



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

APPELLANT: Monticello Ave Mgmt.
DOCKET NO.: 12-30821.001-R-1
PARCEL NO.: 13-14-113-011-0000

The parties of record before the Property Tax Appeal Board are Monticello Ave Mgmt., the appellant, by attorney Christopher G. Walsh, Jr., Attorney at Law 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 **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: \$ 5,024
IMPR.: \$42,381
TOTAL: \$47,405

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 subject property is a 90 year-old, three-story dwelling of masonry construction containing 4,986 square feet of living area. Features of the home include a full finished basement and three fireplaces. The property has a 4,187 square foot site and is located in Jefferson 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 evidence disclosing the subject property was purchased on August 30, 2010 for a price of \$286,000. The appellant submitted the PTAX-203 Illinois Real Estate Transfer Declaration disclosing the seller was HSBC Bank USA, as Indenture Trustee and that the buyer was School Street Management, LLC; an affidavit from "Dale Todd, Montecello Ave. Management" asserting that he purchased the subject for its fair market value; and information in Section IV –

Recent Sale Data of the Residential Appeal that the subject was advertised for sale on the Multiple Listing Service, was sold through a realtor, was not a transfer between related parties and was sold in settlement of a contract for deed. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price when using the 2012 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$47,405. The subject's assessment reflects a market value of \$474,050 or \$95.08 per square foot of living area when using the level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance. The subject's sale price of \$286,000 reflects a market value of \$57.36 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 that sold from 2009 through 2011 for prices ranging from \$95.62 to \$167.32 per square foot of living area including land. The board of review also submitted a brief arguing the subject's sale was not for fair cash value and, therefore, was compulsory. The board of review appended to its brief evidence information: that a *lis pendens* notice was recorded by HSBC Bank USA against Victor Lopez, et al. on July 1, 2009; that a Judicial Sales Deed was conveyed by Judicial Sales Corporation to HSBC Bank USA and recorded on May 7, 2010; and a Special Warranty Deed was conveyed by HSBC Bank USA to School Street Management, LLC and recorded on September 22, 2010. The board of review also appended the Transfer Declaration.

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 has not met this burden of proof and a reduction in the subject's assessment is not warranted.

In addressing the appellant's market value argument, the Board finds that the sale of the subject to School Street Management, LLC in August 2010 for \$286,000 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)).

The board of review's evidence clearly disclosed the sale was compulsory. However, there is no evidence of how the appellant, Monticello Ave. Mgmt., came into title, whether by compulsory sale or not. The first sale in August 2010 was to School Street Management, LLC, not the appellant. There is no evidence presented by the appellant Monticello Ave. Mgmt. of how it obtained title from School Street Management, LLC or some other person whether by, for instance, contract for deed, compulsory sale, quit claim deed, gift or other means. The appellant's PTAX-203 disclosed that the buyer was School Street Management, LLC. Although the appellant submitted an affidavit of "Dale Todd, Monticello Ave. Management" that he was the owner and purchased the subject, this is in conflict with other evidence submitted by not only the board of review, but by the appellant itself.

The Board gives no weight to the evidence of a sale submitted by the appellant because it failed to establish transfer of title to Monticello Ave. Mgmt. The appellant failed to submit evidence that the transfer of title to it had the indicia of an arm's-length sale at fair market value: that it occurred proximate in time to the assessment date at issue, that it was not sold between related parties, that it was advertised or exposed on the open market and that it was not a transaction between a willing seller and a willing buyer. Further, the board of review submitted sale comparables that contained property characteristics similar to the subject's and sold for prices ranging from \$95.62 to \$167.32 per square foot of living area, including land. The subject's assessment reflects a market value of \$95.08 per square foot of living area including land, which is below the range established by the best comparable sales in this record. Based on this record the Board finds the appellant failed to sustain the burden of proof beyond a preponderance of the evidence that the subject's market value is overvalued.

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



Acting 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: September 23, 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.