



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

APPELLANT: Sergei Abushevitz
DOCKET NO.: 13-29107.001-R-1
PARCEL NO.: 13-36-316-014-0000

The parties of record before the Property Tax Appeal Board are Sergei Abushevitz, the appellant(s), by attorney Nicholas T. McIntyre, of Worssek & Vihon 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: \$ 5,200
IMPR.: \$ 300
TOTAL: \$ 5,500

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 (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 two-story dwelling of frame construction with 1,672 square feet of living area. The dwelling is 122 years old. Features of the home include a full unfinished basement. The property has a 2,600 square foot site, and is located in Chicago, West Chicago 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 disclosing the subject property was purchased on September 28, 2012 for a price of \$55,000. Based on this evidence, the appellant requested a reduction in the subject's assessment to 10.00% of the purchase price. The appellant also submitted a vacancy affidavit showing that the subject was vacant for the entirety of tax year 2013. As the subject is

vacant, it is not owner occupied. Additionally, the appellant submitted color photographs of the interior of the subject, which show that the subject is missing walls and flooring in some locations.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$18,275. The subject's assessment reflects a market value of \$182,750, or \$109.30 per square foot of living area, including land, when applying the 2013 statutory level of assessment for class 2 property under the Cook County Real Property Assessment Classification ordinance of 10.00%.

In support of its contention of the correct assessment, the board of review submitted information on three equity comparables. The board of review's evidence also states that the subject was purchased in September 2012 for \$55,000.

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 appellant submitted documentation showing the vacancy of the subject property. The Board gives the appellant's argument little weight. In Springfield Marine Bank v. Prop. Tax Appeal Bd., 44 Ill.2d 428 (1970), the Illinois Supreme Court stated:

[I]t is clearly the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value". Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes.

Id. at 431.

As the Court stated, actual vacancy, income, and expenses can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate, through an expert in real estate valuation, that the subject's actual vacancy, income, and expenses are reflective of the market. To demonstrate or estimate the subject's market value using vacancy, income, and expenses one must establish, through the use of market data, the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The appellant did not

provide such evidence and, therefore, the Board gives this argument no weight. Thus, the Board finds that a reduction is not warranted based on the appellant's vacancy analysis.

The Board finds the best evidence of market value to be the undisputed purchase of the subject property in October 2012 for a price of \$55,000. 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 for sale on the open market with a listing on the MLS for approximately 24 days. In further support of the transaction, the appellant submitted the printout from the MLS and a property detail report from Realinfo.net. The Board finds the purchase price is below the market value reflected by the assessment. The Board finds 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.

However, the Board does not find the appellant's inhabitability argument persuasive, which the appellant appears to premise on Section 9-180 of the Property Tax Code, which states, in relevant part:

When, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use. The owner of property entitled to a diminution of assessed valuation shall, on a form prescribed by the assessor, within 90 days after the destruction of any improvements or, in counties with less than 3,000,000 inhabitants within 90 days after the township or multi-township assessor has mailed the application form as required by Section 9-190, file with the assessor for the decrease of assessed valuation. Upon failure so to do within the 90 day period, no diminution of assessed valuation shall be attributable to the property.

35 ILCS 200/9-180. The printout from the MLS submitted by the appellant states that the "Seller offers Purchase Rehab lending." As such, the Board finds that the appellant purchased the subject in an inhabitable condition, and that the purchase price of \$55,000 reflects the market value of the property in such a condition. Moreover, the subject was purchased in such a condition within two months of the lien date of January 1, 2013. Therefore, the Board finds that no further reduction is warranted due to the subject's inhabitability. Based on this record the Board finds the subject property had a market value of \$55,000 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.