



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

APPELLANT: Celeste Mosher
DOCKET NO.: 13-32142.001-R-1
PARCEL NO.: 13-27-312-020-0000

The parties of record before the Property Tax Appeal Board are Celeste Mosher, the appellant(s), by attorney Michael Elliott, of Elliott & Associates, P.C. in Des Plaines; 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: \$5,400
IMPR.: \$12,462
TOTAL: \$17,862

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 is a 99 year-old, one-story dwelling of frame and masonry construction containing 1,236 square feet of living area. Features of the home include a partial finished basement. The property has a 4,500 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 a Special Warranty Deed disclosing the subject property was purchased from the Federal National Mortgage Association (hereinafter, "Fannie Mae") on July 27, 2012. The appellant also submitted the Cash Escrow Trust Agreement from Chicago Title and Trust

Company (hereinafter, "Escrow") disclosing that the subject's title insured for the amount of \$67,000; the Multiple Listing Service listing information sheet disclosing the subject was sold as "REO/Lender Owned, Pre-Foreclosure" property for \$67,000; the real estate contract disclosing the subject was sold in an as-is condition; and information in Section IV--Recent Sale Data of the Residential Appeal that the subject was not sold as a transfer between related parties, was advertised and sold through a realtor, and was sold as bank owned real estate. The appellant also submitted a brief arguing the subject was uninhabitable and vacant as a result from the time of purchase in 2012 through April 4, 2013. The appellant appended to the brief five color photographs of the interior and exterior of the dwelling; a copy of the Notice of Violation and Summons from the City of Chicago Department of Buildings alleging building code violations of the subject observed on August 13, 2012 and December 27, 2012; a copy of the Administrative Complaint disclosing the alleged vacant condition of the subject on the same dates alleged in the Notice; and a copy of the Administrative Hearing Findings, Decisions and Order dated April 11, 2013 non-suiting the City of Chicago's complaint of municipal code violations of failure to register a vacant building, and board, secure and insure a vacant building. As further evidence of the issue of vacancy, the appellant submitted a copy of the Cook County Assessor's Certificate of Error for 2012 based on the absence of the application of a vacancy factor for 2012. Finally, the appellant provided a print-out from the Cook County Assessor's Office completed appeal review decision for 2013 disclosing that occupancy factor was not applicable to 2013. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price when using the 2013 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 \$17,862. The subject's assessment reflects a market value of \$178,620 or \$144.51 per square foot of living area when using the 2013 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 \$67,000 reflects a market value of \$54.21 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. The board of review also submitted a brief arguing that the subject was not sold at fair cash value and was, therefore, a compulsory sale. The board of review appended a print-out from the Cook County Recorder of Deeds website, commonly known as a "deed trail" that disclosed the following documents had been recorded: 1) *lis pendens* and foreclosure notice; 2) Judicial Sales Deed conveyed from Intercounty Judicial Sales Corporation to Fannie Mae; and 3) Special Warranty Deed conveyed from Fannie Mae to the appellant.

In rebuttal, the appellant argued that the comparables submitted as evidence by the board of review should be given diminished weight because they were dissimilar to the subject in various key property characteristics and that the subject's sale was not compulsory because the seller, Fannie Mae, was a willing seller. The appellant reiterated the argument that the subject should receive a reduction because it was uninhabitable vacant property from the date of sale through April 3, 2013. The appellant reaffirmed the request for an assessment reduction.

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 in August 2012 for \$67,000 is a "compulsory sale." The appellant's and board of review's evidence disclosed the subject's sale was compulsory. Although the appellant argued that Fannie Mae willing sold the subject, the Property Tax Code clearly defines a compulsory sale to include the subject's 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 appellant did not cite any legal authority for the proposition that the first sale by a financial institution of foreclosed property is not compulsory if the seller was "willing." To the contrary, there is ample legal authority for the standard that a foreclosure sale is a forced sale and, therefore, not at fair cash value. See CNB Bank & Trust, N.A. v. Rosentreter, 2015 IL App (4th) 140141 (2015); Deutsche Bank Nat. v. Burtley, 371 Ill.App.3d 1 (1st Dist. 2006).

The appellant's additional argument that the subject should receive an assessment reduction due to the uninhabitable condition up to April 4, 2013 is without merit. The sales contract, submitted into evidence, disclosed the appellant purchased the subject in an as-is condition. She asserted that the seller was a "willing" party to the transaction, but ignores that this assertion applies equally to her. The appellant negotiated a purchase price and accepted the subject in its then-

current condition. If anything, the appellant's efforts to remediate the uninhabitable condition may have enhanced the market value beyond the purchase price.

When there was a recent sale of the subject, and that sale was compulsory, the Board may consider evidence which would show whether the sale price was representative of the subject's fair cash value. *See* 35 ILCS 200/16-183. The appellant's evidence did not dispute that the sale was a compulsory sale. The appellant did not submit sale comparables to show that the sale of the subject in August 2012 for \$67,000 was at its fair cash value. Moreover, the board of review submitted sale comparables that contained property characteristics similar to the subject's and sold for prices ranging from \$148.74 to \$245.19 per square foot of living area including land. The subject's assessment reflects a market value of \$144.51 per square foot of living area including land, which is below the range established by the best comparable sales in this record. The board of review's sale comparables also establish that the subject's purchase price of \$67,000, or \$54.21 per square foot of living area including land, was below its fair cash value. Since there is no supporting evidence that the sale price of the subject was at its fair cash value, the Board finds that the subject is not overvalued and holds that a reduction is not warranted.

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.