



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

APPELLANT: Steve Pelesky
DOCKET NO.: 09-33283.001-R-1
PARCEL NO.: 27-07-311-005-0000

The parties of record before the Property Tax Appeal Board are Steve Pelesky, the appellant; of Rock, Fusco & Associates, LLC in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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: \$ 11,992
IMPR.: \$ 65,658
TOTAL: \$ 77,650

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2009 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Analysis

The subject property is 21 years old, and consists of a two-story dwelling of masonry construction containing 4,006 square feet of living area. Features of the home include a full basement, a fireplace and a three-car garage. The property has

a 43,608 square foot site and is located in Orland Township, Cook County. The subject is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance. The appellant requested a reduction in the subject's assessment to reflect the purchase price.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted a settlement statement disclosing the subject property was purchased on November 16, 2009 for a price of \$422,000. The settlement statement lists the seller as Bank of America. The appellant did not complete Section IV - Recent Sale Data on page two of the Residential Appeal form for Board. The appellant did not provide any indicia that the transaction was at arm's length, such as evidence of listing in the Multiple Listing Service, advertisements on the open market with signs, or in newspapers or on the internet.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$77,650. The subject's assessment reflects a market value of \$872,472 or \$217.79 per square foot of living area, when using the board of review's indicated size of 4,006 square feet and when using the 2009 three-year median level of assessment of 8.90% for class 2 property as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on four suggested comparable sales. The board of review also submitted a "Supplemental Brief to its Notes on Appeal," wherein it argued that the purchase of the subject property by the appellant lacked indicia of an arm's length sale. It appended a print-out from the Cook County Recorder of Deeds as an exhibit to its Brief. The exhibit, commonly known as a *deed trail* for the subject property, shows in relevant part the following recordings: 1) a *lis pendens* on the subject property by LaSalle Bank on August 29, 2008; 2) a deed from grantor Judicial Sales Corporation to grantee Bank of America on June 25, 2009.

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 (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.Admin.Code 1910.65(c). Having considered the market value evidence presented, the Board concludes that this evidence indicates a reduction is not warranted.

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties. The appellant's recent sale is accorded little weight due to the nature of the sale as a foreclosure and not reflective of the market.

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. Therefore, the Board is statutorily required to consider the compulsory sales of comparable properties which were submitted by the parties.

The board of review submitted evidence that suggests the subject property was sold in a judicial sale. In contrast, the appellant failed to provide any market sales of properties within the subject's area, and did not provide evidence that would suggest an arm's length nature of the sale. The only evidence submitted by the appellant was a settlement statement for the \$422,000 purchase price. The board of review submitted four comparables within close proximity to the subject and with similar characteristics.

The Board finds the best evidence of market value in the record to be the four comparable properties submitted by the board of review. These comparables were similar to the subject in location, style, construction, features, age, living area and land area. These properties reflect a market value from \$920,427 to \$1,049,449, and from \$217.85 to \$226.26 per square foot of living area, when using the 2009 three-year median level of assessment of 8.90% for class 2 property as determined by the Illinois Department of Revenue.

The subject's assessment reflects a market value of \$217.79 per square foot of living area, including land, which is within the range established by the best comparable sales in this record. The Board gave little weight to the subject's sale due to the fact the sale did not have the elements of an arm's length transaction.

Based on this record, the Board finds the subject's assessment is reflective of market value and a reduction in the subject's assessment is not justified.

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: January 23, 2015



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.