



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

APPELLANT: Donald Baggio
DOCKET NO.: 16-21852.001-R-1
PARCEL NO.: 01-01-111-008-0000

The parties of record before the Property Tax Appeal Board are Donald Baggio, 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: \$ 4,138
IMPR.: \$28,169
TOTAL: \$32,307

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, multi-family dwelling with frame exterior construction. The approximately 120-year old dwelling includes amenities such as: a full basement, two full baths, and two apartments therein. The property has an 8,712 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 basis of the appeal. As to the subject's improvement size, the appellant submitted a copy of a plat of survey signed and dated on July 23, 2012 as well as six color photographs of the subject's interior or exterior. At hearing, the appellant testified that he obtained the survey on or about the time that he purchased the house in July, 2012 and that he has not made any improvements to the property since that purchase. Further, he testified that he

took the photographs between 2013 thru 2017 with the only change being that the outside of the house was painted. The photographs reflect a broken gutter, a front door with worn out door, a living room ceiling with missing plaster and cracks, a bathroom with galvanized piping and worn or missing tiles, a basement with cracks in the south wall's foundation, and the east side exterior foundation with cracks therein. He testified that all of these photographs reflect the subject property as of the assessment date of January 1, 2016.

In support of the overvaluation argument, the appellant initially submitted data indicating that the subject had been purchased in July, 2012 for a price of \$174,000. The pleadings reflect that the parties to the sales were not related; that the subject had been advertised on the open market; that the property was sold with a contract for deed; and that a seller's mortgage was not assumed.

In addition, he submitted an appraisal estimating the subject property had a market value of \$260,000 as of an effective date of January 11, 2016. The appraisal indicated that the subject was owner-occupied, while the subject's improvement contained 1,940 square feet of living area. The cost and sales comparison approaches were undertaken, while the latter reflected three sales and two listing properties. The three sale properties were located within a four-block radius of the subject and were improved with a two-story, multi-family dwelling of frame exterior construction with two apartments. They ranged in age from 58 to 114 years and in improvement size from 1,792 to 2,797 square feet of living area. Two properties contained basement area, while only property #3 included a two-car garage. The properties sold from December, 2013, to November, 2016, for prices that ranged from \$83.66 to \$156.93 per square foot.

At hearing, the appellant testified that he was aware that the purchase was not an arm's length transaction, but he did detail the negotiations that transpired with the seller-bank. He also stated that the improvement was in poor condition and in need of repairs and upgrades. He testified that he was able to repair a portion of the basement and paint the house; however, he indicated that in Barrington there are two types of properties: those that are fully upgraded and those that are 120 years old and not upgraded. He testified that the subject falls in the latter category with old galvanized pipes, poor electrical wiring, and lack of plaster. He also testified that there are some serious issues with the building's foundation which he believed was less than fixable.

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. On this point, the appellant indicated that the appraiser had sent him a letter stating that she was unavailable and would be out of state for two months.

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 three suggested sale comparables within the appraisal would be considered.

The appellant then testified that there are really no sales that compare to the subject. He stated that even though it is a two-flat, only he and his daughter reside therein.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$39,037. The subject's assessment reflects a market value of \$390,370 or \$192.68 per square foot of living area, using 2,026 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 two suggested sale comparables. The properties were located within two-block radius of the subject and were improved with a two-story, multi-family dwelling of frame exterior construction, basement area and a two-car garage. They ranged: in age from 113 to 128 years; in improvement size from 2,424 to 2,592 square feet of living area; and in improvement assessments from \$18.41 to \$20.65 per square foot. The properties sold from May, 2013, to November, 2015, for prices that ranged from \$247.52 to \$260.42 per square foot.

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

In written rebuttal, the appellant stated that he had purchased the subject as a foreclosure property even though it had been advertised on the open market for about five months. He also stated that he had appraisals completed on the subject in 2013 and 2016. As to the board of review's properties, the appellant's rebuttal included copies of Redfin printouts on the board of review's property #1. The printouts state that this property is improved with a two-story, single-family dwelling of Victorian style which is listed for sale at a price of \$589,000. The multiple, color photographs and details state that it is "an idyllic Village home that is move-in ready with bay windows, gorgeous original millwork, impressive nine foot ceilings, glistening hardwood floors, newer white kitchen with granite, large island area, spacious dining area, and side porch". In comparison, the rebuttal includes copies of prior color photographs of the subject's interior and exterior, which reflect a small and dated bathroom, a patio and driveway in need of maintenance, as well as water leakage underneath window sills.

In further rebuttal at hearing, the appellant asserted again that the board's properties were far superior to the subject's improvement. He also stated that he thought it was unfair that even though he paid an appraiser to undertake an appraisal of the subject, he shouldn't be required to pay the appraiser to appear at the hearing.

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

Initially, the Board notes that the appellant's appraisal identified the subject's improvement as containing 1,940 square feet of living area. The appellant's plat of survey with supporting testimony indicate an improvement size of 1,958 square feet of living area. The board of review's pleadings reflect that the subject contained 2,026 square feet without further explanation. The Board finds that the best evidence of size was the appellant's signed and dated plat of survey which reflected 1,958 square feet of living area for the subject's improvement.

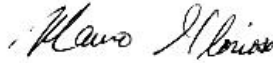
Second, in viewing the totality of the market value evidence, the Board finds that the appellant failed to call as a witness the appraiser whose work product was submitted. Specifically, the appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the 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.

The Board finds the best evidence of market value to be the *appellant's comparables #2 and #3 as well as the board of review's comparables #1 and #2*. These four comparables were located within a four-block radius of the subject property. The improvements ranged in age from 58 to 128 years and in improvement size from 1,792 to 2,797 square feet of living area. These comparables sold from May, 2013, through November, 2015, for unadjusted prices ranging from \$83.66 to \$260.42 per square foot of living area, including land. The subject's assessment reflects a market value of \$199.37 per square foot, using 1,958 square feet of living area, which is within the range established by the best comparable sales in the record. However, the undisputed evidence and testimony from the appellant, reflect that the top of the range is composed of sale comparables that either contain additional square footage or upgraded structures and amenities lacking deferred maintenance. In contrast, the low end of the sales range reflects properties that are of average to poor condition. Moreover, the Board finds that the undisputed plethora of evidence in the record indicates that the subject's improvement is also in fair to poor condition. Therefore, the Board finds that the subject's market value should be at the lower end of the sales range to accurately reflect the subject's condition, size and/or lack of

amenities. Based upon this evidence, the Board finds 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

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

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