



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

APPELLANT: Miroslaw Owczarek
DOCKET NO.: 14-34916.001-R-1
PARCEL NO.: 16-03-226-032-0000

The parties of record before the Property Tax Appeal Board are Miroslaw Owczarek, the appellant(s), by attorney Jessica Hill-Magiera, Attorney at Law in Lake Zurich; 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: \$5,580
IMPR.: \$10,265
TOTAL: \$15,845

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 sections 16-160 and 16-185 of the Property Tax Code (35 ILCS 200/16-160, 16-185) 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 is a 99 year-old, two-story dwelling of masonry construction containing 2,184 square feet of living area. The property has a 4,650 square foot site in Chicago, West Chicago Township, Cook County. The record does not disclose whether the subject was owner-occupied in the lien year. The property is a Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant filed the case as a direct appeal (*See* 35 ILCS 200/16-185) from the Board's decision in docket #13-28297.001-R-1, entered by the Board on February 24, 2017.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted a settlement statement disclosing the subject property was purchased on March 11, 2013 for \$65,000 in an all-cash transaction. The subject's sale price reflects a market value of \$29.76 per square foot of living area including land. The appellant also submitted a Multiple Listing Service (hereinafter, "MLS") information sheet disclosing the subject was sold short. The appellant included 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 failed to complete the question in Section IV that asked in what manner the sale was settled. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price when using the 2014 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 \$15,845. The subject's assessment reflects a market value of \$158,450, or \$72.55 per square foot of living area, when using the 2014 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 comparable that sold from December 2013 through July 2014. They sold for prices ranging from \$159,000 to \$172,000, or from \$81.40 to \$91.43 per square feet of living area including land.

In rebuttal, the appellant argued: 1) that the board of review did not submit evidence that the subject's sale was compulsory; 2) that he was denied the right of due process because the board of review impermissibly converted the appellant's argument into one predicated on comparable sales rather than the recent sale of the subject, thereby barring the appellant from submitting rebuttal evidence; and 3) that the comparable properties 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. The appellant reaffirmed the request for an assessment reduction.

At hearing, the appellant admitted the subject was sold short. The appellant also confirmed that he submitted the Board's decision in #13-28297.001-R-1 only to establish that the instant appeal was timely filed as a direct appeal, and not to assert a "rollover" request pursuant to Section 16-185 of the Property Tax Code, *supra*. The board of review argued that the 2013 decision was based on an argument of assessment inequity, not on an overvaluation argument.

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.

The appellant's argument in his rebuttal brief that he was denied due process because of an inability to respond in rebuttal to the board of review's Notes on Appeal and evidence is utterly without merit. The Board's Rules clearly address the opportunity of a party to file written or documentary rebuttal evidence "to explain, repel, counteract or disprove facts given in evidence by an adverse party..." 86 Ill.Admin.Code §1910.66(a). A careful reading of this Rule would alert any party to the opportunity to rebut the board of review's evidence. "A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence." 86 Ill.Admin.Code §1910.69(c). To state the obvious, the board of review's evidence in the instant appeal was offered as its case in chief, not as rebuttal. As such, it was not new rebuttal evidence as contemplated by the Rule. *Supra*. Further, the board of review's Notes on Appeal were submitted to refute the appellant's argument that the subject's sale was an arm's-length transaction for fair cash value. The Board may consider market value evidence, such as sales of comparable properties submitted by the parties, to determine whether the subject was sold at fair cash value. 86 Ill.Admin.Code §1910.65(c)(4); *See Calumet Transfer LLC v. Illinois Property Tax Appeal Board*, 401 Ill.App.3d 652 (1st Dist. 2010).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in March 2013 for \$65,000 is a "compulsory sale." The appellant's MLS information sheet disclosed the subject was sold short. At hearing, the appellant through counsel admitted the subject was sold short. Black's Law Dictionary, "real estate owned" (10th ed. 2014). 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)).

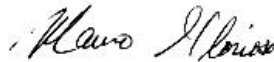
As stated, above, the Board may consider market value evidence, such as sales of comparable properties submitted by the parties, to determine whether the subject was sold at fair cash value.

86 Ill.Admin.Code §1910.65(c)(4); *See* Calumet Transfer LLC v. Illinois Property Tax Appeal Board, *supra*.

The appellant did not submit comparables or other evidence to establish that the sale of the subject was for fair cash value. The board of review submitted sale comparables that contained property characteristics similar with the subject. Comparables #1, #2, #3 and #4 are most similar with the subject and sold from December 2013 through July 2014 for prices ranging from \$81.40 to \$91.43 per square foot of living area, including land. The subject's assessment reflects a market value of \$72.55 per square foot of living area, including land, below the range established by the best comparable sales in this record. The subject's sale price of \$65,000, or \$29.76 per square foot of living area, including land is below the range established by the market data.

In determining the fair cash value of the subject property and all relevant factors, the Board finds that the appellant did not submit sufficient evidence to show the subject was overvalued. Therefore, the Board finds that the appellant has not met its burden by a preponderance of the evidence and that the subject does not 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(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) 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



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: March 19, 2019



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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