FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Scott & Lauren Pasek
DOCKET NO.: 10-27232.001-R-1
PARCEL NO.: 27-35-216-010-0000

The parties of record before the Property Tax Appeal Board are Scott & Lauren Pasek, the appellants, 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:	$ 4,303
IMPR.:	$ 24,697
TOTAL:	$ 29,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 10,125 square feet of land improved with a 23-year old, two-story, masonry and frame, single-family dwelling. The improvement contains 2,170 square feet of living area as well as two full and one half-baths, a full basement, one fireplace and a two and one-half car garage.

The appellant argued that the subject's market value is not accurately reflected in its assessment as the basis of this appeal.

As to the overvaluation argument, the appellant submitted a portion of a settlement statement stating that the subject sold on May 28, 2010 for a price of $290,000. The settlement statement does not reflect: the name of the seller; whether real estate brokers were employed by the parties to the transaction; and the parties' signatures. The statement does reflect a fee for an appraisal, which was not submitted into evidence in this appeal. In contrast, the appellants' pleadings stated that the sale was not a

transfer between related parties; was advertised on the open market; the parties were represented in the sale transaction by real estate brokers; and that the seller's mortgage was not assumed. However, the question regarding whether or not the subject was purchased in lieu of foreclosure reflected no response. In support of the sale price, the appellants included a copy of a multiple-listing printout reflecting the subject property and a sale price of $290,000.

As an ancillary issue, the appellants asserted that a market value reflecting the aforementioned sale price should be further reduced due to the subject's vacancy. In support of this assertion, the appellants submitted four interior photographs; a statement from a real estate broker; an affidavit from one of the owners; an invoice from an interior decorator; and copies of receipts from Menards. The photographs depict a partially empty interior which has finished walls, ceilings, and floors. The real estate broker's statement asserted that the kitchen and bathrooms were original with many areas unusable as existing and that the sale price was an excess valuation from June through August, 2010. The owner's affidavit, Scott Pasek, stated that the subject was a "25-year old home in need of some rehab because the living room floor had shifted and new appliances were needed in the kitchen and bathrooms" with a date range from June to August, 2010. The invoice from the interior decorator reflected two partial payments in July, 2010. Based upon this analysis, the appellant's attorney requested a reduction in the subject's total assessment to reflect $22,000 based on the subject's vacancy.

At hearing, the appellant's attorney stated that she has no personal knowledge: as to the nature of the subject's sale; as to the subject property itself; as to the submitted photographs and whether they correctly reflect the subject as of the assessment date at issue in this appeal; as to whether the actual redecorating was undertaken; and as to whether the village or municipality issued an occupancy permit. On this last point, she stated that the subject's village does not issue such permits.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was $29,000. This assessment reflected a total market value of $312,385 based upon the application of the Illinois Department of Revenue's three-year median level of assessment for tax year 2010 of 8.94% for class 2 property, as is the subject.

In addition, the board of review submitted descriptive and assessment data relating to four suggested comparables. The properties are improved with a two-story, masonry and frame, single-family dwelling with varying amenities. They range: in age from 18 to 19 years; in improvement size from 2,138 to 2,302 square feet of living area; and in improvement assessments from $11.91 to $13.97 per square foot. In

comparison, the subject's improvement assessment is $11.38 per square foot of living area.

Moreover, the board's analysis indicated property #3 sold in March, 2007, for a price of $78,960 or $34.45 per square foot of living area. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board of review's representative testified that the board of review accorded the subject property a market value reflecting the subject's sale price, while applying the Cook County Ordinance Level of Assessment for class 2, residential property, as is the subject of 10%. In support of this argument, the board of review submitted Hearing Exhibit #1 without objection from the appellant, which is a copy of the applicable ordinance. Therefore, he asserted that the $29,000 total assessment reflects this 10% level of assessment.

As to the appellants' ancillary issue of vacancy, the board of review's representative referred the Board to the multiple listing printout included in the appellants' pleadings, specifically stating:

> That this custom-built home is on a quiet cul-de-sac lot with recent updates...freshly painted, new features in all 3 baths! Vaulted ceiling, fireplace and arched doorways in great room with eat-in kitchen with island...full basement, fenced, immaculate!

Later in this printout, the real estate agent remarks state that the building is:

> A great custom-built home priced to sell! Is not a forrester great condition! Roughed in plumbing in basement for additional bath...recent tuck pointing and landscaping...

The board's representative argued that the appellants' pleadings and most especially these statements are in direct contrast to the appellants' assertions regarding vacancy.

In response, the appellants' attorney asserted that the affidavits reflect water damage at the subject property. However, a review of the file indicated that she was referring to affidavits dated in 2011, which were not submitted in evidence in this tax appeal.

Further, the board's representative argued that if there was water damage there was no evidence of any insurance reports to corroborate any such damage.

After considering the argument and testimony as well as reviewing the evidence, the Property Tax Appeal Board finds

that it has jurisdiction over the parties and the subject matter of this appeal.

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); 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.Adm.Code 1910.65(c)). Having considered the evidence presented, the Board finds that the appellant has not met this burden and that a reduction is not warranted.

The appellants' pleadings fail to state, but the board of review asserts that the subject's sale may be a compulsory sale and not reflective of the market value. 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)).

The Board finds that the appellants' evidence failed to indicate that the subject's sale was not a compulsory sale and was truly reflective of market value. Thereby, no reduction based on the sales price is warranted. In totality, the appellants' pleadings failed to respond to whether or not the sale was in lieu of foreclosure. The

remaining evidence was contradictory at best relating to whether or not real estate brokers represented the parties to the sales transaction. Moreover, the settlement statement did not name the seller as well as include the signatures of the parties. Further, the Board finds that the appellants failed to appear at hearing to provide testimony and/or clarity to these outstanding questions.

The Board finds the appellants' ancillary argument is unpersuasive. The Board notes that the fact that the subject is vacant does not equate to unhabitable. Objective statements from the multiple listing sheet and the real estate agent's remarks indicate a custom-built home with fresh paint, new features in the bathrooms and an immaculate condition, in summary. The appellants' photographs depict rooms which contain finished ceilings, walls and floors even though carpet appears to be rolled up in one of the rooms. Moreover, the invoice from the interior decorator confirms that the interior work was cosmetic in nature. Therefore, the Board finds a further reduction based on vacancy unsupported.

In addition, the Board finds that the board of review's equity comparables support the subject's improvement assessment and that a reduction is not warranted to the subject property.

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: October 18, 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.