



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

APPELLANT: Malgorzata & Jaroslaw Adamczyk
DOCKET NO.: 11-01892.001-R-1
PARCEL NO.: 09-21-306-008

The parties of record before the Property Tax Appeal Board are Malgorzata & Jaroslaw Adamczyk, the appellants, and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$36,130
IMPR.: \$56,320
TOTAL: \$92,450

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a bi-level¹ owner-occupied dwelling of frame and masonry construction containing 1,300 square feet of living area. The dwelling was constructed in 1974. Features of the home include a partially finished basement and a 546 square foot garage. The property has a 9,504 square foot site and is located in Darien, Downers Grove Township, DuPage County.

The appellants' petition raised a legal argument contending that pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) the subject property, as an owner-occupied residence and the property having received a reduced assessment from the Property Tax Appeal Board in the prior year under Docket Number 10-01630.001-R-1, was entitled to having the 2010 assessment of the subject property carried forward to 2011.

Based on the foregoing, the appellants requested a reduction in the assessment to \$76,460.

The board of review submitted its "Board of Review Notes on Appeals" wherein the subject's total assessment of \$92,450 was

¹ The board of review's memorandum described the subject as a bi-level dwelling although in the board of review's spreadsheet, the subject was described as a "one-story."

disclosed. The subject's assessment reflects a market value of \$278,884 or \$214.53 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum along with evidence that was prepared by the township assessor. As part of the submission, dismissal of this appeal was urged for the appellants' failure to file a 2011 appeal. Also as part of the memorandum, the applicability of Section 16-185 of the Property Tax Code to this matter was disputed. Specifically, the memorandum reports that all properties in Downers Grove Township were re-assessed in 2011 as part of the new general reassessment. (See 35 ILCS 200/9-215). As such, the memorandum contended that the Property Tax Appeal Board does not have jurisdiction in this matter as the appellants failed to pursue a 2011 appeal with the DuPage County Board of Review.

In the alternative, the assessor provided documentation to establish that the March 2010 sale of the subject property was "in lieu of foreclosure." The listing of the subject from ColdwellBankerOnline.com includes the remark:

Foreclosed Property Sold As Is - Property in good condition . . .

This document also depicts a sale price of \$220,000 as of March 31, 2010 after having been on the market for 33 days and an "original list price" of \$197,900.

As part of the memorandum, the assessor reports having requested an inspection of the subject property in February 2013 by a certified letter "to verify the listing information and check the condition of the subject." In addition, as part of the inspection request the assessor also requested a copy of the sales contract and the purchase appraisal of the subject property. The assessor next reported that the appellants claim only a new roof has been installed shortly after purchase, however, the assessor found no corresponding building permit for a new roof.

In support of the assessment, the assessor submitted information on three comparable sales located in close proximity that were not sold in lieu of foreclosure. None of these comparables has the same neighborhood code as the subject property. The comparables have sites ranging in size from 10,506 to 11,147 square feet of land area. These properties are improved with one-story dwellings of frame and masonry construction that contain 1,350 or 1,570 square feet of living area. The dwellings were constructed from 1969 to 1978. Features of the comparables include a full or partial basement, two of which are partially finished. Each home has a garage of 529 or 548 square feet of building area. These comparables sold from May 2010 to January

2011 for prices ranging from \$265,000 to \$335,000 or from \$196 to \$236 per square foot of living area, including land, rounded.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

The subject property is an owner-occupied dwelling. The appellants presented a legal contention that the Board's prior year decision should be carried forward to the subsequent year in accordance with one portion of Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) which provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect **for the remainder of the general assessment period as provided in Sections 9-215 through 9-225**, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. [Emphasis added.]

The record disclosed the Property Tax Appeal Board issued a decision reducing the subject's 2010 assessment. The record further indicates that the subject property is an owner occupied dwelling. However, based on the legal contentions presented on behalf of the board of review, the evidence reveals that 2010 and 2011 are not within the same general assessment period. As such, the provision cited by the appellants for a reduction in the subject's assessment is not applicable to this appeal.

However, another portion of Section 16-185 of the Property Tax Code provides in pertinent 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 . . . 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 this regard, the record reveals that the Property Tax Appeal Board's decision in Docket No. 10-01630.001-R-1 was issued on July 20, 2012. As part of the memorandum, the assessor reported that the deadline to appeal the 2011 assessment with the DuPage County Board of Review was December 27, 2011. Thus, the appellants filed directly with the Property Tax Appeal Board within 30 days of the written decision of the Board which lowered the subject's assessment and at a time that the board of review

was not accepting appeals for 2011. Therefore, the dismissal request of the assessor is not meritorious in light of Section 16-185 of the Code and the Board has jurisdiction over this appeal that was postmarked on August 1, 2012.

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); 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellants did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The undisputed record evidence is that the appellants purchased the subject property in lieu of foreclosure "as-is" on March 31, 2010 for \$220,000. This price was more than the original asking price 33 days earlier and the property was advertised on the open market through ColdwellBankerOnline.com. The Board further finds the subject property was purchased via a Sheriff's Deed and the fact that more than the asking price was paid calls into question the arm's length nature of the sale transaction.

The board of review presented three sales of similar properties. In particular, comparables #2 and #3 were similar to the subject in size, age and features, with the exception that neither has a fireplace. These comparables sold in May and September 2010 for prices of \$265,000 and \$318,500 or for \$196 and \$236 per square foot of living area, including land, rounded. The subject has an estimated market value based on its assessment of \$278,884 or \$214.53 per square foot of living area, including land, which is within the range of the most similar comparables both in terms of overall value and on a per-square-foot basis.

After considering the questions surrounding the sale of the subject and the most comparable sales on this record, the Board finds the appellants have not demonstrated by a preponderance of the evidence that the subject property's assessment is excessive in relation to its market value. Therefore, a reduction in the subject's assessment is not warranted on this record.

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.

Ronald 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: November 22, 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.