FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Steve Harder HB Equities
DOCKET NO.: 16-33140.001-R-1
PARCEL NO.: 32-06-402-020-0000

The parties of record before the Property Tax Appeal Board are Steve Harder HB Equities, 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:	$ 6,936
IMPR.:	$ 2,930
TOTAL:	$ 9,866

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 2016 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a one-story dwelling of frame construction with 1,000 square feet of living area. The dwelling is 77 years old. Features of the home include a partial unfinished basement and a one-car garage. The property has a 19,819 square foot site, and is located in Homewood, Bloom Township, Cook County. The subject is classified as a class 2-03 property under the Cook County Real Property Assessment Classification Ordinance. No evidence was submitted as to whether the subject is owner occupied.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on January 15, 2016 for a price of $58,400, or $58.40 per square foot of living area, including land. The appellant asserts that the parties to the transaction were not related. The printout from the MLS submitted

by the appellant states that the sale was pursuant to a foreclosure. Based on this evidence, the appellant requested a reduction in the subject's assessment to 10.00% of the sale price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $9,866. The subject's assessment reflects a market value of $98,660, or $98.66 per square foot of living area, including land, when applying the 2016 statutory level of assessment for class 2 property of 10.00% 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 equity comparables and four sale comparables. These comparables sold between April 2014 and May 2016 for $122,000 to $182,000, or $84.25 to $109.57 per square foot of living area, including land.

In rebuttal, the appellant argues that the board of review's evidence should be given no weight because it was not responsive to the appellant's request for relief based on a recent sale of the subject. In support for this argument, the appellant states:

> [c]onsidering the BOR's evidence of comparable sales in an appeal based only on a recent sale of the subject property violates fundamental principles of due process since the Appellant is barred from submitting new evidence in rebuttal. *See* Section 1910.66(c) of the Illinois Administrative Code, attached hereto. The BOR cannot unilaterally convert Appellant's appeal into one predicated on comparable sales. The Property Tax Code does not give this Board authority to consider comparable sales as evidence in an appeal based only upon a recent sale of the subject property.

The appellant also argued that the sale comparables submitted by the board of review are not similar to the subject for various reasons.

The Board also notes that the appellant cited various decisions previously decided by the Board in support of the arguments presented.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

First, the Board finds that it is not bound by its previous decisions that the appellant has cited. In Board of Educ. of Ridgeland School Dist. No. 122, Cook County v. Property Tax Appeal Bd., 2012 IL App (1st) 110461, ¶ 33, the intervenor school district argued that the Board accepted certain evidence in one appeal to the Board, but not in another allegedly similar appeal. Id. at ¶ 32. In finding that this practice was not erroneous, the appellate court looked to the Board's

statutory authority: “The Board shall make a decision in each appeal or case appealed to it, and the decision shall be based upon equity and the weight of evidence and not upon constructive fraud, and shall be binding upon appellant and officials of government. 35 ILCS 200/16-185.” Id. at ¶ 33. Thus, “each decision by the [Board] is necessarily fact specific and based upon the particular record of each case.” Id. As each decision by the Board is necessarily fact specific, the Board is not bound by its previous decisions cited to by the appellant, and gives them no weight in this analysis.

The Board finds that the sale of the subject in January 2016 for $58,400 was 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. The Board finds that the sale of the subject in January 2016 is a compulsory sale, in the form of a foreclosure, based on the printout from the MLS submitted by the appellant, which states that the sale of the subject was pursuant to a foreclosure.

Finding that the sale of the subject was a compulsory sale, the question then becomes, whether the compulsory sale of the subject is an arm’s-length transaction such that the sale price reflects the subject’s fair cash value. Indeed, “a contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, [citations] but would be practically conclusive on the issue of whether an assessment was at full value.” People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill.2d 158, 161 (1967). However, “[i]n order for the sale price of property to be used as the market value, the transaction must be between a willing buyer and a willing seller, neither of whom are under compulsion to buy or sell, and no account should be taken of values or necessities peculiar to either party.” Id. at 164 (citing City of Chicago v. Harrison-Halsted Building Corp., 11 Ill.2d 431 (1957); Ligare v. Chicago, Madison and Northern Railroad Co., 166 Ill. 249 (1897); and City of Chicago v. Farwell, 286 Ill. 415 (1918), overruled on other grounds by Forest Preserve Dist. of Du Page County v. First Nat. Bank of Franklin Park, 2011 IL 110759). The appellant asserts that the sale of the subject was an arm’s-length transaction, while the board of review contends that it is not. In weighing the arguments and supporting evidence submitted by the parties, the Board finds that the sale of the subject was not an arm’s-length transaction.

The appellant asserts that the transaction was arm’s-length because the parties to the transaction were not related, and the subject was advertised on the open market via the MLS. The appellant submitted the settlement statement and the printout from the MLS in support of these assertions, and the board of review does not refute these facts. Thus, the Board finds that the parties to the transaction were not related, and that the subject was advertised for sale on the open market via the MLS.

Having found as such, the Board's inquiry into whether the transaction was at arm's-length is not over. The board of review submitted four sale comparables to show that the subject's purchase price was below its fair market value, and, therefore, the transaction was not arm's-length. The appellant contends that if the Board were to consider these sale comparables in determining whether the sale of the subject was an arm's-length transaction, such consideration would violate fundamental principles of due process. Without deciding the inherent constitutional question presented by the appellant's due process argument, the Board finds that this argument is without merit.

In Calumet Transfer LLC v. Property Tax Appeal, Bd., 401 Ill.App.3d 652 (1st Dist. 2010), the court upheld the Board's decision, wherein the Board allowed the intervenor to challenge the arm's-length nature of the sale of the property, through the submission of sale comparables, pursuant to Section 1910.65(c)(4) of the Official Rules of the Property Tax Appeal Board. Calumet Transfer, 401 Ill.App.3d at 655-56; 86 Ill.Admin.Code § 1910.65(c)(4) ("[p]roof of the market value of the subject property may consist of the following: 4) documentation of not fewer than three recent sales of suggested comparable properties together with documentation of the similarity, proximity and lack of distinguishing characteristics of the sales comparables to the subject property."). Like the board of review here, the intervenor in Calumet Transfer submitted sale comparables to show that the purchase price was below fair market value, and, consequently, the transaction was not at arm's-length. Id. at 656. The court stated that, "There is no provision in the Property Tax Code that restricts [the Board's] authority to consider such evidence. To the contrary, paragraph (4) of section 1910.65(c) specifically allows evidence of comparable property sales to prove fair market value." Id. Thus, based on Calumet Transfer, the appellant's argument is without merit.

Insofar as the appellant raises a constitutional claim that reliance on the board of review's comparable sales violates due process, the Board finds that it has no authority to invalidate a statute or administrative rule on constitutional grounds or even to question its validity. Texaco-Cities Service Pipeline Co. v. McGaw, 182 Ill.2d 262, 278 (1998) (citing Moore v. City of East Cleveland, 431 U.S. 494, 497 n. 5 (1977)). The Board merely notes that the appellant has made this argument, and has preserved this constitutional claim for appeal. See Texaco-Cities, 182 Ill.2d at 278-79 ("it is advisable to assert a constitutional challenge on the record before the administrative tribunal, because administrative review is confined to the proof offered before the agency.").

In looking at the sale comparables submitted by the board of review, the Board finds board of review comparables #1, #2, and #3 to be most similar to the subject. These comparables sold for prices ranging from $84.25 to $105.13 per square foot of living area, including land. The subject's sale price reflects a market value of $58.40 per square foot of living area, including land, which is below the range established by the best comparables in this record. Moreover, the subject's current assessment reflects a market value of $98.66 per square foot of living area, including land, which is within this range. Therefore, the Board finds that the sale of the subject in January 2016 for $58,400 was below the subject's fair market value, and, therefore, was not an arm's-length transaction. As such, this sale has been given no weight in the Board's analysis. Since there is no other market value evidence proffered by the appellant, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued and a reduction in the subject's assessment 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. 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:

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: April 23, 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

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