



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

APPELLANT: Geremia Balice
DOCKET NO.: 17-27345.001-R-1
PARCEL NO.: 16-30-320-037-0000

The parties of record before the Property Tax Appeal Board are Geremia Balice, the appellant(s), by attorney Joanne 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: \$ 4,540
IMPR.: \$ 30,613
TOTAL: \$ 35,153

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 2017 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

Findings of Fact

The subject consists of a two-story dwelling of masonry construction with 4,688 square feet of living area. The dwelling is 59 years old. Features of the home include a full finished basement and a three-car garage. The property's site is 4,657 square feet, and it is located in Berwyn Township, Cook County. The subject is classified as a class 2-11 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 June 23, 2015 for a price of \$285,000. In Section IV – Recent Sale Data of the appeal form, the appellant stated that the subject was sold by the owner. The settlement statement submitted by the appellant

states that there were no real estate broker fees paid by either party. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$28,500.

The board of review submitted its "Board of Review Notes on Appeal" disclosing that the total assessment for the subject is \$35,153. The subject's assessment reflects a market value of \$351,530, or \$74.99 per square foot of living area, including land, when applying the 2017 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 eight equity comparables, and four sale comparables. These sale comparables sold from June 2016 to October 2017 for \$361,900 to \$433,500, or \$79.62 to \$106.57 per square foot of living area, including land. The board of review's evidence also states that the subject was purchased in June 2015 for \$285,000. The board of review also submitted a supplemental brief arguing that the sale of the subject was an estate sale, and therefore, the sale was not an arm's-length transaction which would accurately represent the subject's fair cash value. The supplemental brief cites Matter of Estate of Pirie, 141 Ill.App.3d 750 (2d Dist. 1986), for the proposition that "it is the executors' duty to close out an estate as quickly as possible," and also cited In re Busby's Estate, 288 Ill.App. 500 (1st Dist. 1937), for the proposition that "[t]he duty of the executor is to wind up the estate rather than to increase its value." The board of review also submitted a copy of FirstMerit Bank N.A. v. Bridgeview Bank, 2016 IL App (2d) 150364-U. The board of review asserts that this case stands for the proposition that:

[w]here the plaintiff in the foreclosure action is the high bidder at the judicial sale of the foreclosed property, the transaction is not an arm's-length transaction. Thus, although the price paid by a willing buyer to a willing seller is generally a sound indication of an item's value when the sale is at arm's-length—see Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 230 (1998)—it would be error to use this measure in a situation in which the plaintiff controlled both the offer and the acceptance and thus could set any price it liked.

Id. at ¶ 39.

In rebuttal, the appellant argued that the board of review's sale comparables were "raw and unconfirmed."

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 proven 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.

The Board gives no weight to the board of review's argument that the sale of the subject in June 2015 was not at the subject's fair cash value simply because it was an estate sale. The Board

finds that the board of review's reliance on Busby is misplaced. That case involved the death of an attorney who held securities valued at a considerable amount at the time of his unexpected passing. Busby, 288 Ill.App. at 502-03. The decedent died on September 9, 1930, which was a little less than a year after September 29, 1929, also known as "Black Tuesday" and what is commonly accepted as the start of the Great Depression. Id. at 502. Due to various delays, the executor of Mr. Busby's estate, which was a bank, was not able to sell the securities it wanted to liquidate. Id. at 503-15. When the securities were finally placed on the market, the executor placed them at an offering price above the prevailing market rate, which further delayed their sale. Id. at 515. By the time the securities were sold, they had lost considerable value due to the dire economic circumstances engulfing the nation at the time, and the loss in value rendered the estate insolvent. Id. at 516-17. The estate's residual beneficiaries filed suit against the executor on negligence grounds. Id. at 504. In its analysis, the Court began by addressing the unprecedented and volatile market conditions at the time. Indeed, the Court stated that "No case has been cited and we have been unable to find one, in this or any other jurisdiction, where the duty and responsibility of an executor has been determined **under such extreme and unusual circumstances** as are here involved." Id. at 521-22 (emphasis added). Therefore, the Court concluded that "[a]s has been heretofore stated, each case of this character must be decided on its own particular and distinctive facts." Id. at 522. In looking to the unique facts of the case, the Court found that:

No authority has been cited, and we venture to say none exists, which sanctions the operation of an estate incumbered as this one was by a fiduciary, corporate or otherwise, as though it were one large margin account, placing orders to sell the securities at prices above the market when it was declining and changing those prices to lower ones as the market went down.

Id. at 524. It is only under these circumstances that the Court found that "[The executor] was under no obligation to increase the assets of the estate but was bound only in the exercise of reasonable care and prudence to liquidate the securities within a reasonable time in view of their condition." Id. at 529. Additionally, "[t]he conclusion is inescapable that it was the imperative duty of the executor to liquidate the securities in this estate as promptly as the circumstances permitted." Id. at 531.

Busby is wholly different from the instant appeal, and is mischaracterized by the board of review in its argument found in the supplemental brief, which quotes the Busby Court as saying that it is "[t]he executors' duty to close out an estate as quickly as possible." That is not what the Busby Court said. Instead, the Busby Court stated that under the critical financial environment that the nation was in, it was the executor's duty to wind up the estate in order to prevent the estate from losing value, which seemed reasonably certain to the economic advisors that testified at the Busby trial. In essence, the board of review ignores the Great Depression, and seeks to have the Board impose a uniform rule based on a case that was decided in its shadow. The Board declines to do so. Moreover, there is no evidence in the record to suggest that the sale of the subject needed to commence immediately to prevent a substantial decrease in its market value, as was the case in Busby.

The board of review's reliance on Pirie is also misplaced. The supplemental brief states that this case stands for the proposition that "[t]he duty of the executor is to wind up the estate rather than

to increase its value.” However, the Pirie Court only mentions this view in passing, and only when distinguishing between the sometimes competing duties of a trustee and an executor. Pirie at 764. Moreover, the Pirie Court found that “the actions of the executor[] in...Busby...were so unreasonable in light of the facts in [that case], the appellate court found liability.” Pirie at 762. Thus, nearly half a century after the Busby decision, the Court still found that Busby’s executor’s actions were unreasonable in light of the economic circumstances.

Finally, the Board finds that the board of review’s citation to FirstMerit Bank also misplaced. That decision involved the sale of a foreclosed property at a sheriff’s sale; and there is no evidence in this record that the subject was either foreclosed upon or was sold at a sheriff’s sale. Thus, the court’s holding in FirstMerit Bank is not applicable to the instant appeal. For these reasons, the Board finds the board of review’s argument regarding the nature of the sale of the subject as an estate sale to be without merit.

The Board finds that the sale of the subject in June 2015 for \$285,000 was not an arm’s-length transaction. In Section IV – Recent Sale Data of the appeal form, the appellant stated that the subject was sold by the owner, which indicates that there were no real estate broker’s involved in the sale. Moreover, the settlement statement submitted by the appellant states that there were no real estate broker fees paid by either party. Moreover, there is no evidence in the record to show that the subject was advertised for sale on the open market. These conditions call into question the arm’s-length nature of the transaction. As such, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued, and that 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: _____

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:

June 8, 2021



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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