



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

APPELLANT: Edward Magnus
DOCKET NO.: 11-27625.001-C-1
PARCEL NO.: 17-10-214-027-0000

The parties of record before the Property Tax Appeal Board are Edward Magnus, the appellant(s); 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: \$ 4,271
IMPR: \$ 181,229
TOTAL: \$ 185,500

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a one-story commercial condominium with 1,855 square feet of building area. The building is 41 years old, and is used as a laundry facility on the building's second floor. The subject is not open to the public, and can only be accessed by the residents of the condominium building. The property has a 1,855 square foot site, and is located in North Chicago Township, Cook County. The subject is classified as a class 5-17 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on November 12, 2010 for a price of \$130,000. The evidence states that the sale was for \$210,000, but that \$29,000 was for personal property, and

\$51,000 was for legal fees and transition services. The appellant's evidence also states that the sale was completed after the appellant obtained a tax deed on the property, which was issued by the Circuit Court of Cook County on April 4, 2008. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$185,500. The subject's assessment reflects a market value of \$742,000, or \$400.00 per square foot of building area, including land, when applying the 2011 statutory level of assessment for commercial property under the Cook County Real Property Assessment Classification Ordinance of 25.00%. In support of its contention of the correct assessment, the board of review submitted information on five comparable sales from the CoStar Comps Service.

At hearing, the appellant argued that the prior years' assessments for the subject were all lower than the subject's assessment for tax year 2011, and that this fact warrants a reduction. The appellant also argued that the subject is misclassified under the Cook County Real Property Assessment Classification Ordinance. The Board precluded the appellant from arguing the misclassification argument as it had never been raised prior to the hearing. 86 Ill.Admin.Code §1910.67(k). The appellant also reaffirmed the evidence previously submitted regarding the sale of the subject. During this discussion, the appellant stated that the sale was for \$210,000, but that \$80,000 was attributed to personal property and other property.

The board of review analyst argued that the sale of the subject in November 2010 for \$130,000 was not an arm's-length transaction because the sale was done after the issuance of a tax deed. During cross-examination, the appellant admitted that the sale was done after the issuance of a tax deed. The appellant also admitted that the sale was more akin to a "settlement agreement," between the appellant, who was the tax purchaser of the subject's real estate taxes, and the previous owner of the property. The settlement ended the tax deed litigation between the parties, and obligated the appellant to pay \$130,000 for the subject, \$29,000 for the equipment located within the subject, \$10,000 for "transition services," and \$41,000 in attorney's fees. The transition services consisted of transitioning funds on the laundry customers' laundry cards to the appellant's card system. The attorney's fees were for the legal fees incurred by the seller in the tax deed litigation.

The board of review analyst also asked the Board to take judicial notice of the subject's assessment for tax year 2010, whereby the subject received an occupancy factor of 53.9%, and had a total assessment of \$102,039. The Board took judicial notice of the ASIQ printout from the board of review analyst detailing this information. In response, the appellant stated that he was not

raising a vacancy argument for tax year 2011, and did not do so for tax year 2010.

In rebuttal, the appellant argued that the board of review's sale comparables are not similar to the subject because they are all first level storefronts open to the public, while the subject is only open to residents of the condominium building that the subject is located within.

Conclusion of Law

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds that the sale of the subject in November 2010 for \$130,000 is not indicative of the subject's fair cash value. During cross-examination, the appellant admitted that the sale was more like a settlement between the appellant and the previous owner. This settlement ended what appears to have been very contentious litigation regarding the tax deed that was issued to the appellant in April 2008. The sale of the subject was included in this settlement agreement. While the parties were not related, and the parties certainly appear to have adversarial, the Board does not find that the sale price is indicative of the subject's fair market value.

The Illinois Property Tax Code states that "fair cash value" means "The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." 35 ILCS 200/1-50. It cannot be said that after the issuance of a tax deed and litigation between the parties that the seller was "willing." It seems more probable that the seller was, instead, under duress to sell the subject, and end the litigation. This action moves the sale of the subject outside the definition of "fair cash value."

Moreover, the subject was never exposed to the open market as it was never advertised for sale. There is no evidence that a real estate broker was used, and no independent appraisal was introduced. Furthermore, the Board finds that the sales comparables submitted by the board of review are not similar to the subject because the subject is not open to the public. Thus, there are also no sales comparables in the record to show what the subject's fair market value may be. Therefore, the Board finds that the subject is not overvalued, 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.

Donald R. Cuit

Chairman

Tracy A. Huff

Member

Marko M. Louie

Member

[Signature]

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: September 19, 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.