



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

APPELLANT: Neil Fern
DOCKET NO.: 16-21271.001-R-1
PARCEL NO.: 01-07-101-010-0000

The parties of record before the Property Tax Appeal Board are Neil Fern, the appellant(s); and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, 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: \$16,988
IMPR.: \$60,512
TOTAL: \$77,500

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 2016 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 two-story, single-family dwelling with frame and masonry exterior construction. The approximately 36-year old dwelling includes amenities such as: a full basement, four full and two half-baths, two fireplaces, and a four-car garage. The property has an 226,512 square foot site and is located in Barrington Township, Cook County. The subject is classified as a class 2, residential property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends that the assessor has incorrectly indicated the subject's improvement size and that there is overvaluation as the bases of the appeal. As to the subject's improvement size, the appellant's grid sheet and appraisal state that the subject's improvement contains 5,800 square feet. In addition, the appellant submitted a copy of the subject's property record card which was initialed and dated May 6, 2016 as well as a county assessor 'building record

residential' form. Both reflect that the subject's improvement contains 6,104 square feet of living area. Lastly, the appellant submitted a copy of the subject's property characteristic printout from the county assessor website that states the size of the improvement as containing 6,697 square feet.

At hearing, the appellant stated that he believes the subject had been accorded an incorrect increased assessment from one triennial reassessment period to the next. In addition, he testified that the subject property was advertised for sale in 2016 for \$775,000. He also stated that the assessor's building department examined the subject in 2016 correcting the improvement's square footage to 6,104 square feet, but that the assessor's website had not been updated to reflect the square footage correction until the 2018 tax year.

In support of the overvaluation argument, the appellant initially submitted descriptive, assessment, and sales data on four properties. The sales were located within a five-mile radius of the subject and were improved with a two-story, single-family dwelling of either frame, masonry, or frame and stone exterior construction with basement area. They ranged: in age from 15 to 134 years; in bathrooms from four to seven; in fireplaces from one to three; in garage area from two to four cars; in improvement size from 4,490 to 6,000 square feet of living area; and in improvement assessments from \$14.52 to \$18.68 per square foot. The properties sold from April, 2015, to August, 2016, for prices that ranged from \$122.83 to \$179.84 per square foot. The grid sheet also identifies added improvements on each property: sale #1 contains a pool with a separate pool house; sale #2 contains a separate guest house; sale #3 contains a six-stall barn with plumbing and heating; and sale #4 contains a gourmet kitchen with commercial appliances. In support of this data, the appellant submitted copies of each sale's property characteristic printout from the assessor's website. As to the subject, this grid sheet indicated that there was a 2012 rehabilitation and addition.

Further, the appellant submitted an appraisal estimating the subject property had a market value of \$775,000 as of an effective date of January 1, 2016 prepared by Chris Walsh (hereinafter the Walsh appraisal). This Walsh appraisal indicated that the subject was owner-occupied, while the subject's improvement contained 5,800 square feet of living area. The sales comparison approach was developed using four sale properties. They were located within a four-mile radius of the subject and were improved with a two-story, single-family dwelling with basement area. They ranged: in age from 31 to 68 years; in bathrooms from four to six; in fireplaces from three to five; in garage area from three to four cars; and in improvement size from 4,194 to 7,199 square feet of living area. Added improvements were identified as: sale #1 contained a pool and coach house, while sales #2 and #4 contained a full walk-out basement. The properties sold from November, 2014, to March, 2016, for prices that ranged from \$117.43 to \$185.16 per square foot.

At hearing, the appellant did not call his appraiser as a witness.

The board of review's representative raised a hearsay objection not to the timeliness of the appellant's evidence submission, but to the fact that the preparer of the appraisal was not being called as a witness in this proceeding.

The Board sustained the board of review's hearsay objection and explained to the appellant that the appraisal was in evidence, but that the Board would not accord any weight to the adjustments and conclusions within the report due to the absence of the preparer to be examined regarding the methodology used therein. However, the Board indicated that the raw sales data submitted on the four suggested sale comparables within the appraisal would be considered.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$132,238. The subject's assessment reflects a market value of \$1,322,380 or \$197.46 per square foot of living area, using 6,697 square feet, when applying the 10% level of assessment for class 2, residential property under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted descriptive, assessment, and sales data on four suggested sale comparables. The properties were improved with a two-story, single-family dwelling of frame, masonry or frame and masonry exterior construction. They ranged: in age from 4 to 48 years; in bathrooms from four to five; in fireplaces from one to two; in garage area from three to four cars; in improvement size from 5,033 to 5,888 square feet of living area; and in improvement assessments from \$16.72 to \$23.19 per square foot. The properties sold from June, 2014, to September, 2015, for prices that ranged from \$232.68 to \$268.23 per square foot.

At hearing, the board of review's representative rested on the written evidence submissions.

In written rebuttal, the appellant distinguished the board of review's properties from the subject. Specifically, he stated that sale #1 was the only board's sale located in Barrington Hills as is the subject while it is sited on a cul de sac across from the Barrington Hills Country Club and on the Riding Club of Barrington Hills trail system; sale #2 is located in South Barrington with added improvements including a pool, pond, and in-law arrangement; sale #3 is located in South Barrington in a gated subdivision; and sale #4 is located in South Barrington and is a brand-new home in a newer subdivision. He also noted variances in each properties' amenities. In support of these assertions, the appellant submitted copies of multiple-listing sheets for the board of review's sales. Further, the appellant submitted an appraisal of the subject property with a market value of \$717,000 and an effective date of February 24, 2018.

At hearing, the appellant asserted that the board of review granted the subject property a reduction in assessment for tax year 2017, which he stated was the second year of the subject's triennial reassessment period. In support of this assertion and over the objection of the board of review's objection, the appellant submitted a copy of the Cook County board of review's decision for the tax year 2017 indicating a total assessment of \$77,500. This document was marked for the record as Appellant's Hearing Exhibit #1.

Thereafter, the appellant reiterated the variances of comparability between the subject property and the board of review's comparables which were previously submitted in writing as the appellant's written rebuttal evidence. Upon examination, the appellant testified that the subject property does not contain any additional improvements, amenities, or scenic view, but that it abuts Algonquin Road which is a busy thoroughfare. As to the subject's lot size, the appellant

testified that the building code in Barrington Hills requires a minimum of a five-acre lot and that anything less than that is substandard.

Conclusion of Law

Initially, the Board notes that the appellant submitted a new appraisal with an effective date in 2018 into evidence as part of the appellant's rebuttal evidence.

As to this part of the appellant's written rebuttal, Section 1910.66(c) of the official rules of the Property Tax Appeal Board states that

rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties...a party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. 35 ILCS 200/16-180.

Therefore, the Board shall not accord any weight to the appellant's subsequent new evidence in the form of a 2018 appraisal submitted in the guise of rebuttal evidence.

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

First, the Board notes that the appellant's pleadings and 2016 Walsh appraisal identified the subject's improvement as containing 5,800 square feet of living area. The appellant also submitted a copy of the subject's property record card which was initialed and dated May 6, 2016 as well as a county assessor 'building record residential' form. Both reflect that the subject's improvement contains 6,104 square feet of living area. Lastly, the appellant submitted a copy of the subject's property characteristic printout from the county assessor website that states the size of the improvement as containing 6,697 square feet. The board of review's pleadings reflect the subject's size as 6,697 square feet. The Board finds that the best evidence of the subject's improvement size was the assessor's property record card and 'building record' form; therefore, the subject's improvement contains 6,104 square feet of living area.

Second, in viewing the totality of the market value evidence, the Board finds that the appellant failed to call as a witness the appraiser whose work product was submitted. Specifically, the appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the opposing party and the Board. 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

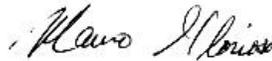
appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appellant's appraisal as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of size and/or value are given no weight. However, the Board will consider the raw sales data submitted by the parties.

In totality, the parties submitted 12 suggested comparables. The Board finds that a tenet of the sales comparison approach is based upon the principle of substitution. In reviewing the extensive data on the proposed sale comparables and due to a disparity in comparability based upon property location and added improvements of a highly luxurious nature and vast array, the Board accorded minimal weight to 8 properties. The parties failed to submit a detailed breakdown of what improvement assessments were applicable to each sales' additional land improvements, such as a pool, two-story pool house, coach house, guest house and/or stable. Therefore, the Board finds that the best evidence of market value to be the *appellant's comparable #4, the Walsh appraisal sales #2 and #3 as well as the board of review's comparable #1*. These four comparables were all located within the same town of Barrington Hills as is the subject. They are improved with a two-story, single-family dwelling of either frame or masonry exterior construction. The improvements ranged: in age from 31 to 48 years; in fireplaces from two to five; in garage area from three to four cars; and in improvement size from 5,033 to 7,199 square feet of living area. These comparables sold from June, 2014, through August, 2016, for unadjusted prices ranging from \$117.43 to \$268.23 per square foot of living area. The subject's assessment reflects a market value of \$216.64 per square foot, using 6,104 square feet of living area, which is within the range established by the best comparable sales in the record.

However, the Board also finds that the undisputed evidence and testimony reflects that the board of review accorded an assessment reduction to the subject in the second year of the subject's triennial reassessment period, which is the 2017 tax year, to reflect a total assessment of \$77,500. This assessment reflects a market value for the subject of \$126.97 per square foot of living area. Since the Board is mandated to render a decision based upon equity and the weight of the evidence, the undisputed evidence in this appeal dictates a reduction that coincides with the 2017 total assessment indicated on the board of review's decision. This reduced total assessment represents a market value that is within the range established by the best sales in this record. Therefore, the Board finds that a reduction in the subject's market value *is* justified.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member



Member

Member

DISSENTING: _____

CERTIFICATION

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 13, 2019



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

AGENCY

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