



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

APPELLANT: Viktor Leusenko  
DOCKET NO.: 13-28727.001-R-1  
PARCEL NO.: 17-07-200-053-1003

The parties of record before the Property Tax Appeal Board are Viktor Leusenko, the appellant(s), by attorney Abby L. Strauss, of Schiller Strauss & Lavin PC 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:

<b>LAND:</b>	\$ 1,903
<b>IMPR.:</b>	\$ 20,097
<b>TOTAL:</b>	\$ 22,000

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 (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject consists of a condominium unit with a 25.50% ownership interest in the common elements. The property is located in Chicago, West Chicago Township, Cook County. The subject is classified as a class 2-99 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 disclosing the subject property was purchased on February 22, 2013 for a price of \$220,000. Based on this evidence, the appellant requested a reduction in the subject's assessment to 10.00% the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$29,023. The subject's assessment reflects a market value of \$290,230 when applying the 2013 statutory level of assessment for class 2 property of 10.00% under the Cook County Real Property Assessment Classification Ordinance.

In support of the subject's assessment, the board of review submitted a memorandum, which shows that two units in the subject's building, or 51.00% of ownership, sold in September 2009 and February 2013, respectively, for an aggregate price of \$580,500. Comparable sale #2 describes the sale of the subject in February 2013 for \$220,000. The aggregate sales price was then divided by the percentage of interest of the units sold to arrive at a total market value for the building of \$1,138,235. The subject's percentage of ownership was then utilized to arrive at a total value for the subject of \$290,250.

The board of review also submitted a supplemental brief arguing that the sale of the subject was a compulsory sale, and therefore, the sale was not an arm's length transaction and the sale price does not represent the subject's fair cash value. In support of this argument, the board of review submitted a printout from the Cook County Recorder of Deeds' website showing that a *lis pendens* was filed on the subject by Aurora Loan Services, LLC on March 2, 2011, that Aurora Loan Service, LLC assigned its interest in the property to NationStar Mortgage, LLC on October 23, 2012, that the Judicial Sales Corporation conveyed the subject to NationStar Mortgage, LLC on January 30, 2013, and that a special warranty deed conveyed the subject from NationStar Mortgage, LLC to the appellant on March 6, 2013. The board of review also submitted the Notice of Foreclosure, the Judicial Sale Deed, the Special Warranty Deed, and the Illinois Real Property Transfer Tax Declaration. The latter document states that the subject will be the purchaser's principal residence, and, therefore, the subject is owner occupied.

In rebuttal, the appellant argued that the board of review's evidence should be given no weight because it did not conform to the Official Rules of the Property Tax Appeal Board.

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

The Board finds that the sale of the subject in February 2013 for \$220,000 was 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. The Board finds that the sale of the subject in February 2013 is a compulsory sale, in the form of a foreclosure, based on the printout from the Cook County Recorder of Deeds' website, and the Notice of Foreclosure, both of which were submitted by the board of review.

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 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 sales of comparable properties submitted by the parties to revise and/or correct the subject's assessment. However, the Board finds that there is no evidence in the record to contradict the fair market value of the subject's sale price except for one comparable sale submitted by the board of review (excluding the sale of the subject). The Board does not find this sole comparable sale is enough to contradict the appellant's assertion that the sale of the subject in February 2013 for \$220,000 was at its fair cash value. Moreover, this sale took place in September 2009, which the Board finds is too remote in time to accurately depict the market for the subject as of January 1, 2013.

Therefore, the Board finds the best evidence of market value to be the purchase of the subject property in February 2013 for a price of \$220,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction, including disclosing that the parties to the transaction were not related, that the property was sold using a Realtor, and that it was advertised on the open market. In further support of the transaction, the appellant submitted the residential real estate contract and the settlement statement; and the board of review submitted the Real Property Transfer Tax Declaration, which states that the subject was advertised for sale on the open market. Based on this record the Board finds the subject property had a market value of \$220,000 as of January 1, 2013. Since market value has been determined the 2013 statutory level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10.00% 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: November 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.