



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

APPELLANT: Hans Schaetzke
DOCKET NO.: 11-22688.001-R-1
PARCEL NO.: 09-15-307-027-0000

The parties of record before the Property Tax Appeal Board are Hans Schaetzke, the appellant(s); 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: \$ 10,122
IMPR: \$ 17,752
TOTAL: \$ 27,874

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 11,569 square feet of land, which is improved with a 52 year old, two-story, frame and masonry, single-family dwelling. The subject's improvement size is 2,098 square feet of living area, and its total assessment is \$36,641. This assessment yields a fair market value of \$386,101, or \$184.03 per square foot of living area (including land), after applying the 2011 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 9.49%. The appellant argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted a residential appraisal report for the subject property with an effective date of December 14, 2011. The appraiser estimated a fair market value for the subject of \$200,000 based on the sales comparison approach to value. The appraiser also conducted an inspection of the subject. The appellant, an appraiser himself,

stated that the appraiser for the subject was his son, who is also an appraiser.

The appellant also submitted descriptive and sales information for two sales comparables.¹ The comparables are described as one-story, masonry, single-family dwellings. Additionally, the comparables are from 50 to 53 years old, and have from 1,436 to 1,604 square feet of living area. The comparables also have several amenities. The comparables sold between May 2010 and June 2011 for \$215,000 to \$229,865, or \$134.04 to \$160.07 per square foot of living area, including land. Moreover, one of the sales comparables was a compulsory sale.

The appellant also submitted a market analysis summary from a realtor. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$36,641 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for three properties suggested as comparable to the subject. The comparables are described as two-story, masonry or frame and masonry, single-family dwellings. Additionally, the comparables range: in age from 10 to 42 years; in size from 2,330 to 2,790 square feet of living area; and in improvement assessments from \$11.55 to \$15.65 per square foot of living area. The comparables also have several amenities. The board of review's grid sheet also states that Comparable #1 sold in August 2010 for \$450,000, or \$177.65 per square foot of living area, including land; Comparable #2 sold in June 2010 for \$380,000, or \$163.09 per square foot of living area, including land; and that Comparable #3 sold in August 2009 for \$540,000, or \$193.55 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant argued that the board of review's comparables are not similar to the subject for various reasons. The appellant also submitted printouts from the Multiple Listing Service detailing the two sales submitted in the appellant's original evidentiary submission, and sales of three additional comparables.

¹ The Property Tax Appeal Board (the "Board") notes that a third comparable was submitted, but that this comparable was only a listing, and no sale price was reported. Therefore, this comparable was not considered by the Board.

After reviewing the record and considering the evidence, the Property Tax Appeal Board (the "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. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). Having considered the evidence presented, the Board finds that the evidence indicates a reduction is warranted.

In addressing the appellant's market value argument, the Board finds that one of the appellant's sales comparables is a "compulsory sale." 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.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (2d Dist. 1979)).

However, the Illinois General Assembly recently provided very clear guidance for the Board with regards to comparable compulsory sales. Section 16-183 of the Illinois Property Tax Code states that, "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 (emphasis added). Prior to becoming law, this new section of the Property Tax Code was a part of Senate Bill 3334 of the 96th General Assembly.

Section 16-183 uses the verb "shall" and, therefore, the Board is statutorily required to consider the sales comparable submitted by the appellant that was a compulsory sale. See Citizens Org. Project v. Dep't of Natural Res., 189 Ill. 2d 593, 598 (2000) (citing People v. Reed, 177 Ill. 2d 389, 393 (1997)) ("When used in a statute, the word 'shall' is generally interpreted to mean that something is mandatory.").

The Board finds that all of the comparables submitted by the appellant, and Comparable #2 submitted by the board of review were most similar to the subject in location, size, style, exterior construction, features, and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had a price per square foot that ranged from \$134.03 to \$163.09, including land. The subject's price per square foot of \$184.03 is above the range established by the most similar comparables. In determining the subject's market value, the Board accorded the appellant's appraisal no weight, as it was completed by the appellant's son, and the subjectivity of the appraisal is questionable at best. However, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject is overvalued, and a reduction in the subject's assessment 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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: January 24, 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.