



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

APPELLANT: Isa & Rula Rafati
DOCKET NO.: 10-27220.001-R-1
PARCEL NO.: 27-19-303-009-0000

The parties of record before the Property Tax Appeal Board are Isa & Rula Rafati, the appellant(s), by attorney Tina Marie Zekich, of Law Offices of Tina M. Zekich in Orland Park; 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: \$11,338
IMPR.: \$31,417
TOTAL: \$42,755

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 23,870 square foot parcel of land improved with an seven-year old, two-story, masonry, single-family dwelling containing 3,530 square feet of living area, three baths, air conditioning, a fireplace, and a full, unfinished basement. The appellants argue that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellants included a copy of the settlement statement indicating the subject sold on September 20, 2010 for \$400,000. The statement indicates fees where paid to a realtor. The appellants included a copy of the printout from multiple listing services advertising the subject for sale and showing the listing history for the subject. The advertisement describes the subject as a "foreclosure bargain!!! Listed well under market value."

The appellants also argue that the subject properties assessment should be reduced for vacancy. In support of this, the appellants

included an affidavit from the appellant attesting that the subject was vacant and listed for sale. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment of \$42,755 was disclosed. The subject's final assessment reflects a fair market value of \$478,244 or \$135.48 per square foot of living area using the Illinois Department of Revenue's 2010 three year median level of assessment for class 2 property of 8.94%.

In support of the subject's assessment, the board of review submitted descriptions and sales and assessment information on four properties. These properties are described as two-story, masonry or frame and masonry, single-family dwellings. The properties range: in age from 2 to 10 years; in size from 3,512 to 3,794 square feet of living area; and in improvement assessments from \$9.26 to \$11.26 per square foot of living area. Three of these properties sold from May 2007 to February 2009 for prices ranging from \$117.60 to \$151.16 per square foot of living area. As a result of this analysis, the board requested confirmation of the subject's assessment.

At hearing, the appellant's attorney acknowledged that the sale was out of foreclosure, but argued that the property was listed on the open market. She argued that the senate bill be considered in rendering a decision. She also argued that the subject should receive a further reduction based on the vacancy of the subject.

The board of review's representative, Nick Jordan, argued that the compulsory sale does not represent the true market value of the subject. He asserted the senate bill has been codified and states that the PTAB shall consider compulsory sales of comparable properties to determine the market and not the compulsory sale of the subject. He argued that the MLS advertisement for the subject indicates the listed below its market value. He argued that the appellant failed to prove the subject was uninhabitable to receive reduction based on vacancy. Mr. Jordan further argued that the sale of the subject was after the lien date of January 1, 2010 and the appellant did not own the property on that date.

After considering the evidence and reviewing the record, the Property Tax Appeal 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). 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. 86
Ill.Admin.Code 1910.65(c).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in September 2010 was 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.

Board of Educ. of Meridian Community Unit School Dist. No. 223 v. Illinois Property Tax Appeal Board, 961 N.E.2d 794, 802, 356 Ill.Dec. 405, 413 (2d Dist. 2011) (citing Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207, 211, 387 N.E.2d 351 (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. Therefore, the PTAB is statutorily required to consider compulsory sales of comparable properties.

The board of review presented a total of three properties suggested as comparable. The PTAB finds these properties are similar to the subject. These properties are described as two-story, masonry or frame and masonry, single-family dwellings. They sold from May 2007 to February 2009 for prices ranging from \$117.60 to \$151.16 per square foot of living area. In comparison, the subject's assessed value reflects a market value of \$135.48 per square foot of living area which is within the range of the

comparables. Moreover, the MLS advertisement of the subject indicates the listing price is below market value and the subject was purchased for less than this listing price. Therefore, the PTAB finds the subject's assessed value is supported and a reduction is not warranted.

The appellant also made an argument for a reduction based on the vacancy of the home. The PTAB finds the appellant's argument that the subject was vacant at the time of sale and should receive a reduction based on this vacancy unpersuasive.

Section 9-180 of the Property Tax Code provides:

The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structure or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. 35 ILCS 200/9-180.

The Board finds the appellant failed to submit any evidence to show the subject was uninhabitable. Although the subject was vacant, it was fit for occupancy and a reduction based on this 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: October 18, 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.