



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

APPELLANT: Ryan Davis
DOCKET NO.: 08-25597.001-R-1
PARCEL NO.: 01-28-208-017-0000

The parties of record before the Property Tax Appeal Board are Ryan Davis, 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 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: \$ 9,124
IMPR.: \$ 61,916
TOTAL: \$ 71,040

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story, single-family dwelling with 3,113 square feet of living area. The subject has frame and masonry exterior construction, a full unfinished basement, central air conditioning, a fireplace, and a three-car attached garage. The dwelling is one year old and is located in South Barrington, Barrington Township, Cook County. The property is classified as a class 2-78 residential property under the Cook County Real Property Assessment Classification Ordinance.

The appellant is basing this appeal on overvaluation as well as on a contention of law. The appellant claims the subject property is overvalued based upon a recent sale of the subject property. When the appellant's attorney completed Section 2d of the residential appeal form, counsel indicated the subject property was purchased in July 2008 for a price of \$740,000 or \$237.71 per square foot of living area, land included. The attorney listed the name of the seller and the name of the realty firm handling the sale. Counsel indicated further that the property had been advertised for sale through the Multiple Listing Service (MLS) and that the sale was not a transfer between related parties. To further document the sale, the appellant submitted a copy of the settlement statement form provided by the U.S. Department of Housing and Urban Development, HUD-1, disclosing the subject property was purchased in July 2008

for a price of \$740,000. The settlement statement disclosed that a commission had been paid to the realty firm. The appellant's attorney also submitted a brief in support of his argument. In the brief, counsel argued that the subject had a market value of \$740,000 and the assessment should be calculated by applying the 10% median level of assessment for Class 2 residential property in Cook County.

In the brief, the appellant's attorney also argued a contention of law: "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 July 7, 2008, his assessment should be debased by a 51.9% occupancy factor." Based on this contention, the appellant requested the subject's improvement assessment for the 2008 tax year be reduced to \$33,670.¹ 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 \$71,466 was disclosed. The subject's assessment reflects a market value of \$744,438 or \$239.14 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)).

The board of review submitted no market value evidence. Instead, the board of review provided information on four comparable properties to demonstrate the subject was being equitably assessed. 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 support a reduction in the subject's assessment.

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

¹ The appellant's attorney based this calculation on the subject having a market value of \$74,000 (10% of the subject's July 2008 sale price). Counsel subtracted the land value of \$9,124 to arrive at a improvement assessment at full occupancy of \$64,876. Counsel applied the "occupancy factor" of 51.9% to the improvement assessment to arrive at a partial improvement assessment of \$33,670. Actually, the 51.9% figure should be used to debase the assessment. The appellant took occupancy on July 7, 2008, which means that the appellant occupied the subject property for 48.1% of 2008.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value in the record is the sale of the subject property in July 2008 for a price of \$740,000 or \$237.71 per square foot of living area, land included. The subject has a total assessment which reflects a market value of \$744,438 or \$239.14 per square foot of living area, land included, that is greater than the purchase price. The Board finds the board of review submitted equity comparables but did not address or refute the appellant's market value argument. Moreover, the board of review provided no evidence to indicate that the subject's sale was not an arm's length transaction. Based on this record the Board finds the subject had a market value of \$740,000 as of the January 1, 2009 assessment date, and the 2008 three-year average median level of assessment for class 2 property in Cook County of 9.60% as determined by the Illinois Department of Revenue shall apply. (See 86 Ill.Admin.Code 1910.50(c)(2)).

The appellant also argued contention of law as an alternative basis of the appeal. The appellant's attorney applied a so-called occupancy factor of 51.9% 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 inhabitable and fit for occupancy. Consequently, no further 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.