FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Hudson Estates LLC
DOCKET NO.: 13-33998.001-R-1
PARCEL NO.: 06-24-313-049-0000

The parties of record before the Property Tax Appeal Board are Hudson Estates LLC, the appellant(s), by attorney Stephanie Park, of Park & Longstreet, P.C. in Rolling Meadows; 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:	$1,999
IMPR.:	$4,931
TOTAL:	$6,930

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 27 year-old, two-story dwelling of frame containing 1,133 square feet of living area. Features of each improvement include a slab foundation, central air conditioning and a one-car garage. The property has a 2,666 square foot site and is located in Hanover 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 four suggested sale comparables and a settlement statement disclosing the subject property was purchased from Deutsche Bank National Trust (hereinafter, "Bank") on June 27, 2012 for a price of $69,300 in an all-cash transaction. The appellant also submitted information in Section IV–Recent Sale Data of the Residential Appeal that the subject was not sold as a transfer between related parties, and was advertised and sold through a realtor. The appellant did

not disclose in Section IV whether the subject was sold in settlement of an installment contract, contract for deed or a foreclosure. The appellant also submitted an affidavit of an agent of the appellant attesting that the subject was purchased in "an arm's-length transaction." 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 $11,811. The subject's assessment reflects a market value of $118,110, or $104.25 square feet of living area including land, 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 information on four suggested sale comparables. The board of review also submitted a brief arguing the subject was not sold for fair cash value and, therefore, was sold as a compulsory sale. In support of this argument, the board of review appended to its brief a document commonly known as a "deed trail" disclosing: 1) a *lis pendens* recorded by the Bank against Roy Arun; 2) and a Special Warranty Deed conveyed by the Bank to the appellant. The board of review also submitted the PTAX-203 Illinois Real Estate Transfer Declaration disclosing the subject was sold as "Bank REO (real estate owned); and a three-page Multiple Listing Service information sheet disclosing the subject was sold as "REO/Lender Owned, Foreclosure" property.

In rebuttal, the appellant argued the subject's sale was at arm's-length and at fair cash value. The appellant cites authority for the proposition that an arm's-length transaction is a factor to determine whether a transaction is reflective of market value and argues that a sale between willing parties is at fair cash value. The appellant also refers to the Property Tax Code for the argument that the Board is required "to use compulsory sales when valuing property." 35 ILCS 200/16-183.

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 June 2012 for $69,300 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 Board finds the appellant failed to establish a foundation that the affiant was qualified to render the opinion that the subject was purchased in an arm's-length transaction. The evidence submitted by both the appellant and the board of review disclosed the subject's sale was compulsory. The appellant's argument that the Property Tax Code "requires assessing officials, including the PTAB, to use compulsory sales when valuing property" ignores the exact wording of the statute. A careful reading discloses that the Board "shall consider **compulsory sales of comparable properties** for the purpose of revising and correcting asessments, including those compulsory sales submitted by the taxpayer." 35 ILCS 200/16-183 [emphasis added]. The appellant has failed to cite any authority for the proposition that a compulsory sale of the subject is, of necessity, for fair market value. The appellant and the board of review submitted evidence that the seller of the subject to the appellant was a financial institution that acquired a deed as a result of a foreclosure action. The appellant asserts that if the parties to the transaction were willing parties, the board of review could not argue that the subject was a compulsory sale. The sale of the subject to the appellant from the Bank was the first sale of the property owned by a financial institution and was as a result of a foreclosure. However, 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).

However, as the appellant correctly observed in its Rebuttal Brief, 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. Both the appellant and the board of review submitted four sale comparables that contained property characteristics similar to the subject. The Board finds the best evidence of market value to be all of the appellant's comparable sales, and the board of review's comparable sales #1, #2 and #3. These comparables sold for prices ranging from $58.25 to $110.81 per square foot of living area, including land. Although the subject's assessment reflects a market value of $104.25 per square foot of living area including land, the sale of the subject for $69,300 was at $61.17 per square foot of living area including land. The sale price is within the market

value range established by the best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is justified.

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:

C E R T I F I C A T I O N

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: March 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.