



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

APPELLANT: Jason Matiyow
DOCKET NO.: 09-27089.001-R-1
PARCEL NO.: 18-05-209-019-0000

The parties of record before the Property Tax Appeal Board are Jason Matiyow, the appellant; 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: \$ 5,225
IMPR.: \$ 22,187
TOTAL: \$ 27,412

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 7,208 square feet of land improved with a 68-year old, two-story, frame, single-family dwelling. The improvement contains 1,956 square feet of living area as well as two full and one half-baths, a full basement, one fireplace and a one-car garage.

The appellant argued that the subject's market value is not accurately reflected in its assessment as the basis of this appeal.

As to the overvaluation argument, the appellant submitted data that the subject sold on March 1, 2010 for a price of \$273,000 with needed renovation work required prior to occupancy which totaled \$35,000 resulting in an overall price of \$308,000 or \$157.46 per square foot of living area. The appellant's pleadings stated that the sale was not a transfer between related parties; was advertised on the open market; the parties were represented in the sale transaction by real estate brokers; but that the sale was in lieu of a foreclosure. In support of these assertions, the appellant submitted copies of the settlement statement as well as the loan documentation. Based upon this

analysis, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$55,025. This assessment reflected a total market value of \$618,258 or \$316.08 per square foot based upon the application of the Illinois Department of Revenue's three-year median level of assessment for tax year 2009 of 8.90% for class 2 property, as is the subject.

In addition, the board of review submitted descriptive and assessment data relating to four suggested comparables located within a one-quarter mile radius of the subject. They are improved with a two-story, frame, single-family dwelling. They range: in age from 82 to 85 years; in improvement size from 1,870 to 2,094 square feet of living area; and in improvement assessments from \$25.86 to \$26.79 per square foot. Amenities included a full basement, one or two fireplaces, and a two-car garage.

Moreover, the board's analysis indicated that property #3 sold in July, 2007, for a price of \$800,000 or \$409.42 per square foot. No further documentation was submitted. As a result of its analysis, the board requested confirmation of the subject's assessment.

After considering the argument as well as reviewing the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd 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.Adm.Code 1910.65(c)). Having considered the evidence presented, the Board finds that the appellant has met this burden and that a reduction is warranted.

Initially, the Board finds that the data regarding the subject's recent sale submitted by the appellant reflects 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 sale data submitted by the appellant. In doing so, the Board finds that the best evidence of the subject's market value is the recent sales data submitted by the appellant. The appellant's evidence reflects that the subject was purchased for an initial value of \$273,000 as well as the renovation cost of \$35,000 in order for the property to be occupied resulting in a full market value of \$308,000.

Since the market value of the subject has been established, the Illinois Department of Revenue three-year median level of assessment for tax year 2009 regarding class 2, residential property of 8.90% shall apply. In applying this level of assessment to the subject, the total assessed value is \$27,412, while the subject's current total assessed value is above this amount at \$55,025. 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

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: September 21, 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.