

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Curt Galbraith
DOCKET NO.: 06-01752.001-R-1
PARCEL NO.: 01-26-475-004

The parties of record before the Property Tax Appeal Board are Curt Galbraith, the appellant, and the DeKalb County Board of Review.

The subject property consists of 13,725 square feet of land area and has been improved with a two-story, frame exterior constructed dwelling built in 2003 with foundations of both a crawl space and a partial, unfinished walkout basement of 900 square feet of building area. The dwelling consists of 2,836 square feet of living area and features central air conditioning, a fireplace, and an attached three-car garage of 600 square feet of building area. The subject property is located in Kirkland, Franklin Township, Illinois.

The record in this appeal contains evidence provided by the appellant suggesting that the fair market value of the subject property is not accurately reflected in its assessed valuation. In the Residential Appeal Form, appellant reported the subject property was purchased in April 2003 for \$283,684 or \$100.03 per square foot of living area including land. Based upon its 2006 total assessment of \$83,333, the subject has an estimated market value of \$250,099 or \$88.19 per square foot of living area including land, as reflected by DeKalb County's 2006 three-year median level of assessments of 33.32%.

In support of the overvaluation claim, appellant filed an appraisal with the Property Tax Appeal Board prepared by Randy Ledbetter of Aegis Appraisal in Carol Stream, Illinois. The appraiser, a certified residential real estate appraiser in the State of Illinois noted the appraisal assignment was for a tax appeal. The appraiser used two of the three traditional approaches to value in concluding an estimated market value of \$232,000 for the subject property as of December 7, 2006.

Under the cost approach, the appraiser estimated the subject's land value at \$15,000 with a notation that due to a lack of comparable lot sales in the area, the allocation method was used

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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 DeKalb County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	13,088
IMPR.:	\$	64,214
TOTAL:	\$	77,302

Subject only to the State multiplier as applicable.

to determine land value. Using the Marshall Swift Cost Book, the appraiser determined a reproduction cost new for the subject dwelling, with basement, fireplace, and patio/deck along with the garage of \$226,340. A 3% physical depreciation was calculated using the age/life method based on observed physical deterioration resulting in a depreciated value of improvements of \$219,550. The appraiser added the land value to the depreciated improvement value resulting in a total value by the cost approach of \$234,600, rounded.

Under the sales comparison approach, the appraiser made initial notations that there were eight comparable properties currently offered for sale in the subject's neighborhood ranging in price from \$195,000 to \$265,000. Moreover, he noted there were seven comparable sales in the subject's neighborhood in the preceding twelve months ranging in sale price from \$198,000 to \$263,500.

In the sales grid analysis, the appraiser presented three sales and one listing of comparable dwellings located between 0.10 to 1.1 miles from the subject. The comparables consist of two-story dwellings which were 2 to 6 years old. Exterior construction was not specified, but photographs appear to depict four frame dwellings. One comparable had a crawl space foundation; one comparable had a partial, unfinished basement of 1000 square feet of building area; and two comparables had full, unfinished basements of 1,400 and 1,450 square feet of building area, respectively. All four comparables had central air conditioning and two had one fireplace. Three comparables featured two-car garages and one comparable had a three-car garage. The dwellings ranged in size from 2,800 to 3,200 square feet of living area.

Three comparables sold between March 2005 and September 2006 for prices ranging from \$217,500 to \$253,000 or from \$73.40 to \$88.77 per square foot of living area including land. The active listing was for an offering price of \$239,900 or \$74.97 per square foot of living area including land.

In comparing the properties to the subject, the appraiser made adjustments for land area, age, size, foundation, garage area, and fireplace(s). In addition, for the listing, the appraiser made a 3% downward adjustment for date of sale/time. In the explanations on the appraisal, the appraiser noted an analysis of the sale or transfer history of the subject revealed no sales or transfers of the property within the last three years. On page 3 of the report, the appraiser described the manner in which he made size, basement (size and/or finish), bathroom, fireplace, garage stall, and other adjustments. The adjustment analysis resulted in adjustments ranging from 2.3% to 12.2% or adjusted sales prices for the comparables ranging from \$218,950 to \$253,200 or from \$72.07 to \$88.84 per square foot of living area including land. From this process, the appraiser estimated a value for the subject by the sales comparison approach of \$232,000 or \$81.81 per square foot of living area including land.

In the report the appraiser noted the income approach was not applicable as the subject was not an income property nor was it located in an area where income properties were commonly found. In the final reconciliation comments, the appraiser stated the only reliable and accurate approach to value would be the sales comparison approach as derived from buyer and seller negotiations; the cost approach was given secondary consideration in rendering a final opinion of value. Thus, the appraiser concluded an estimated market value for the subject as of December 7, 2006 of \$232,000.

As additional support for this appeal, appellant submitted a "Loan Safe Automated Valuation Model Report" with an input of \$280,000 and found a Market Mean Value of \$192,475 and a Market Median Value of \$193,000. Also, the Industry Summary Average Appraised Value within the 60146 zip code was \$218,605.

As stated in a cover letter, based upon the foregoing and the appraiser's finding under the cost approach to value of a "depreciated cost of improvements" of \$219,550, appellant requests a total assessment of \$73,183.¹ It should be noted that using the 2006 three-year median level of assessments for DeKalb County of 33.32%, appellant's requested total assessment would result in an estimated market value for the subject property of \$219,637 or \$77.45 per square foot of living area including land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of \$83,333 was disclosed. The total assessment of the subject property reflects an estimated market value of \$250,099 or \$88.19 per square foot including land using the 2006 three-year median level of assessments for DeKalb County of 33.32%.

In support of the current assessment and in response to the appellant's appraisal, the board of review submitted numerous documents including the property record card for the subject and an undated document describing the subject property purportedly with a listing price of \$329,997. The subject's property record card appears to reflect a total living area square footage of the subject of 3,567 square feet, but the documentation is not clear.

Next, the board of review provided copies from the appellant's appraisal report of the photographs of the sales comparables with handwritten notations and computer generated Parcel Information Reports as to each property.

As to the appraiser's comparable sale #1, the board of review noted the sale price to be a deed from a financial institution after foreclosure and a 2003 sale of \$241,598; also, the board

¹ As discussed previously, to arrive at the value of the entire subject property (land + improvement) under the cost approach, one must add the estimated land value to the depreciated cost of improvements to arrive at an estimated market value of the subject property under the cost approach of \$234,600.

contends there is a two-car garage, not a three-car garage. From the Parcel Information Reports of the county, both referenced sale prices in 2003 and 2006 were noted as "valid sales." The 2006 "foreclosure" transfer declaration for this property was also submitted which indicated that the property was advertised for sale with no personal property in the consideration.

As to the appraiser's comparable sale #2, the board noted an "original" sale in 2004 of \$223,759. The Parcel Information Report for this property again indicates both the 2004 and 2006 sale prices to be "valid sales." The transfer declarations for both the 2004 and 2006 sales which were filed indicate the property was advertised for sale or sold using a real estate agent with no personal property in the consideration.

As to the appraiser's comparable sale #3, the board contends the 2005 sale price should be \$5,000 less than shown by appellant's appraiser due to personal property reflected in the transfer declaration supplied. Moreover, the board contends the dwelling is much smaller than the subject property. In support of this size contention, the board presented a copy of the property record card reflecting 1,888 square feet of living area in contrast to the appraiser's report of 2,800 square feet of living area for this dwelling.

As to the listing known in the appraisal as comparable #4, the board reports the property sold in January 2004 for \$210,434. The property record card submitted for this property appears to reflect 4,480 square feet of living area as compared to the appraiser's report of 3,200 square feet of living area for this dwelling. The board also presented a MLS sheet on this property from October 2006 with a listing price of \$239,900 as reported by the appraiser which also reported 3,200 square feet of living area.

Lastly, the board of review's documentation includes a property record card, photograph and real estate transfer declaration concerning parcel 01-26-426-022 on Forest Drive. This two-story frame dwelling was constructed in 2003 and contains 4,080 square feet of living area. Features include central air conditioning, a basement of unknown size, and a 400 square foot garage. This property sold in January 2007 for \$235,000 with no personal property as part of the consideration.

In summary, the board of review noted some changes/corrections to the date considered by the appellant's appraiser and presented one sale from January 2007 to establish the correct estimated market value of the subject property as of January 1, 2006. Based upon the foregoing, the DeKalb County Board of Review seeks confirmation of the total assessment of the subject property of \$83,333 which reflects an estimated market value of \$250,099 or \$88.19 per square foot including land.

For rebuttal, appellant asserted the listing sheet for the subject property presented by the board of review with a price of

\$329,997 was over four years old and the property has not sold or even had an inquiry. Appellant also addressed the various issues raised by the board of review concerning the comparables sales considered by the appraiser and how the adjustments made accounted for the differences noted by the board of review. Appellant disputes the size computations on the property record card for the subject and further notes that there is no "porch" on the first floor with a color photograph for support. As to the one sale submitted by the board of review, appellant notes the sale occurred one year after the assessment date at issue of January 1, 2006. Appellant also submitted additional property record cards for nearby properties for which appellant contends the living area square footage has been incorrectly computed.

After reviewing the record 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 the evidence in the record supports a reduction in the subject's assessment.

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 this burden of proof has been met and a reduction in the subject's assessment is warranted.

The Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of \$232,000, while the board of review submitted no appraisal and insufficient comparable sales to adequately challenge the estimated market value set forth in the appraisal. Moreover, the challenges to the appraisal data set forth by the board of review have been found by the Board to be insufficient to detract from the final opinion of value set forth by the appraiser. Furthermore, the Board finds that the mostly minor differences in details of the comparable sales presented by the board of review alone are not sufficient to disregard the overall opinion of value established in the appraisal.

As to the size dispute concerning the subject dwelling, a close examination of the footprint sketches and the photographs of the subject dwelling reveal similar measurements by both the appraiser's sketch and the property record card sketch, but then very different computations by some 700 square feet. Having closely examined the drawings and the photographs, the Property Tax Appeal Board finds that the subject dwelling does not have a first floor additional living area of 209 square feet as noted on the property record card, but instead has a second floor wooden deck of probably similar size. Moreover, the Board finds the best evidence on this record of the subject's living area square footage is found in the appraisal setting forth 2,836 square feet of living area.

The Property Tax Appeal Board finds that the appraiser detailed in writing the manner in which adjustments were made to the comparable sales. For instance, the appraiser made size adjustments where necessary based on his determination that the subject contained 2,836 square feet of living area. While the board of review contends that the subject actually contains 3,567 square feet of living area, the final opinion of value determined by the appraiser was still higher than the September 2006 sale price of \$223,000 for a dwelling containing 3,038 square feet of living area and somewhat similar to listing comparable #4 for \$239,900 where that dwelling had a disputed living area, but no basement. Thus, despite these size disputes over the subject dwelling and some of the comparables, the opinion of value given by the appraiser appears logical and well-explained in light of the comparable sales data. The board of review did not submit independent market value evidence in support of its assessment of the subject property or sufficient evidence to adequately refute the appraiser's final value conclusion. In the end the Property Tax Appeal Board finds that, despite any questions raised by the board of review, the appraisal submitted by the appellant estimating the subject's market value of \$232,000 is still the best and only evidence of the subject's market value in the record.

The Board has examined the appellant's ten-page "Loan Safe Automated Valuation Model Report" and finds that this documentation does not comport with the requirements for documentary evidence before the Property Tax Appeal Board. Pursuant to Section 1910.65(c) of the Rules, proof of market value of the subject property may consist of the following:

- 1) an appraisal of the subject property as of the assessment date at issue;
- 2) a recent sale of the subject property;
- 3) documentation evidencing the cost of construction of the subject property including the cost of the land and the value of any labor provided by the owner if the date of construction is proximate to the assessment date; or
- 4) documentation of not fewer than three recent sales of suggested comparable properties together with documentation of similarity, proximity and lack of distinguishing characteristics of the sales comparables to the subject property.

[Emphasis added.] (86 Ill. Admin. Code, Sec. 1910.65(c)). The Board finds the appellant's documentation of what he described to be 86 comparables does not provide adequate detailed information for purposes of comparison to the subject property in terms of age, foundation, garages, proximity and other characteristics considered for comparison purposes.

Lastly, the appellant's argument that the total assessment of the subject property should be based on the appraiser's determination

of the "depreciated cost of improvements" of \$219,550 must be considered. As stated in Footnote 1 above, the cost approach to value considers the value of the land plus the depreciated value of the improvements or buildings/permanent fixtures to the land. Appellant has mistakenly interpreted the "depreciated cost of improvements" to encompass the value of both land and improvements when it does not. If appellant wanted an assessment based on the appraiser's cost approach, one would have to make a claim for approximately one-third of the total value indicated under the cost approach of \$234,600 or \$78,200.

Even assuming with the foregoing explanation that the appellant would modify his total assessment claim to \$78,200, the Property Tax Appeal Board does not find the opinion of value as determined by the appraiser under the cost approach to be the best evidence of value in this record. Specifically, in the reconciliation portion of the appraisal, the appraiser noted on page 2 of the report that:

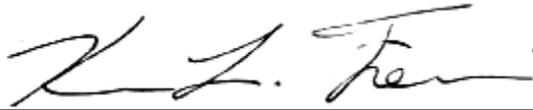
The sales comparison approach is the only reliable and accurate appraisal approach as value is derived from buyer and seller negotiations. The cost approach and [sic] is given secondary consideration in rendering a final opinion

Moreover, the courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. Since there is credible market sales evidence contained in this record, the Board placed most weight on this evidence.

Therefore, based upon the appraiser's opinion that the sales comparison approach is the best evidence of value and based upon the appraiser's final opinion of market value of \$232,000, the Property Tax Appeal Board finds that a reduction is warranted in the subject's assessment. Since market value has been established, the three-year median level of assessments for DeKalb County for 2006 of 33.32% shall be applied.

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.

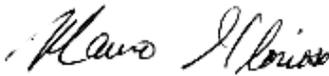
Chairman



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: April 24, 2009



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

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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.