



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

APPELLANT: Andrzej Wierzbiak
DOCKET NO.: 12-21755.001-R-1
PARCEL NO.: 23-11-302-003-1153

The parties of record before the Property Tax Appeal Board are Andrzej Wierzbiak, 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: \$1,450
IMPR: \$8,027
TOTAL: \$9,477

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 2012 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 consists of a 38-year old, condominium unit located in a 448 unit building located in Palos Township, Cook County. The subject is classified as a class 2-99 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 copies of the settlement statement and the multiple listing service printout disclosing that the subject was purchased in June 2012 for \$51,500. The settlement statement and multiple listing service

advertisement disclose that realtors were involved in the sale, but that the sale was in settlement of foreclosure. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment of \$9,477 was disclosed. The subject's final assessment reflects a fair market value of \$97,802 using the Illinois Department of Revenue's 2012 three year median level of assessment for class 2 property of 9.69%.

In support of the subject's assessment, the board of review also submitted a memo from Nicholas Jordan, Cook County Board of Review Analyst. The memorandum shows that 30 properties, or 6.86% of ownership, within the subject's complex sold between 2008 and 2010 for a total of \$3,373,600. An allocation of 2% was subtracted from the total sale price for personal property to arrive at a total market value for the complex of \$48,194,285. The percentage of ownership for the subject, .23%, was then utilized to arrive at a value for the subject of \$110,846. The board also submitted a grid listing the PINs, percentage of ownership, and assessments for all the units in the complex. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In addition, the board of review argues that the subject's sale in 2012 was a compulsory sale and not reflective of the market. In support of this, the board of review submitted copies of a recorder of deed's printout and notice from court for the subject showing a *lis pendens* and judicial sale prior to the sale of the subject. The board of review also included a printout of the Real Property Transfer Tax Declaration indicating the subject's sale involved a Bank owned property and that the property was advertised for sale. As a result of this analysis, the board requested confirmation of the subject's assessment.

Conclusion of Law

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).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in June 2012 was 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.

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 compulsory sales of comparable properties.

In considering the compulsory sale of the subject property the Board looks to both the appellant's evidence and the board of review's comparables. The Board finds the appellant failed to present any sales comparables, but that the board of review included 30 sales comparables. The Board finds that four of these sales occurred in 2010 and are reflective of the subject's market as of the lien date. These units sold for prices ranging from \$80,000 to \$120,000. The Board further finds that two of these comparables which sold for \$80,000 and \$120,000 have the same percentage of ownership as the subject. In comparison, the subject sold in June 2012 for \$51,500; this sale is below the range established by the market. Therefore, the Board finds the subject's sale is not reflective of the market value. Conversely, the subject's assessment reflects a market value of \$97,802 which is within the range established by the market. Therefore, the Board finds the subject's assessment is supported and a reduction based on market value 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

K. L. Fern

Member

Tracy A. Huff

Member

Marko M. Louis

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: February 20, 2015

A. Proctor

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.