



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

APPELLANT: Sundeep Oberoi
DOCKET NO.: 11-05974.001-R-1
PARCEL NO.: 07-01-06-302-012-1001

The parties of record before the Property Tax Appeal Board are Sundeep Oberoi, the appellant, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$15,040
IMPR.: \$26,473
TOTAL: \$41,513

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed this 2011 appeal from a 2010 decision of the Property Tax Appeal Board pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) allowing for a direct appeal to the Board within 30 days. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject parcel is improved with a 12-year-old, one-story frame townhouse "end unit" that contains approximately 1,164 square feet of living area. Features include a partial basement with finished area, central air conditioning, a fireplace and an integral two-car garage. The property is located in Aurora, Wheatland Township, Will County.

The appellant contends the market value of the subject property is not accurately reflected in the property's assessed valuation. In support of the overvaluation argument, the appellant completed Section IV - Recent Sale Data of the appeal form stating the property was purchased in May 2010 for a price of \$125,000. The appellant stated the property was sold by Fannie Mae through a Realtor Re/Max Professionals, by agent Ed Lukasik, Jr. and was advertised for sale for 42 days in the Multiple Listing Service. A copy of the Settlement Statement was submitted which depicted the purchase price as \$125,000 with a closing date in May 2010.

Based on this evidence, the appellant requested a reduction in the subject's 2011 assessment to approximately reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$53,840. The subject's assessment reflects a market value of \$162,120 or \$139.28 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Will County of 33.21% as determined by the Illinois Department of Revenue.

The board of review submitted a letter citing to Section 16-160 of the Property Tax Code (35 ILCS 200/16-160) and alleging that this appeal should be dismissed. According to the board of review, the Property Tax Appeal Board does not have jurisdiction because the appellant did not pursue an appeal for 2011 with the Will County Board of Review and did not receive a 2011 Board of Review Final Decision letter.

In addition, the board of review submitted a memorandum prepared by the Wheatland Township Assessor's Office. As part of the memorandum, the assessor contended the sale of the subject property was a foreclosure which was recorded by a Special Warranty Deed. According to the assessor, these facts "should have excluded this appellant from being reduced [to] their sale" for the 2010 appeal before the Property Tax Appeal Board.

Furthermore, in support of the contention of the correct assessment for 2011, the assessor provided portions of two mortgage documents reflecting that in 2012 the appellant took out a mortgage on this property for \$385,000 and another mortgage in 2013 for \$330,000. In light of these mortgages, the

assessor contended "the value of this property is more than the \$125,000 that appellant is seeking."

Finally, the assessor provided a spreadsheet with information on three comparable sales located in the same neighborhood code assigned by the assessor as the subject property. The comparables consist of similar frame dwellings to the subject that were built in 2001 and 2003. The comparables each contain 1,164 square feet of living area and feature basements, central air conditioning and a two-car garage. These comparables sold between February 2010 and October 2010 for prices ranging from \$155,900 to \$166,000 or from \$133.93 to \$142.61 per square foot of living area, including land.

In summary, the board of review requested dismissal of this appeal based upon Section 16-160 of the Property Tax Code.

Conclusion of Law

As to the board of review's legal contention and dismissal request, the Property Tax Appeal Board finds that pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), a taxpayer may file within 30 days of the date of written notice of the Property Tax Appeal Board's decision an appeal for the subsequent year when the Property Tax Appeal Board rendered a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review.

There is no dispute on the record that the subject property was under appeal before the Property Tax Appeal Board in the prior year under Docket Number 10-00263.001-R-1 wherein the Property Tax Appeal Board rendered a decision on March 22, 2013 lowering the assessment of the subject property to \$41,550 based on the May 2010 sale price of the subject property.

For these reasons the Property Tax Appeal Board finds that Section 16-185 of the Property Tax Code authorized the filing of this 2011 assessment appeal which the appellant postmarked on April 19, 2013. Therefore, the Board finds that it has jurisdiction and there is no basis upon which to dismiss this appeal as argued by the board of review.

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. 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 appellant met this burden of proof and a reduction in the subject's assessment is warranted.

With regard to the nature of the subject's sale having been due to foreclosure, the Property Tax Appeal Board takes judicial notice of Public Act 96-1083 which amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (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.

Section 16-183 provides:

Compulsory sales. 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.

The Board finds the effective date of these statutes is applicable to assessment date at issue, January 1, 2011. Moreover, the Board finds this language instructive with regard to the sale of the subject property in 2010 with respect to this 2011 assessment appeal of the subject property.

The Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in May, 2010 for a price of \$125,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The Property Tax Appeal Board finds the sale of the subject property was not a transfer between family or related parties; the property was advertised for sale for 42 days in the Multiple Listing Service and involved a Realtor as reported by the appellant in Section IV; and the sale occurred only eight months before the assessment date at issue of January

1, 2011. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value. Finally, the case law indicates that comparable sales data as provided by the board of review should be given less weight when there is a sale of the subject property that qualifies as an arm's length transaction. The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). Moreover, a contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967).

In conclusion, based on the foregoing facts, the Property Tax Appeal Board finds the subject's May 2010 sale price of \$125,000 was reflective of market value. Therefore, the Property Tax Appeal Board finds the subject property had a market value of \$125,000 on January 1, 2011. The subject's assessment reflects an estimated market value of \$162,120, which is substantially higher than its May 2010 sale price. Therefore a reduction is warranted. Since the fair market value of the subject has been established, the Board finds that the 2011 three-year median level of assessments for Will County of 33.21% shall apply.

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

Tracy A. Huff

Member

Mario Morris

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: January 23, 2015

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.