PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Paul T'Koy
DOCKET NO.: 06-01895.001-R-2
PARCEL NO.: 08-28-201-005

The parties of record before the Property Tax Appeal Board are Paul T'Koy, the appellant, by attorney Michael J. Elliott of Elliott & Associates in Des Plaines, Illinois, and the DuPage County Board of Review.

The subject property consists of ±3.1-acres improved with a two-story style stone dwelling that was built in 2002 and contains 7,647 square feet of living area. Features of the home include central air-conditioning, six fireplaces, slate roof, copper gutters, a three-car garage and a full walk-out basement with 4,531 square feet of finished basement area.

The appellant appeared before the Property Tax Appeal Board, through counsel, claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property with a valuation date of January 1, 2006. The appraiser used the cost and sales comparison approaches in estimating a value for the subject of $2,100,000. The appellant also submitted the subject's assessment notice which reflects an estimated market value for the subject of approximately $2,743,933 using the 2006 three-year median level of assessments for DuPage County of 33.21% as determined by the Illinois Department of Revenue.

Michael J. Sullivan, an Illinois certified general appraiser with an SRA designation through the Appraisal Institute, was called as a witness. Sullivan was present at the hearing and testified on behalf of the appellant. In the cost approach, the appraiser determined a land value of $700,000 by using limited land sales in comparable areas. The appraiser consulted the Marshall & Swift Cost Manual in estimating a reproduction cost new of the improvements of $1,865,625. Depreciation of $124,625 was subtracted from this figure, leaving a depreciated value of the improvements of $1,741,000, to which site improvements of $40,000 were added. Incorporating the land value resulted in an indicated value by the cost approach of $2,481,000.

(Continued on Next Page)

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

LAND:	$	207,750
IMPR.:	$	489,660
TOTAL:	$	697,410

Subject only to the State multiplier as applicable.

PTAB/eeb/May.09/2006-01895

In the sales comparison approach, the appraiser examined four comparable properties. The comparables were located from .25 to 5 miles from the subject and are situated on lots ranging in size from .43-acres to 5.38-acres. The lots are improved with two-story or three-story style brick, stone and brick, or stone, brick and frame dwellings that were built between 1998 and 2003 and range in size from 4,598 to 9,133 square feet of living area. Features of the comparables include central air-conditioning, two or three fireplaces and a three-car or six-car garage. Each comparable has a basement with two homes having a walk-out basement and three having some finished basement area. Two of the comparables have a pool with one also having an indoor riding arena with stables. The comparables sold from June 2005 to August 2006 for prices ranging from $1,600,000 to $2,100,000 or from $229.94 to $380.60 per square foot of living area including land. The appraiser adjusted the comparables for differences when compared to the subject for such items as site size, design and appeal, construction quality, room count, living area, basement finish, number of garages, decks, porches, pools, patios, kitchen area and other miscellaneous features. After making these adjustments, the comparables had adjusted sales prices ranging from $2,046,500 to $2,219,000 or from $224.08 to $465.31 per square foot of living area, including land. Based on this analysis, the appraiser concluded a value for the subject by the sales comparison approach of $2,100,000.

In his final reconciliation, the appraiser placed most weight on the sales comparison approach because "[m]arket data is adjudged most reliable based on the quantity of data used and is [sic] being more responsive to changes in recent market conditions than the Cost Approach."

During cross examination, Sullivan acknowledged that he did not personally appraise the subject, but rather, his firm prepared the appraisal. He did not personally inspect the subject property. He signed the appraisal as a supervisory appraiser. He reviewed and signed-off on the appraisal report. Sullivan admitted that comparable sale #4 was located in a different county than the subject, with no adjustment being made for its location. Sullivan testified that sales of homes in the subject's upper-bracket value range were very limited. The only available sale within the subject's neighborhood was sale #3. Based on this evidence, the appellant requested a reduction in the subject's assessment commensurate with the appraisal's estimated market value of $2,100,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $911,260 was disclosed. In support of the subject's assessment, the board of review submitted a summary argument, maps, property record cards, a grid analysis of five comparable properties, and a Lisle Township comparability chart. The comparables consist of brick dwellings that were built from 1995 to 2006 and range in size from 7,180 to 8,782 square feet of living area. Three of the

comparables are in the same neighborhood as the subject. Features of the comparables include basements ranging from 2,593 to 5,374 square feet with finished areas ranging from 2,423 to 4,270 square feet. The comparables have from five to seven fireplaces and garages ranging from 1,128 to 2,399 square feet of building area. The comparables sold from February 1999 to September 2005 for prices ranging from $890,000 to $2,986,190.

During cross-examination, the Lisle Township officials acknowledged that only two of the five comparable sales involved the sale of an improved property (comparables #2 and #5). The other sales represent land sales upon which dwellings were later constructed. Tom McCabe, a Lisle Township Assessor, acknowledged that he was unable to state whether comparable sale #5 was an arm's length transaction. McCabe further acknowledged that comparable #5 was located in-town, dissimilar to the subject, and therefore, because it would be superior to the subject, an adjustment to the sales price would have to be made. Based on this evidence, the board of review requested the subject's total assessment be confirmed.

In rebuttal, the appellant recalled Michael Sullivan as a witness. Sullivan testified that the board of review's comparable #1 was a vacant land sale; comparable #4 was not used in the appraisal report because it involved a sale that occurred in 1999; and comparable #5 was not considered an arm's length transaction because it was never presented for sale on the open market. Sale #5 involved a private transaction between a builder and a buyer.

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. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2nd 1256 (2nd Dist. 2000). The Board finds the appellant has overcome this burden.

The Board finds the appellant submitted an appraisal of the subject property in which the subject's market value was estimated to be $1,200,000 as of January 1, 2006, which is the assessment date at issue. The board of review submitted five comparable sales. Only two of the sales involved properties that were improved at the time of sale. One of these comparables sold in 1999 and the other involved a private transaction between a builder and a buyer. The Lisle Township officials were unable to verify whether comparable sale #5 was an arm's length transaction, nor was any substantive evidence introduced to verify the circumstances surrounding this sale. The Property Tax Appeal Board is unable to determine the subject's 2006 fair market value based on a sale occurring in 1999. Further, the appellant has presented credible unrefuted testimony, based on market data research, that calls into question the circumstances

surrounding comparable sale #5 as not having the indicia of an arm's length transaction. The other three sales involved the sale of land only. The Property Tax Appeal Board is unable to determine the subject's full market value, including the residential improvement, based on vacant land sales alone. For these reasons the board of review's comparables were given little weight in the Board's analysis. The Board finds the best evidence of the subject's market value is found in the subject's appraisal with an effective date of January 1, 2006 as submitted by the appellant. The Board finds the appraiser provided credible testimony regarding the adjustments contained within the appraisal report. Therefore, the Board finds the subject's market value as of the subject's assessment date of January 1, 2006 is $2,100,000.

In conclusion, the Board finds the appellant has demonstrated the subject property was overvalued by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is incorrect and a reduction is warranted. Since fair market value has been established, the 2006 three-year median level of assessments for DuPage County of 33.21% 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.

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: June 19, 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 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.