



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

APPELLANT: M. Beckerman
DOCKET NO.: 11-01784.001-R-1
PARCEL NO.: 09-36-304-023

The parties of record before the Property Tax Appeal Board are M. Beckerman, the appellant, by attorney Joseph Spillane, of the Law Offices of Michael R. Davies, Ltd. in Oak Lawn; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$69,130
IMPR: \$130,870
TOTAL: \$200,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage 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 consists of a part two-story and part one and one-half story dwelling of frame and brick construction with 3,291 square feet of living area. The dwelling was constructed in 1984. Features of the home include a partial unfinished basement, central air conditioning and a 617 square foot two-car

garage. The property has a 14,184 square foot site and is located in Burr Ridge, Downers Grove Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an Underwriter Quantitative Analysis Appraisal Report of the subject property prepared by Carolyn J. Drassler, a State Certified Residential Real Estate Appraiser.¹ The appraiser was not present at the hearing. Using only the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$555,000 as of June 23, 2010.

Under the sales comparison approach the appraiser utilized three comparable sales and two listings located in Burr Ridge, approximately .12 to .75-of a mile from the subject property. Two sales and the two listings are located in the subject's subdivision. The comparables were described as being improved with two-story dwellings that ranged in size from 2,941 to 3,641 square feet of living area. The dwellings were of frame or brick and frame exterior construction that ranged in age from 21 to 26 years old. Each comparable has a full or partial basement with four comparables having finished area. Features include central air conditioning, one or two fireplaces and a two or three-car garage.² Comparable #1 through #3 sold from July 2009 to June 2010 for prices ranging from \$555,000 to \$625,000 or from \$152.43 to \$212.51 per square foot of living area, land included. Comparables #4 and #5 are current listings for \$675,000 and \$525,000 or \$195.14 and \$147.55 per square foot of living area, land included, respectively.³ After making adjustments for differences from the subject property, the appraiser concluded the comparables had adjusted prices ranging from \$506,000 to \$589,300. Using this data the appraiser estimated the subject had an estimated value under the sales comparison approach of \$555,000.

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

The appellant's attorney called no witnesses.

¹ This report was based on an exterior inspection from the public street.

² The appraiser did not include construction type, central air conditioning or fireplaces in the appraisal report. This information was obtained through property record cards submitted by the board of review.

³ Comparable #4 has been on the market for 289 days. Comparable #5 has been on the market for 146 days.

At the hearing the board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The board of review objected that the appraisal did not contain a sketch of the subject. The board of review also objected that the appraisal was a "exterior only" appraisal. The Board reserved ruling on the objections

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$200,000. The subject's assessment reflects a market value of \$603,318 or \$183.32 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

Representing the board of review was member Charles Van Slyke. Van Slyke called Downers Grove Chief Deputy Assessor Joni Gaddis as a witness.

The board of review submitted a narrative report and a grid analysis detailing both parties' comparables which was prepared by Gaddis. The analysis disclosed that appellant's comparable #4 sold in June 2011 for a sale price of \$565,000 or \$163.34 per square foot of living area, land included. Gaddis testified that there are 89 properties in the "BPV" neighborhood and only seven have sold. Gaddis testified that comparable #1 was a vacant land sale. Comparables #2 through #5 were described as being improved with part one-story and part two-story or part two-story and part one-story dwellings that ranged in size from 3,134 to 3,856 square feet of living area. The comparables are located from .7-of a mile to 1.2 miles from the subject property. The dwellings were of frame and brick or brick construction and were built from 1981 to 1985. Each comparable has a full or partial unfinished basement, central air conditioning, one or two fireplaces and garages that range in size from 567 to 840 square feet of building area. Comparable #2 through #5 sold from February 2010 to March 2011 for prices ranging from \$570,000 to \$745,000 or from \$171.16 to \$200.38 per square foot of living area, land included.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination, Gaddis testified that her comparables were not in the same neighborhood code as the subject but were within the same market area as the subject. Gaddis also

testified that if possible it is better to have sales in the same neighborhood code as the subject.

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.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$555,000 as of June 23, 2010. The board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board hereby sustains the objection. The Board finds the appellant's appraiser was not present at the hearing to provided direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Based on this case law, the Board gives the conclusion of value contained in the appraisal no weight. The appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value. Furthermore, the appraisal was an "exterior only" appraisal. However, the Board will examine the

raw sales data contained in this record, including the sales in the appellant's appraisal.

The Board finds the record contains nine improved comparables submitted by the parties in support of their respective positions. The Board gave no weight to board of review comparable #1 based on this comparable being comprised of vacant land, dissimilar to the subject's improved property. The Board gave less weight to appellant's comparable #2 and #3. These sales occurred in July and October 2009 which are dated and less indicative of fair market value as of the subject's January 1, 2011 assessment date. The Board gave less weight to board of review comparables #4 and #5 due to their considerably larger dwelling size when compared to the subject. The Board finds the remaining five comparables are more similar to the subject in location, size, style and features. Due to these similarities the Board gave these five comparables more weight. These similar properties sold and were listed for sale, which sets the upper limit of value, from June 2010 to June 2011 for prices ranging from \$525,000 to \$685,000 or from \$147.55 to \$194.38 per square foot of living area including land. The subject's assessment reflects a market value of \$603,318 or \$183.32 per square foot of living area including land, which falls within the range established by the most similar comparables in this record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction in the subject's assessment is 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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: March 20, 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.