



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

APPELLANT: Gail Duberchin Living Trust Agreement dtd. 7/10/02
DOCKET NO.: 19-25202.001-R-1
PARCEL NO.: 05-27-200-054-1042

The parties of record before the Property Tax Appeal Board are Gail Duberchin Living Trust Agreement dtd. 7/10/02, the appellant(s), by attorney Richard D. Worssek, of Worssek & Vihon in Chicago; 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: \$ 5,418
IMPR.: \$ 26,082
TOTAL: \$ 31,500

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) after receiving a decision from the Cook County Board of Review. The instant appeal challenges the assessment for tax year 2019. 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 condominium unit. The property is located in New Trier Township, Cook County. The subject is classified as a class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

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 November 14, 2019 for a price of \$315,000. In Section II of the appeal form, the appellant stated that the subject is owner-occupied. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$31,500.

The board of review submitted its "Board of Review Notes on Appeal" disclosing that the total assessment for the subject is \$48,934. The subject's assessment reflects a market value of

\$489,340 when applying the 2019 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 evidence that the subject was purchased in November 2019 for \$315,000. The board of review also submitted a supplemental brief arguing that the sale of the subject was a compulsory sale, and therefore, the sale was not an arm's-length transaction which would accurately represent the subject's fair cash value. In support of this argument, the board of review submitted a printout from the Cook County Recorder of Deeds' website showing that the Jerome Weinstein trust conveyed the subject to the appellant via a trustee's deed filed on November 26, 2019. 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. Finally, the board of review's supplemental brief also cited 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." Based on these cases, the board of review argues that the seller(s)/executor(s) of the subject were under duress to sell the property because it was an estate sale, and that the sale was not at fair cash value.

In rebuttal, the appellant argued that the sale of the subject in November 2019 for \$315,000 was not a compulsory sale. In support of this assertion, the appellant submitted a printout from the Cook County Recorder of Deeds' website showing that a mortgage was taken out for the subject in November 2017 for \$100,000. The appellant argued that the purchase price of \$315,000 more than paid for the entire outstanding mortgage.

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 meet this burden of proof, and a reduction in the subject's assessment is warranted.

The Board finds that the sale of the subject in November 2019 for a price of \$315,000 is not 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 November 2019 for a price of \$315,000 is not a compulsory sale as there was no evidence submitted to support such an assertion. The printouts from the Cook County Recorder of Deeds’ website, submitted by both parties, do not show that a *lis pendens* was filed on the subject, proving that the sale of the subject was not pursuant to a foreclosure. Moreover, in rebuttal, the appellant submitted evidence that the mortgage on the property was well below the sale price, showing that, more likely than not, the sale of the subject was not pursuant to a short sale. Finally, the printout from the MLS does not show that the sale was a compulsory sale. Therefore, the Board finds the sale of the subject in November 2019 for \$315,000 was not a compulsory sale. As such, the board of review’s citation to FirstMerit Bank, and the arguments made pursuant to that case are moot.

Next, the Board gives no weight to the board of review’s argument that the sale of the subject in November 2019 for \$315,000 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 made in the supplemental brief, which states that “[t]he duty of the executor is to wind up the estate rather than to increase its value.” 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 board of review’s supplemental brief stated that this case stands for the proposition that “it is the executors’ duty to close out an estate as quickly as possible.” 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, and there is no evidence to show that such economic circumstances existed when the subject was sold in November 2019. 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 the best evidence of market value to be the purchase of the subject in November 2019 for a price of \$315,000. The appellant provided evidence demonstrating that the sale had the elements of an arm’s-length transaction, including disclosing that the parties to the transaction were not related, the property was sold using a real estate broker, and it was advertised for sale on the open market with a listing on the MLS for approximately 445 days. In further support of the transaction, the appellant submitted, the real estate sale contract, the printout from the MLS, a copy of the deed, and the settlement statement. The Board finds the purchase price is below the market value reflected by the assessment. Based on this record, the Board finds that the appellant has proven, by a preponderance of the evidence, that the subject is overvalued. The Board finds the subject property had a market value of \$315,000 as of January 1, 2019. Since market value has been established, the 2019 statutory level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10.00% shall apply.

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:

December 19, 2023



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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