



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

APPELLANT: Dejan Kotur
DOCKET NO.: 09-35410.001-R-1
PARCEL NO.: 02-12-213-001-1317

The parties of record before the Property Tax Appeal Board are Dejan Kotur, 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: \$ 943
IMPR: \$2,617
TOTAL: \$3,560

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a class 2-99 residential condominium unit located in Jefferson Township, Cook County. The appellant argued that the market value of the subject property is not accurately reflected in its assessed value.

In support of the market value argument, the appellant submitted descriptive and sales information on four properties suggested as comparable to the subject. These properties are described as condominium units that are all 38 years old and contain 775 square feet of living area, one bath, and air conditioning. According to the multiple listing service printouts submitted by the appellant, Comparables #1, #3, and #4 were all sold pursuant to a foreclosure, and sold between May 2010 and September 2010 for between \$40,000 and \$54,000, or \$51.61 to \$69.68 per square foot of living area. The MLS printout for Comparable #2 states that the comparable was under contract for \$49,900 as of May 13, 2010, but that the transaction had not closed. 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 \$9,370 was disclosed. This assessment reflects a market value of \$105,281 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 a memo from Dan Michaelides, Cook County Board of Review Analyst. The memorandum shows that 25 units, or 7.2637% of ownership, within the subject's building sold between February 2007 and August 2009 for a total of \$3,635,000. An allocation of two percent per unit for personal property was subtracted from the aggregate sales price, and then divided by the percentage of interest of units sold to arrive at a total market value for the building of \$49,042,499. The subject's percentage of ownership, 0.2198%, was then utilized to arrive at a value for the subject unit of \$107,795. The board also submitted a grid listing for these seven units, which included the PIN, the percentage of ownership, the assessment, and the sales dates and prices. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board (the "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. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is not warranted.

In addressing the appellant's market value argument, the Board finds that the sales comparables 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.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (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. Univ. of Chicago, 404 Ill. App. 3d 1006, 1012 (1st Dist. 2010) (citing Deicke Center-Marklund Children's Home v. Ill. Health Facilities Planning Bd., 389 Ill. App. 3d 300, 303 (1st Dist. 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 (citing Deicke Center, 389 Ill. App. 3d at 303). "Procedure is the machinery for carrying on the [appeal], including pleading, process, evidence and practice . . ." Doe, 404 Ill. App. 3d at 1012 (citing Deicke Center, 389 Ill. App. 3d at 303). 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 (4th Dist. 2008) (citing People v. Hardin, 203 Ill. App. 3d 374, 376 (2d Dist. 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 comparables submitted by the appellant. In doing so, the Board finds that the best evidence of the subject's market value are the recent sales comparables submitted by the appellant, except for Comparable #2. These comparables are all within the subject's condominium complex, and two are within the subject's building. Additionally, all of the sales took place within 15 months of January 1, 2009, the lien date for the tax year at issue. The Board gives little weight to the board of review's comparables as the information provided was unadjusted raw sales data. Additionally, Comparable #2 submitted by the appellant was given no weight because no evidence was submitted to show what the final sale price of that comparable was.

Therefore, the Board finds that the subject had a market value of \$40,000 for the 2009 assessment year. Since the market value of this parcel has been established, the 2009 Illinois Department of Revenue three-year median level of assessment for Class 2 property of 8.9% will apply. In applying this level of assessment to the subject, the total assessed value is \$3,560 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: September 21, 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.