



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

APPELLANT: Val Sklarov
DOCKET NO.: 05-02293.001-R-3
PARCEL NO.: 16-14-403-007

The parties of record before the Property Tax Appeal Board are Val Sklarov, the appellant, by attorney Terrence Kennedy Jr., of Law Offices of Terrence Kennedy Jr. of Chicago and the Lake County Board of Review by Assistant State's Attorney Karen Fox.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Lake County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$475,558
IMPR: \$1,428,267
TOTAL: \$1,903,825**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 36,609 square foot parcel improved with a two-story style stucco dwelling that was built in 2002 and contains 8,316 square feet of living area. Features of the home include central air conditioning, five fireplaces, a full finished basement and a 1,096 square foot attached garage. The property is located in the city of Highland Park and on Lake Michigan, Moraine Township, Lake County.

Through his attorney, the appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted evidence claiming the subject dwelling had been poorly constructed, resulting in water damage and requiring replacement of the exterior façade and that also, a plumbing leak had damaged the dwelling. He argued that because of this damage, "the property was rendered uninhabitable during 2005 so that the owner

could repair the damage to the property prior to obtaining an occupancy permit." The appellant submitted no evidence in support of the claim that the subject dwelling was uninhabitable, or that the home contributed no value to the subject parcel. The appellant did not contest the subject's land assessment.

The appellant claimed he had acted as general contractor for the construction of the new home, which replaced an older dwelling that was razed after he purchased the subject in 1999. The appellant submitted numerous statements and receipts from various subcontractors in support of his claim that the total cost to construct the new subject dwelling was approximately \$2,530,747. The appellant argued the new home had not been occupied since its construction and that a certificate of occupancy was not issued until March 30, 2006. The appellant also contends that since the Lake County Board of Review makes adjustments to some commercial properties for vacancy, it ought also to remove the improvement assessment for the subject for the 2005 assessment year. The appellant acknowledged that the subject sold in May 2006 for \$5,750,000, but contends this should not be considered for the subject's January 1, 2005 assessment date at issue in this appeal. Based on this evidence the appellant claimed the subject's improvement assessment should be removed for 2005.

During cross examination, the appellant acknowledged the subject was listed for sale or rent in 2002, 2003 and 2004, that the MLS listing may have indicated the subject was new and ready for occupancy and that the appellant did not request a certificate of occupancy until 2006.

The board of review submitted its Board of Review Notes on Appeal wherein the subject's total assessment of \$1,981,616 was disclosed. The subject has an estimated market value of \$5,984,947, as reflected by its assessment and Lake County's 2005 three-year median level of assessments of 33.11%.

In support of the subject's assessment, the board of review submitted a grid analysis detailing three equity comparables. The comparables consist of two-story style dwellings of stone and stucco, brick and frame, or stone and frame exterior construction that range in age from 1927 to 2003 and range in size from 7,862 to 9,357 square feet of living area. Features of the comparables include four to seven fireplaces and full or partial basements, two of which have finished areas of 115 and 3,338 square feet. Two comparables were reported to have central air conditioning and two have garages that contain from 880 to 936 square feet of building area. These properties have improvement assessments ranging from \$960,414 to \$1,515,376 or from \$122.16 to \$161.95 per square foot of living area. The subject has an improvement assessment of \$1,506,058 or \$181.10 per square foot of living area. The board of review submitted no comparable sales or other market evidence to refute the appellant's overvaluation argument.

During the hearing, the board of review called chief county assessment officer and clerk of the board Martin Paulson as a witness. Paulson testified the board of review decided to conduct a reassessment of properties in Moraine Township that lie on Lake Michigan. When the subject property was viewed, the board realized it had no improvement assessment associated with the new "high valued" property. Paulson testified "we did an exterior inspection and got a pretty good look inside the windows. [We] went around back to check the rear of the property that faced the lake. We were able to see clearly into the lower level where we saw furniture, TV, treadmill, et cetera, and we were able to then from the front get up high enough to be able to look in and get an idea of the quality of construction on the property."

Paulson further testified the subject dwelling appeared fit for occupancy and that a check of the multiple listing service disclosed that the subject "had been marketed for some time." Based on these factors, Paulson testified ". . .we should be valuing the property at its full market value." This resulted in a revision of the subject's 2005 assessment to include the new dwelling. Regarding the appellant's request that the board of review grant an assessment reduction based on the subject's vacancy, Paulson testified "The Lake County Board of Review does not do that on residential property." Regarding the uniformity issue, the witness acknowledged the subject's improvement assessment falls above the three comparables submitted by the board of review, but that it is justified because the subject has a full walkout or "English" basement which was "fully improved." This feature added \$28.58 per square foot and is incorporated in the subject's \$181.10 improvement assessment. Paulson also testified board of review personnel visited the subject five times over a three month.

When asked by the Hearing Officer if the construction costs as detailed by the appellant in his evidentiary submission are sufficient evidence of market value, Paulson replied it "certainly does not represent it (market value) when the general contractor is the principal and subject owner." When the Hearing Officer asked Paulson if the subject's 2006 sale would have any bearing on the subject's 2005 assessment, the witness replied "Absolutely it would."

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject property's assessment is warranted. 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. National City Bank of Michigan/Illinois v. Illinois

Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board gave little weight to the board of review's equity comparables because the appellant did not argue unequal treatment in the assessment process as a basis of the appeal. The equity comparables fail to address the appellant's overvaluation argument.

The Board initially finds the appellant submitted significant evidence documenting the construction costs related to the new subject dwelling, but did not submit evidence of the overhead and profit, or a fee normally associated with a general contractor. The Board finds the subject was constructed in 2001 and 2002 and that the reported construction costs cannot be relied on to support a reduction in the subject's 2005 improvement assessment. The appellant acknowledged the subject had been listed for sale or rent for 2002, 2003 and 2004. The Board finds the appellant's contention that the subject improvements have no value because the home was vacant during the assessment year in question is without merit. Paulson testified the Lake County Board of Review does make adjustments to vacant commercial properties, but not to residential properties. The Board further finds that while the appellant contends repairs to the new home were necessary because of water leaks and a plumbing problem, he submitted no credible evidence that these deficiencies negatively impacted the subject's marketability or its value. The Property Tax Appeal Board finds the appellant's claim that the subject was uninhabitable is a gratuitous assertion lacking evidentiary support. The Board thus finds the appellant has failed to support his overvaluation claim based on recent construction and/or loss in value because of damage purportedly caused by construction deficiencies or vacancy.

However, the Board further finds the subject sold in March 2006 for \$5,750,000. From a review of the evidence, the Board finds the subject's sale appears to be of an arm's-length nature. The evidence and testimony disclosed the subject property was advertised for sale or rent on the open market for 2002, 2003 and 2004. The Illinois Supreme Court defined fair cash value as "what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so." Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428, (1970). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and is practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc, 45 Ill.2d 338 (1970), People

ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill.424 (1945). When asked by the Hearing Officer whether the 2006 sale of the subject would have any bearing on the subject's 2005 assessment, Paulson replied "Absolutely it would." The appellant did not dispute Paulson's opinion, nor did he submit evidence that the subject's 2005 market value differed from that represented by the 2006 sale. The Property Tax Appeal Board finds the best evidence of the subject's 2005 market value is the property's March 2006 sale for \$5,750,000. Since the subject's estimated market value as reflected by its assessment is \$5,984,947, a reduction in the subject's assessment is warranted. Therefore, the Board finds the subject's market value for the 2005 assessment year is \$5,750,000. Since market value has been established, the 2005 Lake County three-year median level of assessments of 33.11% shall apply.

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. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn P. Lerbis

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: January 26, 2010

Allen Castrovillari

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.