



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

APPELLANT: Tom Milutinovic
DOCKET NO.: 08-22010.001-R-1
PARCEL NO.: 14-30-113-025-0000

The parties of record before the Property Tax Appeal Board are Tom Milutinovic, 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: \$ 9,869
IMPR: \$ 13,651
TOTAL: \$ 23,520**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 3,125 square feet of land, which is improved with a 116 year old, two-story, frame, single-family dwelling. The subject's total assessment is \$60,597. This assessment yields a fair market value of \$631,219 after applying the 2008 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 9.60%. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal. The appellant also argued that the Cook County Assessor's records are incorrect as to the subject's improvement size, and garage.

In support of the market value argument, the appellant submitted a residential appraisal report for the subject property with an effective date of January 1, 2008. The appraiser estimated a fair market value for the subject of \$315,000 based on the cost and sales comparison approaches to value. In the sales comparison approach, the appraiser analyzed five sales with sales prices ranging from \$119.82 to \$208.33 per square foot of living area, including land. The appraiser noted that the subject was purchased in January 2008 for \$245,000, but did not provide any

details regarding the sale. The appraiser also conducted an inspection of the subject.

In support of the square footage argument, the appellant submitted a plat of survey, showing that the subject contains two stories, each containing 916 square feet of living area, for a total improvement size of 1,832 square feet of living area. The appellant also asserts that the subject does not contain a garage. The plat of survey does not show a garage. The survey is dated September 13, 2009, and is stamped and signed by Brian C. Plautz, an Illinois Certified Professional Land Surveyor. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$60,597 was disclosed. The board of review's evidence states that the subject contains 2,365 square feet of living area. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as one and one-half-story, frame, single-family dwellings. Additionally, the comparables range: in age from 106 to 118 years; in size from 1,805 to 2,192 square feet of living area; and in improvement assessments from \$19.25 to \$32.81 per square foot of living area. The comparables also have several amenities. The board of review's grid sheet also states that Comparable #2 sold in May 2005 for \$747,000, or \$377.27 per square foot of living area, including land; and that Comparable #3 sold in January 2007 for \$546,000, or \$302.49 per square foot of living area, including land.

The board of review also submitted the appellant's evidentiary submissions from the board of review level. This evidence showed that the subject sold in January 2008 for \$245,000. This evidence included a settlement statement, a residential real estate sale contract, and a title insurance policy. Furthermore, the evidence indicates that the sale was not between related parties, that the parties used a real estate broker, and that the sale was pursuant to a foreclosure. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant reaffirmed the evidence previously submitted, and argued that the board of review's evidence should be given no weight because it did not address the appellant's market value argument.

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

Initially, the Board finds that the subject's improvement size is 1,832 square feet of living area. The Board finds the plat of

survey submitted by the appellant the most persuasive evidence on this issue. The board of review was unable to substantiate its assertion that the subject's improvement size was 2,365 square feet of living area. Thus, the Board finds that the subject contains 1,832 square feet of living area. The Board also finds that the subject does not contain a garage, based on the survey.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). "[A] contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, (citations) but would be practically conclusive on the issue of whether an assessment was at full value." People ex rel. Korzen v. Belt Ry. Co. of Chi., 37 Ill. 2d 158, 161 (1967).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in January 2008 for \$245,000 was 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. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (2d Dist. 1979)).

However, when there is a recent sale of the subject, and that sale is a compulsory sale, the Board may consider evidence which would show whether the sale price was representative of the subject's fair cash value. Calumet Transfer, 401 Ill. App. 3d at 655-56. In this case, the appellant did submit evidence to show that the sale of the subject in January 2008 for \$245,000 was at its fair cash value. Such evidence can include the descriptive and sales information for recently sold properties that are similar to the subject. See id. at 656. The appraiser presented five sales comparables that were similar to the subject, which ranged in sale prices from \$119.82 to \$208.33 per square foot of living area, including land. Using the January 2008 sale price of \$245,000, and the subject's improvement size of 1,832 square feet of living area as established above, the subject's market value is \$133.73 per square foot of living area, including land, which is within the range of these comparables. Thus, the Board finds that these sales comparables support the fact that the January 2008 compulsory sale of the subject for \$245,000 was at its fair cash value.

Therefore, the Board finds the subject had a market value of \$245,000 for the 2008 assessment year. Since the market value of this parcel has been established, the 2008 Illinois Department of Revenue three year median level of assessment for Class 2 property of 9.60% will apply. 86 Ill. Admin. Code § 1910.50(c)(2)(A). In applying this level of assessment to the subject, the total assessed value is \$23,520, while the subject's current total assessed value is above this amount. Therefore, the Board finds that 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

Tracy A. Huff

Member

Marko M. Louis

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: January 24, 2014

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.