



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

APPELLANT: David Hardman
DOCKET NO.: 11-31757.001-R-1
PARCEL NO.: 07-28-313-035-0000

The parties of record before the Property Tax Appeal Board are David Hardman, 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: \$ 6,583
IMPR.: \$ 32,103
TOTAL: \$ 38,686

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 2011 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a one-story dwelling of masonry construction with 2,488 square feet of living area. The dwelling is 22 years old. Features of the home include a partial unfinished basement, central air conditioning, a fireplace, and a two-car garage. The property has an 11,970 square foot site and is located in Schaumburg, Schaumburg Township, Cook County. The subject is classified as a class 2-04 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 an appraisal estimating the subject property had a market value of \$235,000 as of May 25, 2010. The appellant also submitted evidence disclosing the subject property was purchased in June 2010 for a price of \$224,500 pursuant to a foreclosure. Evidence in support of this purchase included: a contract signed by the appellant as purchaser; a fully executed settlement statement; and an affidavit from Kate Shields, the appellant's realtor, detailing the subject's market history. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review-Notes on Appeal" disclosing the total assessment for the subject of \$38,686. The subject's assessment reflects a market value of \$407,650, or \$163.85 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for class 2 property of 9.49% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on three equity/sales comparables. The board of review also submitted evidence disclosing the subject property was purchased on June 2010 for a price of \$224,500 pursuant to a foreclosure.

In written rebuttal, the appellant reiterated his market value argument and indicated the board of review's comparables are unadjusted, specifically in regards to: proximity to the subject; square footage of living area; and lot size. He argued that the board of review's evidence is weak and inferior in comparison to his appraisal and realtor affidavit.

At hearing, the appellant tendered a bar graph indicating the subject's 2010 and 2011 market values as established by the assessor and board of review, and the market values based on his purchase price and appraisal (Appellant's Hearing Exhibit "A").

The appellant then called Kate Shields, a real estate broker with John Greene Realtor, to testify as to the subject's sale history. Ms. Shields testified that: she was a real estate broker involved in this transaction; the subject property was a foreclosure sale whose offer was accepted after negotiation; the appellant made an offer to purchase the subject property in March 2010 and closed on the property in June 2010; and that the

subject property "needed a lot of work" as it had water leaks, old cabinets, and old carpeting.

The appellant then continued with his case-in-chief by discussing the appraisal that he had previously submitted into evidence. Mr. Hardman tendered a color-coded map identifying the proximity of the appraisal's sale comparables and the board of review's sale comparables to the subject property (Appellant's Hearing Exhibit "B") as well as a listing of the addresses, permanent index numbers and distance in miles of the appraisal data in relation to the subject property (Appellant's Hearing Exhibit "C").

On cross-examination, the board of review's representative, Lester McCarroll, indicated that page one of the appraisal states, "The home is being purchased from a bank and was previously foreclosed upon, and, therefore, may not represent a typical arm's-length transaction." Mr. McCarroll also argued that the five comparables used in the appraisal are not similar in size to the subject. While the subject property contains 2,488 square feet of living area, comparables one through three range from 1,060 to 1,450 square feet, while comparables #4 and #5 contain 1,928 and 2,458 square feet of living area, respectively. Also, comparables #1 through #4 range in gross adjustments from 18.6% to 24.5%. The appraiser was not present at the hearing to provide testimony regarding these large adjustments.

The appraisal also indicated: the subject was previously purchased in August 2006 for \$475,000; the appraiser could not locate a ranch style home with similar gross living area; comparable #5 differs as it is a two-story structure; the appraiser's radius was expanded to include ranch-style homes; comparable #3 was an "estate sale - sold as is" and may not have been a typical arm's-length transaction; comparable #4 has many feature differences and may not be an ideal comparable and little consideration was given to this comparable in the final determination of value; and comparable #5 was a foreclosure sale. The appraised value of the subject, \$235,000, was slightly higher than the purchase price of \$224,500.

On redirect, the appellant argued that the reason an appraiser makes adjustments is to account for any differences between the subject and comparables.

During the board of review's case-in-chief, the board's representative noted that the board's comparables #1 and #2 are

located in the subject's neighborhood, while comparable #3 is a September 2010 sale which is recent in time to the valuation date.

On cross-examination, the appellant argued that the board of review's comparables are flawed as they vary in lot size and number of bedrooms as compared to the subject property. Additionally, he argued comparable #1 is a 2008 sale which is too distant in time from the valuation date to be a reliable indicator of the subject's market value as of January 1, 2011. Mr. Hardman then tendered "Appellant's Hearing Exhibit "D", a copy of the board of review's grid analysis. It highlights the comparables' proximity to the subject, variances in bedroom count, and the 2008 sale.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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). "[A] contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, (citations) but would be practically conclusive on the issue of whether an assessment was at full value." People ex rel. Korzen v. Belt Ry. Co. of Chi., 37 Ill. 2d 158, 161 (1967).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in June 2010 for \$224,500 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.

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, 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 price was representative of the subject's fair cash value. Calumet Transfer, 401 Ill. App. 3d at 655-56.

In this case, the appellant submitted an appraisal completed for financing purposes to support that the sale of the subject in June 2010 for \$224,500 was at its fair cash value. However, 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, and in this case, as to adjustments made regarding gross living area, location, conditions of sale and features.

The board will, however, examine the unadjusted sales comparables submitted by the parties. The parties submitted eight unadjusted sales comparables into evidence. No weight was given to the appellant's comparables #3, #4 and #5 due to their conditions of sale and lack of similar features to the subject, as noted in the appraisal. The Board also gave less weight to the board of review's comparables #1 and #3 due to age of sale or lack of proximity to the subject. The Board finds the best comparables contained in the record are the appellant's comparables #1 and #2 and the board of review's comparable #2. The unadjusted sales comparables submitted by the parties range from \$158.27 to \$224.43 per square foot, including land. The subject's current assessment reflects a market value of \$163.85 per square foot, including land, which is within the range of these comparables.

As the subject's foreclosure sale price of \$224,500 reflects a market value of \$90.23 per square foot, including land, the Board notes that it is well below that of the most similar comparables contained in the record and is therefore not reflective of the market. Accordingly, after considering the similarities and differences between the subject and the best comparables contained in the record, the Board finds that a reduction in assessment is not warranted based on overvaluation.

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. Cuit

Chairman

K. L. Fen

Member

Tracy A. Huff

Member

Mario Morris

Member

JR

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. Portal

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.