FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Gert Najdeni
DOCKET NO.: 10-21039.001-R-1
PARCEL NO.: 14-06-213-013-1005

The parties of record before the Property Tax Appeal Board are Gert Najdeni, 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:	$ 3,697
IMPR.:	$ 3,455
TOTAL:	$ 7,152

Subject only to the State multiplier as applicable.

ANALYSIS

The subject consists of a 1,044 square foot class 2-99 residential condominium unit with a 17.00% ownership interest in the common elements. The subject's improvement assessment is $12.55 per square foot of living area. The subject's assessment of $16,796 yields a market value of $187,875 when the 2010 Illinois Department of Revenue three year median level of assessment for class 2 property of 8.94% is applied. The appellant argued that there was unequal treatment in the assessment process and that the subject's market value is not accurately reflected in its assessed value as the bases of this appeal.

In support of the equity argument, the appellant submitted descriptive and assessment data for four properties suggested as comparable to the subject. These properties are all masonry condominium units that are not located in the subject's building. These comparables range: in size from 800 to 1,044 square feet of living area, in age from 34 to 53 years old, and in improvement assessment from $9.82 to $13.66 per square foot of living area.

These four comparables were also submitted as sales comparables in support of the market value argument. Three of the comparables sold from November 2009 to March 2011 for between $40,000 and $139,000, or $50.00 to $174.38 per square foot of

living area. The other comparables is a listing that is listed for $115,000, or $110.15 per square foot of living area.

Also in support of the market value argument, the appellant submitted evidence that the subject sold for $80,000 in March 2010. This evidence included a settlement statement. The appellant's evidence indicates that the subject was advertised for sale on the open market, that the sale was not between related parties, and that the sale was pursuant to a foreclosure.

The appellant also submitted an appraisal, wherein the appraiser stated the subject's market value was $85,000 as of February 27, 2010 based on the sales comparison approach to value. The appraiser also personally inspected the subject property.

The appellant also submitted a Comparative Market Analysis, which was prepared by a real estate broker. The analysis looked at various sales in the area around the subject and concludes that the subject's suggested marketing price should be $79,515. This analysis is not dated. 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." 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 one unit in the subject's building, or 17.00% of ownership, sold in 2006 for $210,000. This unit was the subject unit. An allocation of 20% for personal property was subtracted from the sales price, and then divided by the percentage of interest of the unit to arrive at a total market value for the building of $988,235. The subject's percentage of ownership, 17.00%, was then utilized to arrive at a value for the subject of $168,000. The board of review also submitted a chart with assessment information for the units in the subject's building. 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). Furthermore, in general, "a contemporaneous sale between parties dealing at arms length is not only relevant to the question of fair cash market value, but [is] practically conclusive." Village of Lake Villa v. Stokovich, 211 Ill. 2d 106, 132 (2004) (quoting People ex rel. Korzen v. Belt Ry. Co. of Chi., 37 Ill. 2d 158, 161 (1967)). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is warranted.

In addressing the appellant's market value argument, the Board finds that the sale of the subject in March 2010 for $80,000 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 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 (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 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.

Section 16-183 uses the verb "shall" and, therefore, the Board is statutorily required to consider the compulsory recent 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."). In doing so, the Board finds that the best evidence of the subject's market value is the sale of the subject in March 2010 for $80,000. The Board gives diminished weight to the board of review's evidence, since the only evidence submitted was a 2006 sale of the subject, and there has since been an intervening sale.

Based on this record the Board finds that the subject property had a market value of $80,000 for tax year 2010. Since market value has been determined, the 2010 Illinois Department of Revenue three-year median level of assessment for class 2 property of 8.94% shall apply. 86 Ill. Admin. Code § 1910.50(c)(2)(A). In applying this level of assessment to the subject, the total assessed value is $7,152 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: April 19, 2013

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.