



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

APPELLANT: Stjepan Tisljar
DOCKET NO.: 11-02891.001-R-1
PARCEL NO.: 09-15-402-036

The parties of record before the Property Tax Appeal Board are Stjepan Tisljar, the appellant, by attorney Dennis M. Nolan, of Dennis M. Nolan, P.C. in Bartlett; 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: \$105,070
IMPR.: \$106,580
TOTAL: \$211,650

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-story dwelling of brick, stucco and frame exterior construction with 2,495 square feet of living area.¹ The dwelling was

¹ The appraisal lists the subject's design(style) as a split-level dwelling. The board of review submitted a property record card of the subject property

constructed in 1928 with additions and renovations in 1984 and 2000.² Features of the home include a partial basement with 75% finished area, central air conditioning, two fireplaces and a 1,611 square foot four-car garage. The property has an 81,778 square foot site and is located in Willowbrook, Downers Grove Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted a Residential Appraisal Summary Report of the subject property prepared by Jacob Bartlett, a State Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to provide testimony and be cross examined regarding the appraisal methodology and the final value conclusion. Using only the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$565,000 as of January 1, 2011.

Under the sales comparison approach the appraiser utilized five comparable sales located in Clarendon Hills, Westmont and Willow Brook. They were located approximately .22 to .46 of a mile from the subject property. The comparables have lots that range in size from 9,900 to 24,650 square feet of land area. The comparables were described as being improved with a split-level or two-story single family dwelling that ranged in size from 2,003 to 5,541 square feet of living area. The dwellings were of brick and frame or dryvit and stone construction that were built from 1950 to 1998. Each comparable has a basement ranging from 480 to 2,087 square feet with three comparables having finished area. Other features include central air conditioning, one or two fireplaces and a two or three-car garage. The comparables sold from March 2009 to December 2010³ for prices ranging from \$453,000 to \$591,000 or from \$92.38 to \$295.06 per square foot of living area, land included. After making adjustments to the comparables for differences when compared to the subject property, the appraiser concluded the comparables had adjusted sale prices ranging from \$521,500 to \$604,500. Based on these adjusted sales, the appraiser estimated the subject had an estimated value of \$565,000 under the sales comparison approach to value.

which contains a schematic drawing. The appraisal did not contain a drawing of the subject property.

² The subject has an effective age of approximately 1971.

³ The board of review's property record cards indicate appellant's comparable #1 and #2 sold in August 2010 and appellant's comparable #4 sold in July 2010 in contrast to the date of sale listed in the appraisal.

The appellant's attorney called no witnesses.

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 adjustment amounts for site and gross living area were too low. 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 \$211,650. The subject's assessment reflects a market value of \$638,462 or \$255.90 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 detailing both parties' comparables which was prepared by Gaddis. Two comparables used by the board of review were also utilized by the appellant's appraiser. Gaddis testified that comparable #4 and #5 were vacant land sales. Comparable #1, #2 and #3 were described as being improved with a part one-story and part two-story; 1.5-story; and a part one-story and part 1.5-story single family dwellings that ranged in size from 2,003 to 2,619 square feet of living area. The dwellings were of frame or brick construction and were built from 1951 to 1976. Each comparable has a full or partial basement with two comparables having finished area, one or two fireplaces and garages that range from 528 to 672 square feet of building area. Comparable #1 through #3 sold in July 2010 or August 2010 for prices ranging from \$455,000 to \$930,000 or from \$226.59 to \$355.10 per square foot of living area, land included. The board of review requested confirmation of the assessment.

Under cross-examination Gaddis testified that the subject property is older than the comparables submitted, but the subject property had additions in 1984 and 2000, resulting in an effective age of approximately 1971. Gaddis agreed she used two comparable properties contained within the appraisal. Gaddis also testified the field personal made an interior inspection of the subject in 2000.

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 \$565,000 as of January 1, 2011. 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. 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 six improved comparables submitted by the parties in support of their respective

positions. The Board gave no weight to board of review comparables #4 and #5 based on these comparables being comprised of vacant land when the subject is an improved property. The Board gave less weight to the appellant's comparable #5 based on its considerably larger dwelling size when compared to the subject and because it sold 17 months prior to the January 1, 2011 assessment date. The Board finds the remaining five comparables are more similar to the subject in location, size and features. Due to these similarities the Board gave these five comparables more weight. These similar properties sold from June 2010 to August 2010 for prices ranging from \$453,000 to \$930,000 or from \$160.98 to \$355.10 per square foot of living area including land. The subject's assessment reflects a market value of \$638,462 or \$255.90 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.