



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

APPELLANT: Jeffrey Manley
DOCKET NO.: 13-21446.001-R-1
PARCEL NO.: 28-12-310-045-0000

The parties of record before the Property Tax Appeal Board are Jeffrey Manley, the appellant; 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: \$ 1,922
IMPR.: \$12,778
TOTAL: \$14,700

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 2013 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 four years old, and consists of a two-story dwelling of frame and masonry construction containing 2,432 square feet of living area. Features of the home include a full unfinished basement, central air conditioning, a

fireplace and a two-and-a-half-car garage. The property has a 7,688 square foot site and is located in the town of Markham, Bremen 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. In support of this argument, the appellant submitted: evidence disclosing the subject property was purchased on May 10, 2013 for a price of \$147,000; a color photograph of the subject; a real estate contract dated September 4, 2012 with a short sale addendum and amendment of closing date; a settlement statement dated May 10, 2013; and a mortgage pay-off letter. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The appellant testified that the subject is in the town of Markham, but the comparable properties submitted by the board of review were in the town of Posen. Upon cross-examination, the appellant testified the subject was listed for sale for \$105,000 on the realtor's website but that due to a competitive market, he offered and finally purchased the subject for \$147,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$21,670. The subject's assessment reflects a market value of \$216,700 or \$89.10 per square foot of living area, when using the board of review's indicated size of 2,432 square feet and when using the Cook County Assessor's level of assessment of 10% for class 2 property as determined by the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on four suggested equity comparables.

The board of review also offered into evidence a one-page print-out from the Multiple Listing Service website disclosing: the listing price of the subject was \$105,000; the subject was on the market for 12 days and was sold for \$147,000 as a short sale. The print-out was admitted into evidence as BOR Hearing Exhibit #2. Upon cross-examination, the board of review confirmed none of its comparable properties were recent sales.

In rebuttal, the appellant submitted a brief in which he argued the comparables from the board of review were located in the town of Posen, not the town of Markham where the subject is located, and that three of those comparables were older than listed on the board of review Notes on Appeal-Grid Analysis. In

support, the appellant appended print-outs of the board of review comparables from the Cook County Assessor website.

At hearing, the board of review's representative objected that the appellant's rebuttal evidence was untimely, and offered into evidence a two-page print-out from the Board's website disclosing the appellant's rebuttal evidence was received by Board on December 4, 2014 with a transaction date of December 10, 2014. The print-out was accepted into evidence as BOR Hearing Exhibit #1. The objection was entered and taken under advisement. The record of evidence disclosed the appellant was notified by the Property Tax Appeal Board via regular mail dated November 5, 2014 that he had 30 days in which to submit rebuttal evidence. The rebuttal evidence was delivered to the Board via regular mail post-marked December 2, 2014 and was stamped "received" on December 4, 2014.

Conclusion of Law

The Board overrules the board of review's objection to the admission of the appellant's rebuttal evidence. The Official Rules of the Property Tax Appeal Board provide "[p]etitions, evidence, motions, and all other written correspondence sent by United States Mail to the Property Tax Appeal Board shall be considered filed as of the postmark date..." 86 Ill.Admin.Code §1910.25(b). The record contains a November 5, 2014 letter mailed from the Board notifying the appellant that he had 30 days from the date of that letter in which to submit rebuttal evidence. The record further contains the envelope in which the appellant mailed the rebuttal evidence to the Board and on which the post-mark of December 2, 2014 is stamped. The rebuttal evidence is stamped "received" December 4, 2014. A careful examination of the 2014 calendar discloses the appellant timely filed his rebuttal evidence. The board of review's own evidence, admitted as BOR Hearing Exhibit #1, plainly discloses the appellant's rebuttal evidence was timely received by the Board on December 4, 2014. The board of review apparently confuses the term "transaction date" for the date of timely filing.

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 has met this burden of proof and a reduction in the subject's assessment is warranted.

In addressing the appellant's market value argument, the Board finds that the sale of the subject in May 10, 2013 for \$147,000 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)).

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties. Although the appellant's recent sale appears to have been a compulsory sale, it does reflect the fair market value based upon all evidence submitted prior to and at hearing.

The Board finds the best evidence of market value to be the purchase of the subject property in May, 2013 for a price of \$147,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing: the parties to the transaction were not related; the property was sold using a Realtor; the property had been

advertised on the open market, the Multiple Listing Service and various other websites; and it had been on the market for nine months. In further support of the transaction, the appellant submitted a copy of the sales contract and the settlement statement. The Board finds the board of review did not present any evidence to refute the contention that the purchase price was not reflective of market value. In contrast, the board of review's exhibit supports the appellant's assertion that the subject's purchase included all of the elements of an arm's-length transaction.

Based on this record the Board finds the subject property had a market value of \$147,000 as of January 1, 2013. Since market value has been determined, the Cook County Assessor's level of assessment of 10% for class 2 property as determined by the Cook County Real Property Classification Ordinance shall apply.

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

K. L. Ferr

Member

JR

Member

Mark Albino

Member

Jerry White

Acting 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: June 26, 2015

A. Portol

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.