



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

APPELLANT: Richard & Colleen Post
DOCKET NO.: 10-20185.001-R-1
PARCEL NO.: 23-25-428-010-0000

The parties of record before the Property Tax Appeal Board are Richard & Colleen Post, the appellant; 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: \$ 6,649
IMPR.: \$ 20,224
TOTAL: \$ 26,873

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 15,647 square feet of land, which is improved with a 56 year old, one-story, masonry, single-family dwelling. The subject's improvement size is 1,342 square feet of living area, and its total assessment is \$26,873. This assessment yields a fair market value of \$300,593, or \$223.99 per square foot of living area (including land), after applying the 2010 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 8.94%. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted evidence showing that the subject sold in February 2010 for \$130,000. This evidence included a settlement statement and a printout from the Multiple Listing Service. Furthermore, the appellant's pleadings state that the sale was not between related parties, that the subject was advertised for sale on the open market, that the parties used a real estate broker, and that the sale was pursuant to a foreclosure. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment

of \$26,873 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as one-story, masonry or frame and masonry, single-family dwellings, all located in the subject's neighborhood. Additionally, the comparables range: in age from 42 to 66 years; in size from 1,088 to 1,484 square feet of living area; and in improvement assessments from \$16.35 to \$20.04 per square foot of living area. The comparables also have several amenities. The board of review's grid sheet also states that Comparable #1 sold in March 2010 for \$320,000, or \$246.91 per square foot of living area, including land; Comparable #2 sold in September 2009 for \$275,000, or \$252.76 per square foot of living area, including land; Comparable #3 sold in February 2008 for \$314,500, or \$262.96 per square foot of living area, including land; and that Comparable #4 sold in March 2008 for \$350,000, or \$235.85 per square foot of living area, including land. The board of review also submitted printouts from the Cook County Recorder of Deeds website detailing these sales transactions. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, Attorney David Platek filed an appearance on behalf of the appellant. He rested on the written evidence previously submitted. The board of review's representative testified that this was a foreclosure sale and therefore should be given minimal weight.

After reviewing the record, considering the evidence, and hearing the testimony, 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 finds that the evidence indicates a reduction is not warranted.

In addressing the appellant's market value argument, the Board finds that the sale of the subject in February 2010 for \$130,000 is a "compulsory sale." 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 regard to compulsory sales. Section 16-183 of the Illinois Property Tax Code states that, "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 (emphasis added). Prior to becoming law, this new section of the Property Tax Code was a part of Senate Bill 3334 of the 96th General Assembly.

The effective date of Section 16-183 is July 16, 2010, after the lien date for tax year 2010. *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 Chi., 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 that 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.

Section 16-183 uses the verb "shall" and, therefore, the Board is statutorily required to consider the compulsory sale of the subject. See Citizens Org. Project v. Dep't of Natural Res., 189 Ill. 2d 593, 598 (2000) (citing People v. Reed, 177 Ill. 2d 389, 393 (1997)) ("When used in a statute, the word 'shall' is generally interpreted to mean that something is mandatory.").

However, even after taking the recent sale into consideration, the Board does not believe that the subject's sale price accurately reflects its market value. The board of review provided sales comparables that range in sale price from \$275,000 to \$350,000, or \$235.85 to \$262.96 per square foot, including land. The appellant's attorney failed to submit any evidence rebutting the arm's-length nature of these transactions. These comparables are located in close vicinity to the subject and are similar in improvement size, design, and amenities. The subject's current market value of \$223.99 is below that of the most similar properties.

Therefore, after considering adjustments and differences in the board of review's comparables when compared to the subject, the Board finds that the subject is not overvalued, and a reduction in the subject's assessment is not 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: April 19, 2013

Allen Castrovillari

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.