



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

APPELLANT: Calisia, LLC
DOCKET NO.: 11-22054.001-R-1
PARCEL NO.: 23-05-201-119-0000

The parties of record before the Property Tax Appeal Board are Calisia, LLC, the appellant, by attorney Jack Mossburg in Chicago; 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: \$ 2,211
IMPR: \$ 19,215
TOTAL: \$ 21,426

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 2,457 square foot parcel of land improved with a 17-year old, two-story, frame and masonry, townhouse containing 2,059 square feet of living area, two full and one half-baths, a full basement, one fireplace and a two-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 recent sale data on the subject as well as copies of a settlement statement and real estate contract. The appellant's pleadings indicate: that the subject was purchased on July 3, 2010 for \$120,000; that the sale was not between related parties; that the parties were represented by real estate brokers; that the property was sold in settlement of foreclosure; and that additional renovation of \$15,000 was needed prior to occupancy. Based upon this evidence, the appellant requested a reduction in valuation.

At hearing, the appellant's attorney verbally amended the appellant's requested market value to \$160,000. Moreover, the attorney affirmed that the subject was a distressed sale while

asserting that the subject is surrounded on three sides by forest preserves and without any other property sales in its subdivision.

At hearing, the board of review's representative, Joe Powers, argued that the purchase of the subject property 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 a brief identified as BOR Hearing Exhibit #1 without objection from the appellant. Powers testified that a search through the Cook County Recorder of Deeds database for public records relating to the transaction history of this property, the results of which comprise this Exhibit. He asserted that the Exhibit reflects: that in February, 2009, HSBC Bank USA instituted foreclosure proceedings against the owners; that the foreclosure was completed and a judicial deed was assigned to a mortgage company by the bank in March, 2010; and that the first sale after the judgment of foreclosure was to a taxpayer in July, 2010. Therefore, he indicated that this transaction history supports the assertion that this was a compulsory sale. Lastly, he argued that Illinois courts have held that a distressed sale is not reflective of the fair cash value of a property.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$25,251 was disclosed. The subject's final assessment reflects a fair market value of \$266,080 or \$129.23 per square foot of living area when the Illinois Department of Revenue's 2011 three-year median level of assessment of 9.49% for Cook County Class 2 properties is applied. In addition, a copy of the transactional history for the subject property from the Cook County Recorder of Deeds office was submitted.

In support of the subject's assessment, the board of review presented descriptions and assessment information on two properties suggested as comparable and located within a two-block radius of the subject. The properties are described as a 17-year old, two-story, frame and masonry, townhouse. The properties range in size from 2,436 to 2,736 square feet of living area and in improvement assessments from \$9.30 to \$10.15 per square foot of living area. Amenities include two full and one half-baths, a full basement, and a two-car garage. The subject's improvement assessment is \$11.19 per square foot of living area.

In addition, the analysis stated that the properties sold from February, 2011, to September, 2012, for prices that ranged from \$265,000 to \$300,000, or from \$108.78 to \$109.65 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record as well as considering the testimony and/or arguments, 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 concludes that this evidence indicates a reduction is warranted.

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties. The appellant's recent sale is accorded little weight due to the nature of the sale as a foreclosure and not reflective of the market.

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, but the parties have not submitted such sales.

In contrast, the board of review submitted two sales which occurred from February, 2011, to September, 2012, for prices that ranged from \$265,000 to \$300,000, or from \$108.78 to \$109.65 per square foot of living area. In comparison, the subject property's assessment reflects a market value of \$129.23 per square foot of living area which is above the range established by the board of review's sale comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot assessment is not supported and 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.

Donald 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: July 18, 2014

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.