



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

APPELLANT: Craig Callahan Berenstain Properties
DOCKET NO.: 14-25889.001-R-1
PARCEL NO.: 19-32-413-044-0000

The parties of record before the Property Tax Appeal Board are Craig Callahan Berenstain Properties, the appellant(s); 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: \$1,568
IMPR.: \$8,983
TOTAL: \$10,551

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 2014 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 one and one-half story, single-family home of frame and masonry construction with 858 square feet of living area. The dwelling was constructed in 1939. The property has a 3,690 square foot site and is located in Burbank, Stickney Township, Cook County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted evidence showing that the subject sold on October 1, 2013 for \$59,000. This evidence included a copy of the settlement statement and multiple-listing database printout (MLS) that identified the subject's sale as pre-foreclosure. The appellant's pleadings regarding Section IV- Recent Sale Data confirmed: the closing date; sale price; and that the parties to the transaction were not related. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$10,551. The subject's assessment reflects a market value of \$105,510 or \$122.97 per square foot of building area, including land, when applying the 2014 level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10%.

In support of its contention of the correct assessment, the board of review submitted information on three sale comparables.

In written rebuttal, the appellant submitted a brief asserting that the subject's sale is an arm's length transaction, was listed on the open market on the MLS for 37 days, and that the board of review has provided no evidence that the sale price is not reflective of market value.

At hearing, the board of review analyst, Ms. Gabriella Nicolau, testified that the subject is a distressed/foreclosure sale and therefore, not indicative of market value. The board of review also testified that the subject was sold in 2016 for \$109,000. The appellant's attorney, Ms. Nancy Pina, reviewed the evidence submitted and distinguished the board of review's evidence based on location and design. In support, the board of review analyst and attorney tendered unrelated Board decisions which were marked as "Exhibits A and B", respectively.

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).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in October 2013 for \$59,000 or \$100.85 per square feet of living area is a "compulsory sale." The testimony and evidence disclosed the subject was a foreclosure 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.

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 the 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 sale of comparable properties submitted by the parties to revise and/or correct the subject's assessment.

The evidence submitted disclosed the subject's sale was a compulsory sale. In determining the fair market value of the subject property, the Board looks to the evidence presented by the parties. The Board finds the board of review's comparables set the range of market value for the subject. The appellant did not submit any comparables. The board of review's comparables sold from March 2012 to October 2013 for prices ranging from \$94.01 to \$127.66 per square foot of living area, including land. The subject's assessment reflects a market value of \$122.97 per square foot of living area, including land, which is within the range established by the best comparable sales in this record. Moreover, the sale price of \$59,000 or \$100.85 per square foot of living area, including land, is within the range established by the best comparable sales in this record.

Accordingly, in determining the fair market value of the subject property, the Board finds that the appellant did submit sufficient evidence to show the subject was overvalued. Therefore, the Board finds that the appellant has met its burden by a preponderance of the evidence and that the subject does warrant a reduction based upon the market data submitted into evidence.

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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Acting Member



Member



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: September 22, 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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

AGENCY

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