FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Joel Honegger
DOCKET NO.: 10-27541.001-R-1
PARCEL NO.: 12-25-403-008-0000

The parties of record before the Property Tax Appeal Board are Joel Honegger, 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:	$ 2,578
IMPR.:	$ 5,124
TOTAL:	$ 7,702

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 3,125 square feet of land, which, as of January 1, 2010, was improved with a 90 year old, two-story, masonry, multi-family building. The subject's improvement size was 2,019 square feet of building area, and its total assessment is $15,880. This assessment yields a fair market value of $177,629, or $87.98 per square foot of building 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 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 $12,500. This evidence included a settlement statement. 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, and that the parties used a real estate broker.

The appellant further argued that the subject was purchased subject to an agreement with the Village of Elmwood Park that the improvement be demolished upon purchasing the subject. This agreement was evidenced by an affidavit submitted by the

appellant naming Martin Winiarczyk, Village of Elmwood Park, Property Maintenance Inspector, as the affiant. The appellant submitted a demolition affidavit, naming the appellant as the affiant, wherein the appellant stated that the demolition was completed on June 27, 2010. A general affidavit was also submitted, which stated the same information. The appellant also asserted that the gas line was disconnected in 2009, and therefore, the improvement was uninhabitable on January 1, 2010. 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 $15,880 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 and one-half-story or two-story, frame, masonry, or stucco, multi-family dwellings. Additionally, the comparables range: in age from 47 to 99 years; in size from 1,627 to 2,040 square feet of living area; and in improvement assessments from $10.66 to $11.70 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 October 2009 for $149,000, or $81.15 per square foot of living area, including land; Comparable #2 sold in December 2009 for $131,000, or $64.22 per square foot of living area, including land; Comparable #3 sold in December 2009 for $213,500, or $131.06 per square foot of living area, including land; and that Comparable #4 sold in August 2008 for $278,000, or $170.87 per square foot of living area, including land. The board of review also submitted a printout from the Cook County Recorder of Deeds' website, showing that a *lis pendens* was placed on the subject in April 2007. Moreover, multiple liens were placed on the subject by the Village of Elmwood Park between March 2007 and February 2009. Additionally, the subject was deeded to Webster Bank, the entity that sold the subject to the appellant, in January 2008 from the Judicial Sales Corporation. 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). "[A] contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, (citations) but would be practically conclusive on the issue of whether an assessment was at full value." People ex rel. Korzen v. Belt Ry. Co. of Chi., 37 Ill. 2d 158, 161 (1967).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in February 2010 for $12,500 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.

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, when there is a recent sale of the subject, and that sale is a compulsory sale, the Board may consider evidence which would show whether the sale price was representative of the subject's fair cash value. Calumet Transfer, 401 Ill. App. 3d at 655-56. In this case, the appellant did not submit any such evidence to show that the sale of the subject in February 2010 for $12,500 was at its fair cash value. Such evidence could have included the descriptive and sales information for recently sold properties that are similar to the subject. See id. at 656. Since there is no evidence that the sale price of the subject was at its fair cash value, the Board finds that the subject is not overvalued.

When the demolition of a property is at issue, Section 9-180 of the Property Tax Code is applicable, which states, in relevant part:

> When, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use. The owner of property entitled to a diminution of assessed valuation shall, on a form prescribed by the assessor, within 90 days after the destruction of any improvements or, in counties with less than 3,000,000 inhabitants within 90 days after the township or multi-township assessor has mailed the application form as required by Section 9-190, file with the assessor for the decrease of assessed valuation. Upon failure so to do within the 90 day period, no diminution of assessed valuation shall be attributable to the property.
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> Computations under this Section shall be on the basis of a year of 365 days.

35 ILCS 200/9-180. The Boards finds that the improvements upon the subject were demolished as of June 27, 2010. This fact was evidenced by the appellant's two affidavits. Thus, the improvements were standing for 177 days, or 48.5% of the year. Therefore, under Section 9-180 of the Property Tax Code, the subject's assessment shall be diminished by 51.5%, which equates to a total assessment of $7,702. This assessment is higher than the subject's current assessment, and, 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: 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.