



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

APPELLANT: Carmen Titean
DOCKET NO.: 11-32760.001-R-1
PARCEL NO.: 15-10-412-021-0000

The parties of record before the Property Tax Appeal Board are Carmen Titean, the appellant; 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: \$ 1,228
IMPR: \$ 8,272
TOTAL: \$ 9,500

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 finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property is 103 years old, and consists of a two-story dwelling of frame construction containing 2,208 square feet of living area. Features of the home include a full basement. The property has a 3,275 square foot site and is

located in Proviso Township, Cook County. The subject is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation and on a contention that a reduction in the prior year's assessment is a basis for a reduction in this appeal. In support of the argument on overvaluation, the appellant submitted a Settlement Statement disclosing the subject property was purchased on October 5, 2010 for a price of \$23,000. The seller is listed as "Bank United Assignee of the FDIC as reciever [sic] for Bank United FSB." Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price. In support of the argument for a reduction in 2011 based on a reduction in 2010, the appellant submitted a copy of a decision by the Property Tax Appeal Board reducing the assessment for the subject property in 2010. The appellant also submitted a hand-written note that states, "Year 2011 Direct Appeal based on a reduction in the previous year. (year 2010)" The appellant also submitted copies of two 2010 decisions by the Board on unrelated parcels.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$9,500. The subject's assessment reflects a market value of \$100,105 or \$45.34 per square foot of living area, when using the board of review's indicated size of 2,208 square feet and when using the 2011 three-year median level of assessment of 9.49% for class 2 property as determined by the Illinois Department of Revenue. The board of review discloses an improvement assessment of \$3.75 per square foot of living area.

In support of its contention of the correct assessment the board of review submitted information on three suggested comparable sales. The sales occurred between 2009 and 2010, for prices ranging from \$80,000 to \$165,000, and for \$43.78 to \$73.14 per square foot of living area, including land. These comparables ranged in living area from 1,836 to 2,256 square feet, and in improvement assessments from \$5.23 to \$6.25 square feet of living area.

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 the best evidence of market value in the record to be the three comparable sales submitted by the board of review. These comparables were similar to the subject in location, style, construction, features, age, living area and land area. These properties also sold proximately in time to the assessment date at issue. The comparables sold for prices ranging from \$43.78 to \$73.14 per square foot of living area, including land. The subject's assessment reflects a market value of \$45.34 per square foot of living area, including land, which is within the range established by the best comparable sales in this record.

The Board gave little weight to the subject's sale due to the fact the sale did not have the elements of an arm's length transaction as it was not a transaction between a willing seller and a willing buyer. The appellant purchased the subject property from a seller bank as an assignee of the FDIC and as a receiver for Bank United FSB. The appellant disclosed in Section IV-Recent Sale Data of the appeal that the subject property was sold in settlement of a foreclosure.

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)).

In support of the appellant's argument in favor of a reduction based on the prior year's assessment reduction, the appellant submitted a brief in support of a request for a "rollover" for 2011 of the assessment confirmed by the Board for 2010 assessment. The appellant avers that the 2011 tax year was in the same triennial general assessment period as the 2010 assessment reduction. The appellant attached a copy of the Board's 2010 decision in docket #2010-25592.001-R-1, wherein the total assessment was reduced to \$6,258.

Based on this evidence, the appellant requested an assessment reduction.

The Property Tax Appeal Board recognizes that section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides that the prior year's decision lowering the assessment should be carried forward to the next tax year, subject only to equalization, where the property is an owner occupied residence and the tax years are within the same general assessment period. (35 ILCS 200/16-185).

After considering the evidence, the Board finds that the appellants failed to establish that the current tax year is within the same triennial general assessment period, as required by §16-185 of the Property Tax Code. Id. The Board notes that the subject property is located in Proviso Township, Cook County, where the prior triennial general assessment period was from 2008 through 2010. The current triennial general assessment period for Proviso Township began in 2011.

The Board finds that the appellants failed to submit evidence to support the legal argument supporting its asserted statutory interpretation. In contrast, the board of review submitted equity comparables which support the subject's assessment. Based on the foregoing analysis, the Board holds that a reduction in the subject's assessment is not warranted for the 2011 tax year.

Further, the appellant's characterization of the appeal procedure as a "direct appeal" is misplaced. A direct appeal is merely a procedural rule that permits a taxpayer to appeal directly to the Property Tax Appeal Board for years in which a decision of the Board lowered an assessment after the deadline for filing complaints with the board of review. [emphasis added] See, 35 ILCS 200/16-185. The direct appeal procedure is unrelated to the issue of a rollover of a prior assessment reduction.

Based on this record the Board finds the subject's assessment is reflective of market value and a reduction in the subject's assessment is not justified.

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

JR

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: February 20, 2015

A. Portal

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.