subject's improvement (the three-car garage) does not add value to the subject. However, 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 a reduction in the subject's assessment commensurate with the appellant's request is appropriate.

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: May 20, 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.