FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Nicholas & Tracy Brannigan
DOCKET NO.: 10-32494.001-R-1
PARCEL NO.: 24-30-120-003-0000

The parties of record before the Property Tax Appeal Board are Nicholas & Tracy Brannigan, the appellants; 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:	$ 6,120
IMPR.:	$ 15,807
TOTAL:	$ 21,927

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 14,400 square foot parcel of land improved with a 72-year old, two-story, frame, single-family dwelling containing one and one-half baths, one fireplace and a one-car garage. The appellant argued that the fair market value of the subject was not accurately reflected in its assessed value as the basis of the appeal.

In support of the market value argument, the appellant submitted copies of: a contract for sale of real estate at auction, a property disclosure statement, and Senate Bill 3334 relating to foreclosures and short sales. The appellant's pleadings indicated that the subject had been purchased on March 24, 2010 for a price of $200,000. The pleadings also reflected that the sale was not between related parties and was sold at auction.

At hearing, the appellant, Nicholas Brannigan, appeared and testified that the subject was owner-occupied and has been accorded a homeowner’s exemption by the county. He stated that to his personal knowledge the subject was advertised for sale on the open market for approximately two years to no avail and then placed for sale at auction. He indicated that he currently resides in this home. He also stated that he had not submitted any evidence that this purchase price was reflective of the market.

Under cross-examination, Brannigan testified that the evidence was prepared by someone other person than himself, which is why at hearing he was unaware of the evidence submissions.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $21,927 was disclosed. The subject's final assessment reflects a fair market value of $245,268 when the Illinois Department of Revenue's 2010 three-year median level of assessment of 8.94% for Cook County Class 2 properties is applied.

In support of the subject's assessment, the board of review presented descriptions and assessment information on four properties suggested as comparable and located within the subject’s neighborhood. The properties are described as two-story, frame or frame and masonry, single-family dwellings. The properties range: in age from 67 to 71 years; in size from 1,280 to 1,608 square feet of living area; and in improvement assessments from $12.70 to $15.68 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the board of review's representative, Nick Jordan, argued that the subject’s purchase was not at fair cash value, but was a compulsory sale under Illinois Law and the Property Tax Code. In support of this assertion, he submitted BOR Hearing Exhibit #1 without objection from the appellant. Jordan testified that he conducted a search through the Cook County Recorder of Deeds database for public records relating to the transaction history of this subject property, the results of which comprise this Exhibit. He asserted that the Exhibit reflects: that on March 6, 2009 U.S. Bank instituted foreclosure proceedings against the prior owners; that the foreclosure was completed and a judicial deed was given to U.S. Bank on January 18, 2010; and that the first sale after the judgment of foreclosure was to this appellant in March, 2010. Therefore, he indicated that this transaction history supports

the assertion that this was a compulsory sale. Lastly, Jordan argued that Illinois courts have held that a distressed sale is not reflective of the fair cash value of a property.

In rebuttal, the appellant testified that assessor's office accorded the subject property a reduction in total assessment in tax year 2011.

In response, the board's representative testified that tax year 2011 is a different triennial reassessment period for this subject property and that would account for the variation in assessment. Further on this point, Jordan requested that the Board take judicial notice of the courts findings in Moroney v. PTAB, 2013 IL App (1st) 120493, 2013, while submitting a courtesy copy of this decision into the record.
Further, Brannigan asserted that the Senate Bill submitted into evidence allows the consideration of compulsory sales as reflective of market value. In contrast, Jordan argued that the Bill's verbiage requires that compulsory sales of comparable properties be considered. Jordan stated that in the present property tax appeal that neither party submitted any sale comparable properties for consideration. Therefore, Jordan stated that the appellant's argument is moot on this point.

After hearing the argument and/or testimony and considering the evidence, 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). Having considered the market value evidence presented, the Board finds that the appellants have not met this burden and that a reduction is not warranted.

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

The board of review asserts that the subject's sale is a compulsory sale and not reflective of 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)).

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 Board is statutorily required to consider the compulsory sales of comparable properties submitted by the parties.

However, in the instant case, the Board finds that both parties failed to submit any sales data to support the subject’s purchase price in March, 2010, which in itself is a compulsory sale.

Moreover, the board of review submitted four equity comparables which reflect a range of improvement assessments from $12.70 to $15.68 per square foot, while the subject’s improvement assessment is $10.20 per square foot. The subject’s improvement assessment is below the range established by the equity comparables. Therefore, the Board finds the subject's assessment is supported and a reduction 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.

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: May 21, 2014

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.