



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

APPELLANT: Gerasimos Drake
DOCKET NO.: 09-23878.001-R-1
PARCEL NO.: 13-12-219-068-1040

The parties of record before the Property Tax Appeal Board are Gerasimos Drake, the appellant(s); 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: \$ 795
IMPR: \$3,121
TOTAL: \$3,916

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a 636 square foot, class 2-99 residential condominium unit within a 53 year old, masonry building containing 42 total units, and is located in Jefferson Township, Cook County. The appellant argued that there was unequal treatment in the assessment process, and that the market value of the subject property is not accurately reflected in its assessed value.

In support of the equity argument, the appellant submitted four comparables of condominium units from within the subject's building. All of these comparables have one bath, and they range in size from 595 to 640 square feet of living area. The improvement assessment for these comparables range from \$22.54 to \$25.53 per square foot of living area. The subject's improvement assessment is \$23.58 per square foot of living area.

In support of the overvaluation argument the appellant submitted four sales comparables of condominium units from within the subject's building. These units sold between May 2009 and July 2009 for between \$18,000 and \$45,000. The appellant also submitted a settlement statement showing that the subject sold in December 2008 for \$44,000 by J.P Morgan Chase Bank. Based on this evidence the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$12,319 was disclosed. This assessment reflects a market value of \$138,416 using the 2009 Illinois Department of Revenue three year median level of assessment for class 2 property of 8.90%. In support of the subject's assessment, the board of review submitted a memo from Dan Michaelides, Cook County Board of Review Analyst. The memorandum shows that three units, or 7.389% of ownership, within the subject's building sold between March 2007 and November 2007 for \$219,000 or \$254,900. An allocation of two percent for personal property was subtracted from the sales price, and then divided by the percentage of interest of the units to arrive at a total market value for the building of \$8,533,482. The subject's percentage of ownership, 2.021%, was then utilized to arrive at a value for the subject of \$172,462. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted assessment information for six additional sales comparables, and re-submitted information for Comparables #3 and #4. The appellant then added the sales prices of all eight comparables, deducted 9% for personal property, divided this number by the percentage of ownership of all the comparables, and then multiplied by the subject's percentage of ownership. This analysis resulted in a market value for the subject of \$44,091. The appellant also re-affirmed the evidence previously submitted.

At hearing, the appellant testified that the subject was bought pursuant to a foreclosure, and that the four sales comparables originally submitted by the appellant were either foreclosures or short sales. The appellant further testified that the subject was listed on the open market prior to his purchase of the subject in December 2008.

The board of review representative, Gabrielle Nicolau, testified that the sales comparables used by the board of the review were not compulsory sales. The appellant then testified that the sales comparables used by the board of review were not arm's-length transactions because they were not listed on the open market. When asked how the appellant knew this information, the appellant stated that he has a real estate license and that he spoke with other individuals who have a real estate license and own property within the building.

After hearing the testimony, 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);

Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (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 shows a reduction is warranted.

In addressing the appellant's market value argument, the Board finds that the sale of the subject in December 2008 was a "compulsory sales." 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.

Board of Educ. of Meridian Community Unit School Dist. No. 223 v. Illinois Property Tax Appeal Board, 961 N.E.2d 794, 802, 356 Ill.Dec. 405, 413 (2d Dist. 2011) (citing Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207, 211, 387 N.E.2d 351 (2d Dist. 1979)).

However, the Illinois General Assembly recently provided very clear guidance for the Board with regards to compulsory sales. Section 16-183 of the Illinois Property Tax Code states as follows:

The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

35 ILCS 200/16-183.

The effective date of Section 16-183 is July 16, 2010, after the lien date for tax year 2009. Id. Therefore, it must be determined whether Section 16-183 can be retroactively applied.

"In the absence of an express provision regarding the Act's temporal reach, [the Board] examine[s] whether the Act is substantive or procedural in nature." Doe v. University of Chicago, 404 Ill.App.3d 1006, 1012, 939 N.E.2d 76, 81 (1st Dist. 2010) (citing Deicke Center-Marklund Children's Home v. Illinois Health Facilities Planning Board, 389 Ill.App.3d 300, 303, 906 N.E.2d 64 (2009)). "If the Act is procedural in nature, it may be applied retroactively as long as such retroactive application will not impair rights [either party] possessed when acting, increase [either party]'s liability for past conduct, or impose new duties with respect to transactions already completed." Doe, 404 Ill.App.3d at 1012, 939 N.E.2d at 81 (citing Deicke Center, 389 Ill.App.3d at 303, 906 N.E.2d 64). "Procedure is the machinery for carrying on the [appeal], including pleading, process, evidence and practice" Doe, 404 Ill.App.3d at 1012, 939 N.E.2d at 81 (citing Deicke Center, 389 Ill.App.3d at 303, 906 N.E.2d 64). Furthermore, "In the absence of legislative intent to the contrary, a court is to apply the law in effect at the time of its decision, unless to do so results in manifest injustice." People v. Boatman, 386 Ill.App.3d 469, 472, 898 N.E.2d 277, 280 (4th Dist. 2008) (citing People v. Hardin, 203 Ill.App.3d 374, 376, 561 N.E.2d 326, 327 (1990)).

The Board finds that Section 16-183 is a procedural act because it simply defines what evidence the Board must consider. Imposing Section 16-183 after the effective date does not create or impair any rights for either party, does not increase either party's liability for past conduct, does not impose new duties with regard to transactions already completed, and does not result in manifest injustice.

Therefore, the Board is statutorily required to consider the compulsory sales submitted by the appellant. In doing so, the Board finds that the best evidence of the subject's market value is the sale of the subject in December 2008 for \$44,000.

Based on this record the Board finds that the subject property had a market value of \$44,000 for tax year 2009. Since market value has been determined, the 2009 Illinois Department of Revenue three-year median level of assessment for class 2 property of 8.90% shall apply. In applying this level of assessment to the subject, the total assessed value is \$3,916 while the subject's current total assessed value is above this amount. Therefore, the Board finds that a reduction is warranted. The Board further finds that since the subject's market value has been determined, the subject is now equitably and uniformly assessed.

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.