



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

APPELLANT: Kevin Dolcimascolo
DOCKET NO.: 07-26782.001-R-1 through 07-26782.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Kevin Dolcimascolo, the appellant, by attorney Anthony M. Farace of Amari & Locallo, in Chicago, and the Cook County Board of Review.

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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-26782.001-R-1	17-09-234-040-1631	6,579	144,752	\$151,331
07-26782.002-R-1	17-09-234-040-1343	155	3,416	\$3,571

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a condominium unit and a related parcel consisting presumably of a parking space with a classification of class 2-99 residential condominium under the Cook County Real Property Assessment Classification Ordinance. The subject unit is located within a condominium consisting of 701 parcel numbers located in Chicago, North Chicago Township, Cook County. No other descriptive data for the subject was presented by either party. The unit has a 1.1493% allocated ownership.

The appellant, through counsel, submitted evidence that the subject's fair market value is not accurately reflected in its assessment. In support of this argument, the appellant offered the subject's December 2006 purchase price of \$1,320,000 and argued that the same reflected an arm's-length transaction. In support of this evidence, the appellant submitted a copy of the Settlement Statement, Warranty Deed, Bill of Sale and PTAX-203 Illinois Real Estate Transfer Declaration which indicated that the property was not advertised for sale and that no personal property was included in the purchase price. Based on this

evidence, the appellant requested a reduction in the total assessment of the two parcels to \$132,000 to reflect the combined purchase price of the parcels.

The board of review submitted its "Board of Review Notes on Appeal" wherein the total assessment of the two parcels of \$154,902 was disclosed. The total assessment of the subject property reflects a market value of approximately \$1,542,849 using the 2007 three-year median level of assessments for Class 2 property in Cook County of 10.04% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(2)(A)).

In support of the subject's estimated market value based on its assessment, the board of review presented the methodology used to estimate the subject's fair market value revealing in a spreadsheet that in 2007 and 2008 approximately 53 residential units within the subject's condominium, along with some related parking units, sold. Total consideration for these sales was \$15,643,234. The board of review deducted 2% per unit, or \$312,864, from the total consideration to purportedly account for personal property to arrive at a total adjusted consideration of \$15,330,370. Next, the board of review estimated the total market value of the condominium using the adjusted sales price and the total of the percentage of interest of the units which sold, or 9.6171%, resulting in a full value of \$159,407,410. As the subject has a 1.1493% ownership in the common elements of the building, the board of review concluded the subject's total estimated value was \$1,832,069. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

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 the appeal. The Board further finds the evidence in the record does not support a reduction in the assessment of the subject parcels.

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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). 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 has not met this burden of proof and reductions in the assessments of the subject parcels are not warranted.

Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is

ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970); see also Ellsworth Grain Company v Property Tax Appeal Board, 172 Ill.App.3d 552, 526 (4th Dist. 1988). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue of whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967).

The Property Tax Appeal Board finds the subject's sale presented in this matter does not meet at least one of the fundamental requirements to be considered an arm's-length transaction reflective of fair cash value. The Board finds the preponderance of the evidence clearly shows the subject property was not advertised or exposed for sale on the open market. The subject's Real Estate Transfer Declaration clearly establishes that the subject property was not advertised for sale. Although the appellant argued the subject's transaction was "arm's-length," the Board finds the transaction was not advertised for sale in the open market and is not typical of the due course of business and trade. As a consequence, the general public did not have the same opportunity to purchase the subject property at any negotiated sale price. Therefore, the subject's sale price shall be given little weight and cannot, under these circumstances, be considered virtually conclusive of the subject's fair market value.

Other recognized sources further demonstrate the fact a property must be advertised or exposed in the open market to be considered an arm's-length transaction that is reflective of fair market value. Black's Law Dictionary (referencing Bourjois, Inc. v. McGowan and Lovejoy v. Michels (citation omitted)), states:

the price a property would command **in the market** (Emphasis added). This language suggests a property must be publicly offered for sale in the market to be considered indicative of fair market value.

The Board finds there are other credible sources that specify a property must be advertised for sale in the open market to be considered an arm's-length transaction. The Dictionary of Real Estate Appraisal [American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983)], provides in pertinent part:

The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell **in a competitive market** under all conditions requisite to fair sale; The property is **exposed for a reasonable time on the open market**.

Additionally, the Property Assessment Valuation, 2nd edition, states: Market value is the most probable price, expressed in terms of money, that a property would bring if **exposed for sale in the open market** (Emphasis added) in an arm's-length transaction between a willing seller and a willing buyer; a reasonable time is allowed for **exposure to the open market**. (Emphasis added). (International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996)). Since the appellant presented no factual evidence showing the subject property was advertised for sale or exposed to the open market in an arm's-length transaction, the Board gives little weight to the subject's transaction for market value consideration.

Absent an arm's-length transaction, Illinois courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989). The Board finds the board of review presented an analysis with a deduction for purported personal property within each unit resulting in an estimate of value for the subject of \$1,832,069. The subject condominium's total assessment reflects a market value of \$1,542,849 which is below the estimate presented by the board of review on this record. Having given less weight to the subject's sale price and after considering the comparable sales presented along with the associated analysis, the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject property's assessment was excessive in relation to its market value. Therefore, the Property Tax Appeal Board finds 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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Mark Morris

Member

JR

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 20, 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.