



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

APPELLANT: Carlos Espin
DOCKET NO.: 09-33958.001-R-1
PARCEL NO.: 16-15-210-010-0000

The parties of record before the Property Tax Appeal Board are Carlos Espin, the appellant, by attorney Edward P. Larkin, of Edward P. Larkin, Attorney at Law in Des Plaines; 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: \$ 4,270
IMPR.: \$15,281
TOTAL: \$19,551

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.

Findings of Fact

The subject property is 116 years old, and consists of a two-story dwelling of masonry construction containing 2,590 square feet of living area. Features of the home include 12 rooms, six

of which are bedrooms, and a full basement. The property has a 3,050 square foot site and is located in West Chicago Township, Cook County. The subject is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted a bill of sale and a settlement statement disclosing the subject property was purchased on April 16, 2009 for a price of \$19,000. The settlement statement lists the seller as WMC Mortgage. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$19,551. The subject's assessment reflects a market value of \$219,674 or \$84.82 per square foot of living area, when using the board of review's indicated size of 2,590 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 WM Mtg. Corp. on April 12, 2007; 2) a deed from grantor Judicial Sales Corp. to grantee WMC Mtg. Corp. on January 16, 2008.

The appellant also proffered rebuttal evidence, contending that the board of review did not submit evidence or otherwise rebut the presumption of a fair market transaction.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86

Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The threshold issue is whether the appellant purchased the subject property for fair cash value in an arm's length transaction. "Fair cash value is synonymous with fair market value and, as such, an arms-length sales transaction is the best evidence thereof." Walsh v. The Property Tax Appeal Board, 181 Ill.2d 228, 230, 692 N.E.2d 260, 261 (1998). Fair cash value is defined as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." 35 ILCS 200/1-50; Walsh, supra.

The Illinois Appellate Court in Calumet Transfer, LLC v. The Property Tax Appeal Board, et al., 401 Ill.App.3d 652, 929 N.E.2d 139 (1st Dist. 2010), considered whether a party to a case before the Board could challenge the assertion by a purchaser that the transaction was at arm's length. The Board gave little weight to the purchase price because it questioned whether the transaction subject to a bankruptcy proceeding was at arm's length. Relevant to the instant case, the Board in Calumet Transfer "did not hold, as petitioner suggests, that a sale through bankruptcy cannot be considered an arm's length transaction as a matter of law. Rather, Board allowed the [intervenor] to challenge the arm's length nature of the transaction by offering evidence of comparable property sales." Id., 401 Ill.App.3d at 656, 929 N.E.2d at 142.

Here, the board of review submitted evidence that suggests the subject property was sold in a judicial sale. In contrast, the appellant did not provide evidence that would suggest an arm's length nature of the sale. It did not complete Section IV - Recent Sale Data on page two of the Residential Appeal form for Board. The appellant failed to 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. Its rebuttal to the board of review's evidence and Supplemental Brief was limited only to a conclusory statement that the board of review failed to submit any evidence to rebut the appellant's contention of a fair market transaction.

Further, the vast discrepancy in recent sale prices between the subject and the four sales comparables submitted by the board of review indicates that the subject was not purchased for fair market value. See, Calumet Transfer, supra. The only evidence submitted by the appellant was a settlement statement for the \$19,000 purchase price. Although evidence may be conclusive in any given case to establish over-valuation for assessment, if the underlying sale was at arm's length, (See, People ex re. Korzen v. Belt Ry. Co. of Chicago, 37 Ill.2d 158, 161 (1967)), evidence of comparable sales to prove fair cash value is also admissible. See, 86 Ill. Adm. Code, sec. 1910.65(c)(4). The board of review submitted four similar sales comparables within close proximity to the subject, which sold from January 2009 through October 2009, and that ranged in price from \$200,000 to \$335,000.

When considered in total, the evidence raises sufficient doubt as to whether the purchase of the subject property by the appellant was at arm's length. Accord, Calumet Transfer, supra. Consequently, the Board finds that the purchase of the subject property by the appellant was not at arm's length.

Next, the Board considers whether the evidence submitted by the board of review is sufficient to establish the market value of the subject property and its assessment as correct. The Board finds the best evidence of market value in the record to be the four comparable sales 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 also sold proximately in time to the assessment date at issue. The comparables sold for prices ranging from \$90.91 to \$138.66 per square foot of living area, including land. The subject's assessment reflects a market value of \$84.82 per square foot of living area, including land, which is below 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.