



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

APPELLANT: Sue West
DOCKET NO.: 07-24050.001-R-1
PARCEL NO.: 05-08-320-016-0000

The parties of record before the Property Tax Appeal Board are Sue West, the appellant(s), by attorney Herbert B. Rosenberg, of Schoenberg Finkel Newman & Rosenberg LLC in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, 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: \$47,953
IMPR: \$135,779
TOTAL: \$183,732

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 19,336 square foot parcel of land improved with a 41-year old, two-story, frame and masonry, single-family dwelling containing 5,126 square feet of living area. Features include three and two-half baths, full unfinished basement, air conditioning, and one fireplace. The appellant argued that the market value of the subject property is not accurately reflected in its assessed value.

In support of this overvaluation argument, the appellant submitted a copy of the warranty deed with tax stamps affixed confirming the purchase price of \$1,830,000 on March 21, 2007. Based on this evidence, the appellant requested the subject's assessment be reduced to reflect the subject's purchase price.

In addition, the appellant submitted sales data for four properties located within the subject's neighborhood. These properties sold from July 2005 to July 2007 for \$1,830,000 to \$3,595,000 or from \$432.57 to \$547.43 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$208,196 was disclosed. This assessment reflects a market value of \$2,073,665

using the Illinois Department of Revenue's 2007 three-year median level of assessment for class 2 property of 10.04%. In support of the subject's assessment, the board of review submitted descriptions and assessment information for four properties located within the subject's neighborhood. These properties are described as two-story, masonry, frame and masonry or stucco constructed, single-family dwellings that range: in age from 7 to 92 year old; in size from 5,057 to 10,484 square feet of living area; and in improvement assessments from \$31.57 to \$37.98 per square foot of living area. In addition, sales data was submitted regarding comparable #4 which sold in July 2005 for \$2,895,000 or \$572.47 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney, Mr. Gregory Mini, testified that the sale in March 2007 was at fair cash value. Per Property Tax Code Section 150, Mr. Mini defined fair cash value as "the amount for which a property can be sold in the due course of business and trade not under duress between willing seller and buyer." In addition, Mr. Mini per application of Rosewell case (120 il.@3d369) cited "that the sale of a property during the tax year in question is a relevant factor in considering the validity of assessment and that a sale shall not be barred in considering events that occurred after the lien date in assessing properties." As evidence, the appellant submitted a copy of the recorded deed with transfer affixed that confirmed the purchase price of \$1,830,000 in March 2007.

At hearing, the owner/appellant, Mr. Leslie West, testified that he was represented by an attorney, Robin King, and a realtor, Ms. Katie Trains regarding the purchase of the subject. He also testified that he had no previous relations with the seller, Mr. Dominic Pugliani. Appellant's attorney requested that judicial notice be taken that the 2007 Illinois Department of Revenue 2007 sale ratio for class 2 residential property was 10.04%.

In rebuttal, the board of review analyst Mr. Roland Lara did not dispute that "in general a recent sale is the best indicator of assessment." However, he disputed whether the sale was an arm's length transaction. Specifically, Mr. Lara defines an arm's length transaction as "the amount for which property can be sold in the due course of business and trade not under duress between willing seller and buyer." Mr. Lara testified that per the recorder of deeds, a lis pendens was recorded by Washington Mutual against the seller which was not released until the subject sold. Therefore, such evidence of a lis pendens against the property indicates that the seller was not a willing seller in the due course of business per definition of an arm's length transaction. No supporting evidence regarding circumstances of sale from the seller's point of view were submitted.

In addition, Mr. Lara summarized the board of review's equity comparables evidence which included sales data for comparable #4. Mr. Mini distinguished the equity sales based on age, condition,

number of fireplaces, bathrooms, and basement from the subject. Mr. Lara also raised the issue that since the appeal petition was limited to recent sale, the appellant's comparable sales evidence shall not be considered. Mr. Gregory withdrew evidence regarding sale comparables and confirmed that the appeal shall solely be based on recent sale of the subject.

After reviewing the record and considering 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, 331 Ill.App.3d 1038 (3d Dist. 2002; Winnbago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d (2d 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 Board concludes that the evidence indicates a reduction in the subject's assessment is warranted.

The PTAB finds the best evidence of market value is the undisputed sale of the subject in March 2007 for \$1,830,000. The evidence of a lis pendens against the sale does not alone refute the arm's length nature and fair cash value of the subject. In fact, the appellant testified that the sale was not between related parties and the property was sold by a realtor which support the arm's length nature of the sale. Therefore, the most weight was given to this evidence.

The subject's assessment reflects a market value greater than this purchase price. Based on this record, the PTAB finds that the subject property has a market value of \$1,830,000 for the 2007 assessment year. Since market value has been determined, the 2007 three-year median level of assessment for class 2 property as established by the Illinois Department of Revenue of 10.04% shall apply and a reduction is 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: November 30, 2012

Allen Castrovillari

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 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.