



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

APPELLANT: Margaret Zambrzycki
DOCKET NO.: 08-25587.001-R-1
PARCEL NO.: 01-28-201-009-0000

The parties of record before the Property Tax Appeal Board are Margaret Zambrzycki, the appellant, by attorney Timothy C. Jacobs, of Gary H. Smith PC 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:

LAND: \$ 14,185
IMPR.: \$ 82,342
TOTAL: \$ 96,527

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story, single-family dwelling with frame and masonry construction. The dwelling is one year old and contains 3,652 square feet of living area. Features of the home include a full unfinished basement, central air conditioning, a fireplace, and a three-car attached garage. The property is classified as a class 2-78 residential property¹ under the Cook County Real Property Assessment Classification Ordinance and is located in South Barrington, Barrington Township, Cook County.

The appellant is basing this appeal on a contention of law, and the appellant's attorney submitted a brief in support of this contention. Counsel claims that the appellant purchased the subject property on April 10, 2008 and should be entitled to an improvement assessment that reflects the appellant's "level of occupancy" during the tax year in question. When counsel completed Section III of the residential appeal form, he indicated the subject property was purchased on April 10, 2008, for a price of \$1,071,000 or \$293.14 per square foot of living area, land included. The appellant's attorney did not complete Section IV of the residential appeal form. To further document

¹ Class 2-78 is a two or more story residence, up to 62 years of age, 2,001 to 3,800 square feet.

the sale, the appellant's attorney submitted a copy of the warranty deed, dated April 10, 2008, indicating that the appellant purchased the dwelling and that a real estate transfer tax of \$1,071 had been paid. The appellant's attorney also produced a copy, not dated and untitled, of what counsel referred to as an "assessor face sheet" which showed that no occupancy factor had been applied to the 2008 assessment.

In the brief, the appellant's attorney requested a reduction in the subject's improvement assessment: "Pursuant to 35 ILCS 200/9-180, property should carry an assessment that reflects its level of occupancy during the tax year in question. Since Petitioner acquired and occupied the subject on April 10, 2008, her assessment should be debased by a 72.6% occupancy factor." Based on this contention, counsel applied the occupancy factor of 72.6% to the subject's improvement assessment and requested the subject's improvement assessment for the 2008 tax year be reduced to \$59,584.² However, the appellant did not complete Section VI of the residential appeal form and did not indicate when the occupancy permit was issued or when the subject property was inhabitable.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$96,527 was disclosed. The subject's assessment reflects a market value of \$1,005,490 or \$275.33 per square foot of living area, land included, using the 2008 three-year average median level of assessments for class 2 property in Cook County of 9.60% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code 1910.50(c)(2)).

In support of the subject's assessment, the board of review provided information on four comparable properties to demonstrate the subject was being equitably assessed. The board of review also provided a list of twenty sale properties, and one of the sale properties on this list was the subject property. The subject property sold in April 2008 for \$1,070,562 or for \$293.14 per square foot of living area, land included. The board of review also provided the subject's property characteristic sheets for 2008 which indicated that no occupancy factor had been applied to the subject's 2008 improvement assessment. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Board finds 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 subject's assessment.

² Counsel based this calculation on the subject having a total assessed value of \$96,257. Actually, the subject's total assessed value is \$96,527. The land assessment is \$14,185, and the improvement assessment is \$82,342. Applying an occupancy factor of 72.6% to the subject's improvement assessment would result in an improvement assessment of \$59,780.

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 of the subject property or comparable sales. (86 Ill.Admin.Code 1910.65(c)). 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 on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). After an analysis of the evidence in the record, the Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of market value in the record is the sale of the subject property in April 2008 for a price of \$1,070,562 or \$293.14 per square foot of living area, land included. The subject has a total assessment of \$96,527 which reflects a market value of \$1,005,490 or \$275.33 per square foot of living area, land included, that is less than the purchase price. The subject has a total assessment which reflects a market value that is less than the subject's sale price. Based on this record, the Board finds no change in the assessment is justified.

The appellant argued contention of law as the basis of the appeal. The appellant's attorney applied a so-called occupancy factor of 72.6% to the subject's 2008 improvement assessment. However, the appellant did not complete Section VI of the residential appeal form and did not provide the subject's occupancy permit.

Pursuant to Section 9-180, assessors are to pro-rate valuations based on a year of 365 days. Section 9-180 of the Property Tax Code states in relevant part:

Pro-rata valuations; improvements or removal of improvements. The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. . . .
(35 ILCS 200/9-180).

The statute measures the value of an improvement to the property either from the date "when the occupancy permit was issued" or from the date the improvement "was inhabitable and fit for

occupancy" prior to December 31 of the same year. Since the appellant's attorney did not complete Section VI of the residential appeal form, it is not known when the subject property was habitable and fit for occupancy. Consequently, no reduction in the subject's improvement assessment 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: May 18, 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.