



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

APPELLANT: Himanshu Mithani
DOCKET NO.: 13-33082.001-R-1
PARCEL NO.: 07-10-101-038-1182

The parties of record before the Property Tax Appeal Board are Himanshu Mithani, the appellant, 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: \$ 555
IMPR.: \$8,809
TOTAL: \$9,364

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 residential condominium unit contained in a 41 year-old, condominium development consisting of 359 residential condominium units. Each unit is designated by its own Property Index Number (hereinafter, "PIN"). The property has a 550,722 square foot site and is located in Schaumburg Township, Cook County. The property is a Class 2-99 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 three sales comparables of properties in the condominium development and a settlement statement disclosing the subject property was purchased on November 7, 2013 from Federal National Mortgage Association, commonly known as Fannie Mae, for a price of \$53,200. The appellant also submitted a copy of the real estate contract disclosing the purchase from Fannie Mae in an all-cash transaction and in an "as-is" condition; a Special Warranty Deed;

a Multiple Listing Service information sheet disclosing the subject was sold as "REO/Lender Owned" property; and full information in Section IV – Recent Sale Data of the Residential Appeal that the subject was not sold as a transfer between related parties, was sold and advertised through a realtor and was "lender owned property." Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price when using the 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 \$9,364. The subject's assessment reflects a market value of \$93,640 when using the 2013 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted a condominium analysis with information on suggested comparable sales for 47 units in the development that sold from 2011 through 2013 for a total of \$5,049,550. The board of review disclosed the units sold consisted of 13.4712% of all units in the building. The result was a full value of the property at \$37,484,040. Since the subject was 0.25237% of all the units in the building, the board of review suggested the market value of the subject to be \$94,598. The board of review also submitted a brief arguing the sale of the subject was compulsory and, therefore, not at fair cash value. Appended to the brief was a print-out from the Cook County Recorder of Deeds website, commonly known as a "deed trail," disclosing: a *lis pendens* and notice of foreclosure were filed and recorded in September 2010; a Judicial Sales Deed was transferred to Fannie Mae and recorded in June 2013; and a Special Warranty Deed was transferred by Fannie Mae to the appellant and recorded in November 2013. The board of review also submitted a copy of the Real Property Transfer Tax Declaration disclosing the subject was sold as "Bank REO (Real Estate Owned)" property.

In rebuttal, the appellant argued the board of review submitted evidence of raw, unconfirmed sales comparables. 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 November 2013 for \$53,200 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.

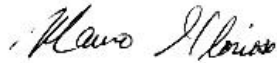
35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

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 evidence submitted by both the appellant and the board of review disclosed the subject's sale was compulsory. However, 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. Both the appellant and the board of review submitted additional sale comparables. The appellant's three sales comparables were of units that sold in the development in 2013: PINs 1053, 1294 and 1344. Each of the sales was for a unit similar in percentage ownership as the subject. They sold for prices ranging from \$54,000 to \$56,600, or from \$58.51 to \$74.47 per square foot of living area including land. The appellant disclosed the subject sold for \$70.00 per square foot of living area including land, which falls within the range of the appellant's recent sales comparables. The board of review submitted sale comparables that were of similar percentages of ownership as the subject: PINs 1274, 1275, 1304, and 1322. They sold in 2013 for prices ranging from \$94,000 to \$107,500, higher than the \$53,200 sale price of the subject. Moreover, the board of review's condominium analysis confirms the subject was not overvalued. Consequently, 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: 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.