

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Andres Schcolnik
DOCKET NO.: 03-28653.001-R-1
PARCEL NO.: 20-35-408-004

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are Andres Schcolnik, the appellant, by attorney David C. Dunkin with the law firm of Arnstein & Lehr in Chicago and the Cook County Board of Review.

The subject property consists of a 3,750 square foot parcel of land containing a 78-year old, one-story, masonry, single-family dwelling. The improvement contains 1,104 square feet of living area, one bath, and a full, unfinished basement. The appellant, via counsel, argued that the fair market value of the subject property is not accurately reflected in the assessed value as the basis of the appeal.

In support of this argument, the appellant submitted copies of report of sale and distribution, order approving report of sale and distribution confirming sale and order of possession, and a judicial sale deed for the subject property. These documents show that the subject property was foreclosed on and sold in a judicial sale on September 8, 2003 for \$81,000. Based upon this analysis, the appellant requested a reduction in the subject's improvement assessment.

At the hearing, the appellant's attorney, David Dunkin, argued that the sale of the subject property established the market

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Based on the facts and exhibits presented, 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: \$ 2,160
IMPR.: \$ 8,141
TOTAL: \$10,301

Subject only to the State multiplier as applicable.

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value for the subject. He stated the sale was at a live auction and thus is the best evidence of the market value of the subject as an auction is truly competitive and on the open market.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$10,301. This assessment reflects a market value of \$64,381 using the level of assessment of 16% for Class 2 property as contained in the Cook County Real Property Assessment Classification Ordinance. The board also submitted copies of the property characteristic printouts for the subject as well as a total of four suggested comparables located within one block of the subject. The board's properties contain a one-story, masonry, single-family dwelling with one or one and one-half baths. The improvements range: in age from 78 to 85 years; in size from 1,104 to 1,136 square feet of living area; and in improvement assessments from \$7.55 to \$7.81 per square foot of living area. The properties also contain a full basement with one finished and one property contains a fireplace. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board of review's representative, Matt Panush argued that the sale was not an arm's length transaction because of the foreclosure and is not an accurate reflection of the market value for the subject.

At hearing, the record was left open for the parties to present case law indicating whether a judicial sale, based on a foreclosure, is an arm's length transaction and establishes market value. The appellant submitted a brief and case law. The brief argues that although the Illinois courts have defined "fair cash value", the courts have not addressed whether a judicial auction establishes a fair cash value. The appellant cites several cases from other jurisdictions.

After considering the testimony and reviewing the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence

presented, the PTAB concludes that the evidence indicates a reduction is not warranted.

As to the market value argument, the PTAB finds that the appellant failed to establish that the judicial sale of the subject property was an arm's length transaction and established an accurate market value for the subject. The Courts have defined "fair cash value" as the value arrived at in a voluntary sale by an owner that is willing to sell, but not compelled to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 256 N.E.2d 334 (Ill.Sup.Ct. 1970).

In the instant case, the subject property sold at a judicial auction because the property was foreclosed. Although the appellant argues that this sale was competitive and on the open market, the PTAB finds that this does not establish a willing seller that was not compelled to sell the property.

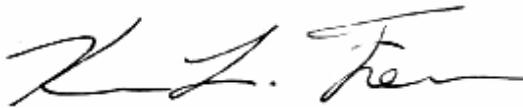
Moreover, the board of review's evidence supports the current assessment. As a result of this analysis, the PTAB further finds that the appellant has not established that the market value is not reflected in the assessed value and a reduction is not warranted.

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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.



Chairman



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: October 26, 2007



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

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"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 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 the subsequent year 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.

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.