



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

APPELLANT: Angel Ojeda  
DOCKET NO.: 13-28290.001-R-1  
PARCEL NO.: 12-27-115-055-0000

The parties of record before the Property Tax Appeal Board are Angel Ojeda, the appellant(s); 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:** \$2,812  
**IMPR.:** \$5,688  
**TOTAL:** \$8,500

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 2013 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 one-story dwelling of frame construction with 936 square feet of living area. The dwelling is 56 years old. The property has a 5,625 square foot site and is located in Leyden Township, Cook County. The subject is classified as a class 2-02 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 in a cash transaction on November 6, 2012 for a price of \$85,000, or \$90.81 per square foot, including land, from The Pamela G. Wallock Revocable Trust. The parties to the transaction were unrelated. In support, the appellant submitted a settlement statement and a printout from the Multiple Listing Service. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect 10% of the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$14,044. The subject's assessment reflects a market value of \$140,440 or \$150.04 per square foot, including land, when applying the 10% level of assessment as determined by the Cook County Real Property Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted information on four equity comparables, all of which reflected sale data. These comparables had property characteristics that were similar to the subject property. They sold from May 2012 through September 2012 for prices ranging from \$128,000 to \$157,000, or from \$151.83 to \$172.15 per square foot, including land. The sale of the subject in November 2012 for \$85,000 was also reflected on the board's grid sheet.

The board of review also submitted a supplemental brief arguing that the sale of the subject was not reflective of the subject's fair cash value because it was an estate sale. The board of review cites Matter of Estate of Pirie, 141 Ill.App.3d 750 (2d Dist. 1986), for the proposition that "it is the executors' duty to close out an estate as quickly as possible." The board of review also cites In re Busby's Estate, 288 Ill.App. 500 (1st Dist. 1937), for the proposition that "[t]he duty of the executor is to wind up the estate rather than to increase its value." Based on these cases, the board of review argues that the seller(s)/executor(s) of the subject were under duress to sell the property because it was an estate sale, and that the sale was not at fair cash value. In support of this argument, the board of review submitted the printout from the MLS that was previously submitted by the appellant.

In rebuttal, the appellant argued that a realtor was paid a commission as evidenced by the settlement statement, therefore, the property was exposed to the open market. The appellant also argued that the board of review provided no evidence that this sale was not at market value.

### **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 gives no weight to the board of review's argument that the sale of the subject in November 2012 was not at the subject's fair cash value simply because it was an estate sale. The Board finds that the board of review's reliance on Busby is misplaced. That case involved the death of an attorney who held securities valued at a considerable amount at the time of his unexpected passing. Busby, 288 Ill.App. at 502-03. The decedent died on September 9, 1930, which was a little less than a year after September 29, 1929, also known as "Black Tuesday" and what is commonly accepted as the start of the Great Depression. Id. at 502. Due to various delays, the executor of Mr. Busby's estate, which was a bank, was not able to sell the securities it wanted to liquidate. Id. at 503-15. When the securities were finally placed on the market, the executor placed them at an offering price above the prevailing market rate, which further delayed their sale. Id. at 515. By the time the securities were sold, they had lost considerable value due

to the dire economic circumstances engulfing the nation at the time, and the loss in value rendered the estate insolvent. Id. at 516-17. The estate's residual beneficiaries filed suit against the executor on negligence grounds. Id. at 504. In its analysis, the Court began by addressing the unprecedented and volatile market conditions at the time. Indeed, the Court stated that "No case has been cited and we have been unable to find one, in this or any other jurisdiction, where the duty and responsibility of an executor has been determined **under such extreme and unusual circumstances** as are here involved." Id. at 521-22 (emphasis added). Therefore, the Court concluded that "[a]s has been heretofore stated, each case of this character must be decided on its own particular and distinctive facts." Id. at 522. In looking to the unique facts of the case, the Court found that:

No authority has been cited, and we venture to say none exists, which sanctions the operation of an estate incumbered as this one was by a fiduciary, corporate or otherwise, as though it were one large margin account, placing orders to sell the securities at prices above the market when it was declining and changing those prices to lower ones as the market went down.

Id. at 524. It is only under these circumstances that the Court found that "[The executor] was under no obligation to increase the assets of the estate but was bound only in the exercise of reasonable care and prudence to liquidate the securities within a reasonable time in view of their condition." Id. at 529. Additionally, "[t]he conclusion is inescapable that it was the imperative duty of the executor to liquidate the securities in this estate as promptly as the circumstances permitted." Id. at 531.

Busby is wholly different from the instant appeal, and is mischaracterized by the board of review in its brief. The board of review states that "[t]he duty of the executor is to wind up the estate rather than to increase its value." That is not what the Busby Court said. Instead, the Busby Court stated that under the critical financial environment that the nation was in, it was the executor's duty to wind up the estate in order to prevent the estate from losing value, which seemed reasonably certain to the economic advisors that testified at the Busby trial. In essence, the board of review ignores the Great Depression, and seeks to have the Board impose a uniform rule based on a case that was decided in its shadow. The Board declines to do so. Moreover, there is no evidence in the record to suggest that the sale of the subject needed to commence immediately to prevent a substantial decrease in its market value, as was the case in Busby.

The board of review's reliance on Pirie is also misplaced. The board of review states that this case stands for the proposition that "it is the executors' duty to close out an estate as quickly as possible." However, the Pirie Court only mentions this view in passing, and only when distinguishing between the sometimes competing duties of a trustee and an executor. Pirie at 764. Moreover, the Pirie Court found that "the actions of the executor in...Busby...were so unreasonable in light of the facts in [that case], the appellate court found liability." Pirie at 762. Thus, nearly half a century after the Busby decision, the Court still found that Busby's executor's actions were unreasonable in light of the economic circumstances. For these reasons, the Board finds the board of review's argument regarding the nature of the sale of the subject as an estate sale to be without merit.

The Board finds the best evidence of market value to be the purchase of the subject property in November 2012 for a price of \$85,000. In support of the transaction, the appellant submitted the printout from the MLS and the settlement statement. The Board finds the purchase price is below the market value reflected by the assessment. Based on this record the Board finds the subject property had a market value of \$85,000 as of January 1, 2013. Since market value has been determined the 2013 statutory level of assessment for class 2 property of 10.00% under the Cook County Real Property Assessment Classification Ordinance 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.



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: February 24, 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 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.