



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

APPELLANT: Joan Janiczek
DOCKET NO.: 11-32761.001-R-1
PARCEL NO.: 31-24-314-002-0000

The parties of record before the Property Tax Appeal Board are Joan Janiczek, 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: \$ 2,772
IMPR.: \$ 5,912
TOTAL: \$ 8,684**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 9,240 square feet of land that is improved with a 49 year old, one-story, frame and masonry, single-family dwelling. The subject's improvement size is 1,615 square feet of living area, and its total assessment is \$8,684. This assessment yields a fair market value of \$91,507, or \$56.66 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 descriptive and sales information for four sales comparables. The comparables are described as one-story, frame or frame and masonry, single-family dwellings. Additionally, the comparables are from 48 to 51 years old, and have from 1,391 to 1,925 square feet of living area. The comparables also have several

amenities. The comparables sold between November 2009 and February 2011 for \$35,250 to \$52,000, or \$24.36 to \$34.15 per square foot of living area, including land. Moreover, several of the sales comparables were compulsory sales.

The appellant also submitted evidence showing that the subject sold in October 2009 for \$52,000. This evidence included a settlement statement and a printout from the Multiple Listing Service. Furthermore, the appellant's pleadings state that the sale was not between related parties, that the subject was advertised for sale on the open market, that the parties used a real estate broker, and that the sale was pursuant to a foreclosure. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$8,684 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as one-story, frame or frame and masonry, single-family dwellings. Additionally, the comparables range: in age from 48 to 51 years; in size from 1,215 to 1,503 square feet of living area; and in improvement assessments from \$4.34 to \$6.28 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 December 2010 for \$99,000, or \$67.95 per square foot of living area, including land; comparable #2 sold in May 2010 for \$90,000, or \$74.07 per square foot of living area, including land; comparable #3 sold in April 2010 for \$95,000, or \$63.20 per square foot of living area, including land; and that comparable #4 sold in September 2009 for \$94,500, or \$68.58 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant argued that: there are more foreclosures and short sales than 'regular' sales; the Federal National Mortgage Association allows appraisers to use foreclosures and short sales with appropriate adjustments for condition and market influences; and property values continue to decline in Park Forest. The appellant also attached market data for seven new properties suggested as comparable. The Board gives no weight to these comparables pursuant to Section 1910.66 (c) of the Property Tax Code, which states:

"Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence."

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 not warranted.

In addressing the appellant's market value argument, the Board finds that the subject sale in October 2009, as well as several of the appellant's sales comparables, are "compulsory sales." 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. 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 comparables submitted by the appellant that were compulsory sales. 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.").

However, when there is a recent sale of the subject, and that sale is a compulsory sale, the Board may consider evidence which would show whether the sale was an arm's-length transaction. Calumet Transfer, 401 Ill. App. 3d at 655-56. After deliberation, the Board finds that all of the comparables submitted by both parties 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 \$24.36 to \$74.07, including land. The subject's price per square foot of \$56.66 is within the range established by the most similar comparables. Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject is not overvalued, and a reduction in the subject's assessment is not warranted based on the sales comparables submitted by the parties.

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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.



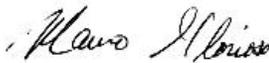
Chairman



Member



Member



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 24, 2014



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.