

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: John Gembara
DOCKET NO.: 02-21820.001-R-1
PARCEL NO.: 23-10-401-077

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are John Gembara, the appellant, by Attorney Tom Battista with the law firm of Rock Fusco & Associates LLC in Chicago; and the Cook County Board of Review.

The subject property consists of a 19,479 square foot land parcel improved with a single-family dwelling containing amenities that is the subject of this appeal. The appellant's attorney appeared before the PTAB raising two arguments: first, that the improvement's size and amenities are incorrect; and secondly, that the fair market value of the subject was not accurately reflected in its assessed value.

The appellant's pleadings asserted that the improvement's size was 3,904 square feet without the subject's four-car garage. In support of this assertion, the appellant submitted a signed and dated plat of survey. In contrast, the board of review submitted copies of the subject's property characteristic printouts evidencing 5,308 square feet of living area. At hearing, the appellant's attorney indicated that the subject's garage was located toward the back of the structure and was integrated into the building according to the subject's plat of survey. The attorney also argued that the board of review's evidence reflects that the subject's improvement includes a four-car garage. He further asserted that he believed the standard garage area per car is 350 feet resulting in 1400 square feet of garage area. The board of review's representative argued that a mere estimate of the garage size is insufficient to sustain the assertion.

In support of the second argument, the appellant submitted copies of a statement for contractor and subcontractor to the owner and to Chicago Title Insurance Company; a copy of the City of Palos

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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:	\$	11,930
IMPR.:	\$	39,001
TOTAL:	\$	50,931

Subject only to the State multiplier as applicable.

PTAB/KPP

Hills temporary certificate of occupancy; a copy of the real estate contract; a copy of the subject's settlement statement; and a copy of the City of Palos Hills landscape bond. The statement for the contractor and the subcontractor is a two-page document with multiple columns identifying a vendor's name and address, kind of work, amount of contract, retention, previous payments, net amount of payment, and balance due. The columns are not totaled and the copies appeared to have certain portions near the bottom eliminated from the copies. Moreover, there is no signature page submitted along with the statement. The temporary certificate of occupancy issued on February 2, 2001 reflecting that landscape work needed to be completed. The real estate contract dated September 21, 1999 was between seller, Cathy Maylee, and buyer, John Farano Sr. or nominee, for a lot improved with a single-family residence for a purchase price of \$190,000. Moreover, this real estate contract contained an assignment from John Farano Sr. to John Gembara on October 15, 1999. The settlement statement reflects the subject's sale on October 15, 1999 of \$190,000 for both land parcels. The pleadings also included a copy of a check for \$130,000, while the last document reflected a landscape bond in the amount of \$5,000.

The attorney's brief indicated that the subject's owner developed the property by initially buying one acre of land and then subdividing the acre to distinguish a subject parcel containing 19,479 square feet. The brief stated that the cost of the entire plot of land was \$190,000 with the first payment of \$60,000 allocated to the subject's parcel and the remainder of \$130,000 allocated to the remainder of the land. The brief also indicated that JFG, Inc. constructed the subject's improvement for a cost of \$175,000. Thereby, the attorney asserted that the subject's land cost was \$60,000, improvement cost was \$175,000, resulting in a total cost of \$235,000.

At hearing, the appellant's attorney argued that the subject's land value was the allocated amount of \$60,000. He also advocated that using the \$190,000 land value for the entire acre and the 19,479 square feet for the subject would reflect a similar land value in determining the value per square foot. Moreover, as to the improvement value, the appellant's attorney had no personal knowledge of the total dollar amounts for the improvement's construction that were not reflected on the contractor's statement. Based on this analysis, the appellant felt that a fair a market value of \$235,000 was supported for the subject property as of the 2002 assessment date.

The board of review presented "Board of Review Notes on Appeal" wherein the subject's final assessment of \$50,931 was disclosed. A copy of the subject's property characteristic printout and printouts for three suggested comparables were also submitted. The equity comparables are located in the subject's neighborhood

and are improved with two-story, masonry and frame, single-family dwellings. They range in age from 13 to 38 years and in size from 1,985 to 4,144 square feet of living area. Amenities included air conditioning and a garage, while the improvement assessments ranged from \$7.32 to \$7.55 per square foot of living area. Total assessments ranged from \$23,396 to \$43,196.

At hearing, the board's representative asserted that the appellant's estimates of value were unsupported and that equity evidence supports the subject's current assessments. Based on its analysis, the board of review requested confirmation of the fair market value of the subject as of the assessment date.

In rebuttal, the appellant's attorney argued that the board of review failed to address the appellant's market value argument, while he readily admitted that there is no definitive size for the subject's garage area, but only an estimate. However, he argued that estimating garage area is standard in the assessing industry and that the appellant should not be unduly taxed for the undisputed garage area.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. See National City Bank of Michigan/Illinois v. Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002) and Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). 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. 86 Ill. Admin. Code 1910.65(c). Having considered the evidence and testimony presented, the PTAB finds that the appellant has not met this burden and that a reduction is not warranted.

As to the improvement's size, the PTAB finds that the appellant has failed to provide definitive proof of the building's size. The plat of survey is silent as to both the location of the building's garage and the size of said garage. Therefore, the PTAB finds that the board of review submitted the best evidence of improvement size reflecting 5,308 square feet.

As to the land value, the appellant initially asserts that the subject's value was the parties' allocation of \$60,000; however, a copy of this purchase check was not submitted. Secondly, the appellant asserts that the subject's land value could be derived by ascertaining the square foot value using the total sale price of \$190,000 and then applying that to the subject's square

footage of 19,479. Application of this methodology derives a land value estimate of \$84,734. Noting that each methodology denotes a different land value, the PTAB finds this argument unpersuasive.

As to the improvement's value, the PTAB further finds that there is no definitive documentation to support the appellant's assertion that the improvement's construction costs were \$175,000. The appellant's attorney indicated that a rough estimate of the contractor's statement reflected \$173,600. However, this statement contained only one entry for trim labor, while the remainder of the statement has no reference to labor costs. Furthermore, if the appellant developed the subject property, the appellant should have disclosed what labor, if any, was provided and/or whether the appellant acted as the general contractor. Therefore, the PTAB finds this value argument unpersuasive.

Based upon the evidence, the PTAB finds that the appellant has failed to demonstrate that the subject property is overvalued. Therefore, no reduction in the subject's value or assessment is warranted.

This is a final administrative decision of the Property Tax Appeal Board are 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.



Chairman



Member



Member



Member



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: September 28, 2007



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.