



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

APPELLANT: Daniel Balzano
DOCKET NO.: 10-24458.001-R-1
PARCEL NO.: 09-23-406-026-0000

The parties of record before the Property Tax Appeal Board are Daniel Balzano, the appellant, by attorney Christopher G. Walsh, Jr. in Chicago, 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: \$5,269
IMPR.: \$19,763
TOTAL: \$25,032

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story dwelling of masonry construction. The dwelling is approximately 41 years old and contains 1,118 square feet of living area. Features of the home include a full finished basement, central air conditioning, and a two-car garage. The subject property has a 6,799 square foot site and is located in Niles, Maine Township, Cook County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted evidence disclosing the subject property was purchased on July 29, 2009 for a price of \$249,000 or \$222.72 per square foot of living area, land included. The appellant partially completed Section IV - Recent Sale Data of the residential appeal form and disclosed the name of the sellers and that the subject's sale was not a transfer between related parties. The appellant did not disclose how long the subject was exposed to the open market. To further document the sale, the appellant submitted a copy of the Illinois Real Estate Transfer Declaration, PTAX-203, disclosing

the subject property was purchased in July 2009 for a price of \$249,000. On the transfer declaration, question #7 ("Was the property advertised for sale?") was marked "YES". The answer to question #10p revealed that the sale was a "SHORT SALE." The appellant also produced an affidavit, wherein the appellant stated that he had used the services of a real estate broker. In support of this affidavit, the appellant produced the subject's MLS listing sheet dated May 14, 2009. The MLS listing revealed that the subject was listed for sale at \$280,000 but did not indicate a contract date or how long the subject has been exposed to the market. In a letter that accompanied the appeal, counsel stated the subject had a market value of \$249,000 and the assessment should be calculated by applying the 10% ordinance level of assessment for Class 2 residential property in Cook County. Based on this record, the appellant requested the subject's assessment be reduced to \$24,900.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$27,718 was disclosed. The subject's assessment reflects a market value of \$310,045 or \$277.32 per square foot of living area, land included, using the 2010 three year average median level of assessments for class 2 property in Cook County of 8.94% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(2)).

In support of the assessment, the board of review submitted information on four equity comparables. In addition, the board of review provided a sale price for each comparable. These comparables sold from December 2008 to July 2009 for prices that ranged from \$268,000 to \$416,500 or for \$257.74 to \$288.63 per square foot of living area, land included. The four comparables are described as one-story dwellings of frame or masonry construction. The dwellings range in age from 35 to 55 and contain from 1,033 to 1,616 square feet of living area. Three comparables have full basements and central air conditioning. Two comparables have garages.

In addition, Nicholas Jordan, a board of review analyst, submitted a brief challenging the arm's length nature of the subject's sale. The analyst submitted evidence indicating the April 2009 sale of the subject property was a compulsory sale of a distressed property. This evidence consisted of a print-out from the Cook County Recorder of Deeds' office and a copy of a notice of foreclosure issued by the Cook County Circuit Court. The analyst also referenced the subject's Illinois Real Estate Transfer Declaration which revealed that the sale of the subject

was a "short sale." 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 finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject's assessment is warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Fair cash value is defined in the Property Tax Code 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). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). When market value is the basis of the appeal the value of the property must be proved 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); 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 has met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds that the best indication of the subject's fair market value is its listing price of \$280,000. The appellant submitted the subject's MLS listing sheet dated May 14, 2009, and this listing revealed that the subject was listed for sale at \$280,000. The subject property has an assessment of \$27,718 that reflects a market value of \$310,045 or \$277.32 per square foot of living area, land included. The Board finds the subject's listing price is less than its market value as reflected by its assessment.

The Board gives little weight to the July 2009 sale of the subject property. The appellant failed to disclose how long the subject property was exposed to the open market. Evidence submitted by both parties disclosed the sale of the subject property was a "short sale" and there was no indication as to the subject's exposure time on the market. Furthermore, the board of review successfully challenged the arm's length nature of the subject's sale by submitting additional evidence that indicated the subject property was a distressed property and was foreclosed on in June 2009. Consequently, the Board finds that the subject's July 2009 sale was compulsory and cannot be considered an arm's length transaction.

The Board gives less weight to the sale prices of the board of review comparables that sold from December 2008 to July 2009 for prices that ranged from \$268,000 to \$416,500 or for \$257.74 to \$288.63 per square foot of living area, land included. Comparables #1 and #4 sold in January 2009 and December 2008, respectively, which was not as proximate in time to the January 1, 2010 assessment date as the subject's listing price dated May 14, 2009. In addition, comparable #3 had 45% more living area than the subject and was not truly comparable to the subject property. Finally, comparable #2 sold in July 2009 for \$268,000, which was less than the subject's listing price of \$280,000.

Based on this record, the Board finds the subject property had a market value of \$280,000 as of the January 1, 2010 assessment date. Since market value has been determined, the 2010 three year average median level of assessments for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 8.94% shall apply. (86 Ill.Admin.Code §1910.50(c)(2)).

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

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 18, 2014

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.