FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Robert McCoy
DOCKET NO.: 09-30031.001-R-1
PARCEL NO.: 32-19-318-038-0000

The parties of record before the Property Tax Appeal Board are Robert McCoy, 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:	$1,007
IMPR.:	$ 57
TOTAL:	$1,064

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 4,950 square feet of land that is improved with a 47 year old, one story, masonry dwelling. The subject includes one bath, a slab, and a two-car garage. The appellant submitted contradictory evidence regarding the subject's improvement size. The appellant argued that the market value of the subject property is not accurately reflected in its assessed value.

On the grid sheet, the appellant stated that the subject's improvement size was 888 square feet. However, the appellant also submitted a printout from the Cook County Assessor's website, which states that the subject's improvement size was 988 square feet.

In support of the overvaluation argument the appellant submitted four sales comparables within two blocks of the subject. These comparables are described as one or two story, masonry dwellings ranging in age from 46 to 47 years old. All of the dwellings have 992 square feet of living area, and one bath. Two of the comparables have a slab, one has a crawl, and one has a full unfinished basement. Two of the comparables also have a two-car garage. These dwellings sold between March 2009 and June 2010 for between $9,500 and $16,000, or from $9.58 to $16.13 per square foot of living area. The appellant also submitted MLS

printouts showing the sales of Comparables #1, #2, and #3. The MLS listings stated that Comparable #1 was sold pursuant to a short sale, and that Comparables #2 and #3 were sold pursuant to a foreclosure. 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 $7,007 was disclosed. This assessment reflects a market value of $78,730 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 descriptive and assessment information for four comparables described as one story, masonry dwellings ranging in age from 44 to 49 years old and in size from 988 to 989 square feet of living area. All of these dwellings have a full unfinished basement and one bath. Three of the comparables have a two-car garage, while one has a one-car garage. One comparable also has air conditioning. These properties have improvement assessments ranging from $6.74 to $7.12 per square foot of living area. The board of review's evidence states that the subject contains 988 square feet of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted sales information for 60 additional properties, and MLS sheets stating information regarding the sale of eight additional properties. The appellant also re-affirmed the evidence previously submitted.

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 shows a reduction is warranted.

Initially, the Board finds that the best evidence of the subject's improvement size is the printout from the Cook County Assessor's website submitted by the appellant. Therefore, the Board finds that for this appeal only, the subject contain 988 square feet of living area.

In addressing the appellant's market value argument, the Board first finds that the sales comparables submitted by the appellant in rebuttal cannot be considered. See 86 Ill.Admin.Code 1910.65(c). Next, the Board finds that the comparable sales

submitted by the appellant were "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 comparable sales submitted by the appellant.

Based on this record the Board finds that the subject property had a market value of $11,955 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 $1,064 while the subject's current total assessed value is above this amount. 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.

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.