FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Cesar Lopez
DOCKET NO.: 09-29895.001-R-1
PARCEL NO.: 24-06-428-035-0000

The parties of record before the Property Tax Appeal Board are Cesar Lopez, 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:	$ 4,185
IMPR.:	$24,299
TOTAL:	$20,114

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 11,160 square feet of land and is improved with a 28 year old, two story, frame and masonry dwelling with 2,448 square feet of living area. The subject includes three and one-half baths, a full basement with a formal recreation room, air conditioning, a fireplace, and a two-car garage. The appellant argues that there was unequal treatment in the assessment process, and that the market value of the subject is not accurately reflected in its assessed value as the bases of this appeal.

In support of the equity argument, the appellant submitted information on twelve comparable properties described as two-story, frame, masonry, or frame and masonry dwellings that range in age from 4 to 61 years old, and in size from 2,434 to 3,364 square feet of living area. The dwellings have from one and one-half to three and one-half baths, and from a two-car to a three-car garage. Eleven of the comparables have a fireplace, and eight have air conditioning. Additionally, eight of the dwellings have a basement area, two have a crawl, and two have a slab. The comparables have improvement assessments ranging from $14.81 to $9.60 per square foot of living area.

In support of the overvaluation argument, the appellant submitted a settlement statement stating that that subject was sold in

October 2009 for $226,000, or $92.32 per square foot of living area. The appellants' pleadings state that the sale was not between related parties, that the property was advertised on the open market for about 23 days, that both parties were represented by realtors during the sale, and that the seller's mortgage was not assumed. However, the sale was pursuant to a foreclosure.

The appellant also submitted an appraisal undertaken by Marianna Thompson. The report states that Thompson is a State of Illinois certified residential real estate appraiser. The appraiser stated that the subject has an estimated market value of $240,000 as of September 26, 2009. The appraisal report utilized the cost and sales comparison approaches to value to estimate the market value for the subject property. The appraisal states that the appraiser personally inspected the property, and that the subject's highest and best use is its present use.

Under the cost approach to value, the appraiser used recent sales, the Land Sales Resource Service, and county records to estimate the subject's land value at $50,000. The improvement's replacement cost new was estimated to be $212,988 using the Marshall and Swift Residential Cost Manual. The appraiser deducted 10.0% from the replacement cost new to account for depreciation of the improvement. The appraiser then estimated that there were $5,000 worth of "as-is" site improvements on the subject. The appraiser then added the estimated land value, the depreciated improvement value, and the value of the other site improvements to arrive at a value under the cost approach to value of $246,689.

Under the sales comparison approach, the appraiser analyzed the sales of three comparables and two properties listed for sale. The five comparables are described as one-story, one and one-half-story, or two-story, masonry, or frame and masonry dwellings, which range in age from 7 to 54 years old, and in improvement size from 2,133 to 2,664 square feet of living area. These dwelling have from two to three baths. Two of the comparables have a full finished basement, while the remaining three comparables have no basement. Four of the comparables have a two-car garage, and all of the properties have air conditioning. The three sales comparables sold from May 2009 to August 2009 for prices ranging from $210,000 to $280,000, or from $91.34 to $131.27 per square foot of living area. The comparables listed for sale are listed for either $294,900 or $319,000. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of $240,000.

In reconciling the cost and sales comparison approaches to value, the appraisal gave more weight to the sales comparison approach to value, and arrived at a final estimate of value for the subject as of September 26, 2009 of $240,000. 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 $40,432 was disclosed. This assessment yields a market value of $454,292 for the subject, using the 2009 Illinois Department of Revenue three-year median level of assessment for class 2 property of 8.90%. This market value equates to $185.58 per square foot of living area for the subject.

In support of the subject's assessment, the board of review submitted descriptions and assessment information for four properties located within the subject's subarea. These properties are described as two story, frame and masonry dwellings, which are from 25 to 50 years old, and contain from 2,352 to 2,675 square feet of living area. The properties have from one and one-half to four baths. The dwellings all have air conditioning, and a garage, ranging from a two-car garage to a two and one-half-car garage. Three of the dwellings have a partial basement with a formal recreation room, while the fourth dwelling has a full unfinished basement. One of the properties also has a fireplace. These properties have improvement assessments ranging from $12.77 to $13.83 per square foot of living area. The subject's improvement assessment is 14.81 per square foot of living area.

The board of review also stated that Comparable #4 sold in June 2006 for $370,000, or $138.32 per square foot of living area. The board of review also submitted a list of sales of properties located within the subject's neighborhood. This list included the PIN, deed number, the date of the sale, and the sale price for twenty properties. No other information was given regarding these properties. Based on this evidence, the board requested confirmation of the subject's assessment.

After 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 indicates a reduction is warranted.

In addressing the appellant's market value argument, the Board finds that the sale of the subject in October 2009 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 October 2009 for $226,000. Additionally, the sale was within 11 months of the 2009 assessment date, and the appellant's pleadings support the arm's-length nature of the transaction because the sale was not between related parties, the property was advertised on the open market for about 23 days, both parties were represented by realtors during the sale, and the seller's mortgage was not assumed. The subject's assessment reflects a market value greater than this purchase price. The Board accorded the board of review's comparable sale less weight because "[a] contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value." Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983); People ex rel. Munson v. Morningside Heights, Inc., 45 Ill.2d 338 (1970); People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

Based on this record the Board finds that the subject property had a market value of $226,000 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 $20,114 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.

Chairman

Member

Member

Member

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: June 22, 2012

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.