



D E C I S I O N O N R E M A N D
FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: James Ronan
DOCKET NO.: 10-30783.001-R-1
PARCEL NO.: 19-13-416-035-0000

The parties of record before the Property Tax Appeal Board are James Ronan, the appellant, by attorneys Kevin Burke and Christopher B. Kaczynski, of Smith Hemmesch Burke & Kaczynski in Chicago; and the Cook County Board of Review. The board of review was defaulted on April 24, 2013 for failure to timely submit evidence.

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: \$ 516
IMPR.: \$ 2,515
TOTAL: \$ 3,031

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story, masonry, multi-family dwelling containing 2,544 square feet of living area and a two-car garage. The building is approximately 86 years old and is located on a 3,750 square foot site.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation.

Procedurally, the Board rendered an initial decision in this matter based upon the solitary evidence submission of the appellant on June 20, 2014. The board of review was defaulted on April 24, 2013. Upon receipt of the Board's initial

decision, the appellant filed a Complaint in Administrative Review in the Circuit Court of Cook County, #14-COPT-000013.

Pursuant to the Circuit Court's Order, this matter was remanded to the Board stating that:

- I. The Board's factual findings that the subject's sale was a compulsory sale is not against the manifest weight of the evidence.
- II. The First District Appellate Court's Holding in Calumet Transfer LLC v. Property Tax Appeal Board, 401 Ill. App. 3d 652(1st Dist.2010) is not controlling in that it does not mandate that the Plaintiff must present additional comparable properties showing that the sales price was representative of the subject property's fair cash value.
- III. Where the Plaintiff requested a hearing, PTAB erred as a matter of law in failing to provide the Plaintiff with a hearing pursuant to Section 1910.67(b) of the Illinois Administrative Code.
- IV. This cause is hereby remanded to the PTAB for hearing, and the hearing shall be conducted in accordance with all applicable PTAB rules.
- V. The board of review remains in default and is therefore prohibited from participating at the PTAB hearing.

At hearing, the appellant's attorney moved for a Default Judgment/Summary Judgment; thereby, requesting waiver of the hearing and a Board decision based upon the written evidence. Upon considering the appellant's argument, the Board denied this motion especially due to the Circuit Court's remand order directing a hearing.

In addition, the appellant's attorney presented a verbal opening argument which is reflected tangibly in the hearing's transcript as well as in the Appellant's Hearing Memorandum.

In support of this overvaluation argument, the appellant submitted: a short brief stating the issue; a copy of the settlement statement for the subject's sale; and a copy of the Cook County Assessor's Office, First Quarter 2010 Foreclosure Update. The appellant's evidence reflects that the subject was purchased on September 17, 2009, for a price of \$33,900. The printout and the pleadings indicated that the parties to the sale were represented by real estate brokers and that the sale was not between related parties.

At hearing, the appellant's attorney argued that just because the seller was a financial institution does not mean that the sale was not an arm's length transaction. The appellant's brief cites amendments to the Property Tax Code requiring various assessing bodies to include compulsory sales as reflective of the market. Specifically, whether a recent sale is evidence of fair market value is not dependent on the definition of compulsory sales in the Property Tax Code. The attorney argues that just because a sale fits the definition of a compulsory sale, does not mean that the transaction cannot be used to prove the fair market value of a piece of property. Moreover, the appellant's attorney stated that a review of the legislative history indicated that Illinois lawmakers were not attempting to amend the definition of fair cash value, but expand the type of evidence to be accepted and considered by assessing officials when determining the fair market value of a piece of property so that assessed values would actually be consistent with current market values.

Further, the attorney cited four cases where the Board found that a recent sale of a subject property satisfied all the main elements of an arm's length transaction even though the purchase was from a financial institution. In each case, the Board stated that there was no evidence in the record that the seller was forced to sell the subject property to the appellants for the purchase price offered. Thus, the general public did have the same opportunity to purchase the subject property at any negotiated sale price and PTAB found each transaction to be arm's length while reducing the appellant's assessment accordingly.

The appellant's attorney also distinguished Calumet Transfer LLC v. Property Tax Appeal Board, 401 Ill.App.3d 652,656 (1st Dist. 2010), wherein the Appellant Court did not require an appellant to submit extrinsic evidence to support a recent sale unless evidence is presented by an opposing party challenging the arm's length nature of the offered purchase price. Moreover, the Appellate Court in that appeal rejected the argument that PTAB erred as a matter of law by considering evidence outside of the sale price to determine the property's fair cash value, the Court specifically stated that this argument "assumes the absence of evidence calling into question the arm's length nature of the transaction." Id.

Moreover on this point, the appellant's attorney asserted that the official rules of the Property Tax Appeal Board do not

include any additional requirements for appellants when the evidence consists of a compulsory sale. Rather, he argued that Section 1910.65(c) allows opposing parties to challenge the arm's length nature of the transaction by offering evidence of comparable sales. Thereafter, he asserts that the appellant would be responsible for refuting the opposition's evidence challenging the arm's length nature of the subject's sale.

At hearing, the appellant, James Ronan, was called as a witness. After being duly sworn, Ronan testified that he operated his own general contracting business since 1997 and has been a licensed real estate broker since 2002. He indicated that his business partner is his brother. He stated that he drives through areas and looks into boarded up buildings with the intent to purchase, rehabilitate or remodel, and rent the buildings because he also operated as a management company until recently. He indicated that the areas that he looks at are located in Lakeview or the North Central neighborhoods within the City of Chicago.

As to the subject's purchase, Ronan stated that he hired another real estate broker named Richard Gregory to look into this purchase and represent him, while also indicating that he looked the subject property up on a real estate multiple-listing service. Specifically, Ronan testified that in 2009 he first began buying properties within the Englewood area, while looking to rent the various properties or to sell them outright. On following up on a possible sale from Gregory, Ronan stated that he would drive through the area. In Englewood, he stated that he observed hundreds of buildings for sale which were either boarded up or just abandoned. Ronan indicated that he personally knew of other buyers in this area making similar purchases for similar reasons. He also stated that his broker, Gregory, provided him with broker's property opinions (BPOs) regarding prospective purchases. Overall, he indicated that he purchased approximately 15 buildings within this area which he learned about either from real estate brokers' referrals, signage in front of the buildings, or through the real estate multiple-listing service. He stated that of the 15 buildings he purchased, he sold all of the properties at no profit except four which remain unsold. Of the remaining four properties, two single-family homes are rented while the six-flat apartment building is vacant. He elaborated on the multiple problems he has incurred with remodeling, bad renters, evictions, and remodeling again which has finally resulted in the building being boarded up. He testified that knowing about all the problems in purchasing such a building in this area, he would

not invest in this type of property again because he lost money on the purchase.

As to this specific subject property, Ronan testified that this is a two-story, two-flat apartment building in West Englewood which he learned about from his real estate broker, Gregory, and from 'for sale' signs on the property. He stated that he was unaware of whom the seller was prior to the purchase and that he and his brother created a trust for liability purposes to purchase this property. He stated that this neighborhood has a high crime rate and that the building was vacant at the time it was purchased. Ronan stated that he has had to remodel this property, while replacing the following items: hot water heaters, furnace, all new electric wiring and all new plumbing. He estimated that his expenses were approximately \$60,000. He also indicated that he sold this property two years ago for approximately \$75,000; therefore, he did not make a profit on this property. In conclusion, Ronan testified that he believed that he paid market value for this subject property considering its condition and location. Based on this evidence, the appellant requested the subject's assessment be reduced to reflect the subject's purchase price.

The board of review did not submit board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's argument as required by section 1910.40(a) of the rules of the Property Tax Appeal Board. On April 24, 2013, the Board found the board of review to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board.

After considering the arguments and testimony at hearing as well as considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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). Proof of the market value of the subject property may consist of an appraisal of the subject property as of the assessment date at issue. (86 Ill.Admin.Code 1910.65(c)(1)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value is the subject's September, 2009, purchase at \$33,900 as well as supporting testimony of the appellant. The thorough, credible and un rebutted testimony of the appellant indicated: that the subject property was advertised for sale on the open market; that the parties were unrelated; that the parties were represented by real estate brokers; that the sale was an arm's length transaction; and that due to the subject's neighborhood and market area conditions that the subject's sale price was reflective of the market.

The Board further finds that the board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's argument as required by section 1910.40(a) of the rules of the Property Tax Appeal Board and is found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board.

Based on this evidence, the Property Tax Appeal Board finds the subject property had a market value of \$33,900 as of January 1, 2010. Since market value has been determined, the median level of assessment as determined by the Illinois Department of Revenue for class 2, residential property of 8.94% shall apply. 86 Ill.Admin.Code 1910.50(c)(3).

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

Mark Albino

Member

[Signature]

Member

Member

Jerry White

Acting 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: July 24, 2015

[Signature]

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.