



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

APPELLANT: Walter & Dawn Clark Netsch
DOCKET NO.: 06-29318.001-R-2
PARCEL NO.: 14-33-322-016-0000

The parties of record before the Property Tax Appeal Board are Walter & Dawn Clark Netsch, the appellants, by attorney James P. Regan, of Fisk Kart Katz and Regan, Ltd. in Chicago; and the Cook County Board of Review.

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

LAND: \$ 20,040
IMPR.: \$ 81,160
TOTAL: \$ 101,200

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 3,000 square feet of land improved with a 32-year old, two-story, masonry, single-family dwelling. The improvement contains 4,941 square feet of living area as well as two full and one half-baths, one fireplace, and a one-car garage. The subject's site is located in North Chicago Township.

At hearing, the appellants' attorney argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

As a procedural matter, the Board found that the 2006, 2007 and 2008 appeals involved common issues of law and fact and a consolidation of the appeals for hearing purposes would not prejudice the rights of the parties. Therefore, without objections from the parties and pursuant to Section 1910.78 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78), the Board consolidated the 2006, 2007 and 2008 property tax appeals for hearing purposes.

At the commencement of the hearing within the appellants' opening argument, appellants' attorney submitted Appellants' Hearing Exhibit #1, which was a multiple page exhibit entitled advisory opinion #32 published by The Appraisal Foundation, 2010-2011 Edition. He argued that this Exhibit provides guidance regarding the application of the Uniform Standards of Professional Appraisal Practice (hereinafter USPAP) to appraisal and mass appraisal assignments, while he asked that the Board take notice of this opinion. Appellants' attorney also asserted that the subject property is located in the old town historic district and that any exterior changes to the subject's improvement would require a review by the Chicago Landmarks Commission.

The appellants called as a witness, Nancy Joyce, a real estate broker. She testified that her home is located across the street from the subject property and that her home is on a landmark listing. She stated that in 2008 she was hired by the subject's owner to prepare a narrative value for the subject for the 2008 property tax appeal. She indicated that in turn she hired an independent contractor to prepare a floor plan of the subject property, which she stated reflected 2,852 square feet of living area. However, this narrative letter and floor plan were solely submitted into evidence within the 2008 tax appeal. In addition, she stated that she had no personal knowledge of either when the Chicago Landmarks Commission came into existence or of the commission's procedures in according status.

In support of the market value argument, the appellants submitted a uniform residential appraisal report of the subject property with an effective date of January 1, 2006 undertaken by John O'Dwyer, who holds the designations of Certified Real Estate Appraiser as well as Member of the Appraisal Institute (hereinafter MAI), and Ibi Cole, who holds the designation of Associate Real Estate Appraiser. The appraisers estimated a market value for the subject of \$1,000,000.

The appellants called as a second witness, John O'Dwyer. He testified that he is a Certified Real Estate Appraiser in three states including Illinois, while also holding the MAI designation since 1992. He was offered as an expert in real estate valuation without objection from the board of review and was accepted as such by the Board.

The appraisal stated that the subject was improved with a tri-level, concrete block and masonry, single-family dwelling. The first level begins at grade level and descends slightly two feet toward the south. The median level is up one-half from the entrance and the second level is an L-shaped flooring one-half up from the median level. The appraisal indicated that the interior space is used for stairwells and walkways due to the subject's unique angled layout. The appraisal also noted that the subject was constructed in 1974, which accorded the building a chronological age of 33 years. However, the appraisal stated that the subject's building was in average condition due to the amount of maintenance and needed repairs. Therefore, the

appraisers estimated an effective age of 20 years with a life expectancy of 50 years. In addition, the appraisal indicated that due to the subject building's interior layout and overbearing exterior design, that this improvement is atypical to the surrounding area.

O'Dwyer testified that an interior and exterior inspection was conducted by himself and his staff appraiser on March 22, 2007. He stated that the improvement's size was obtained from the assessor's records, while opining that the subject's very open layout was unique for an owner-occupied, single-family dwelling. In developing a highest and best use analysis, he opined that the subject's highest and best use as vacant would be as a mixed-use, multi-level building, while as improved, for its current use. In addition, he testified that he neither valued the subject's building based upon any landmark status nor was he aware that the property had been accorded landmark status.

Moreover, O'Dwyer testified that he considered all three of the traditional approaches to value, but felt that the sales comparison approach to value most appropriate for this subject property. In considering the cost approach, he elaborated on the difficulty of developing a cost approach for this unique type of subject improvement. Moreover, he stated that the subject improvement's contained functional obsolescence due to the following factors: poor ingress and egress; the building's unique interior layout; minimal traditional bedrooms; small kitchen; oddly constructed interior with large areas devoted to stairwells and walkways; the absence of guard railings; odd ceiling heights; cracks in the exterior masonry; as well as minimal windows, which were all identified within the appraisal report. As to the income approach to value, he testified that the subject property was owner-occupied and that the surrounding residential area could not establish a strong rental rate. Therefore, these two approaches to value were not considered.

Under the sales comparison approach to value, the appraisers utilized three sale comparables located within a two-mile radius from the subject as well as sited in the same area of Chicago, as is the subject. In support of this, the appraisal included a map of the subject's area with the locations of the suggested comparables identified thereon. The comparables sold from May, 2005, through April, 2006, for prices that ranged from \$935,000 to \$1,065,000, or from \$234.91 to \$336.17 per square foot. The properties were improved with a two-story or three-story, masonry, single-family dwelling, while the appraisers determined that they were in average or good condition. The properties ranged: in bathrooms from two full and one half-baths to four full baths; in actual age from 24 to 118 years; in improvement size from 3,100 to 4,406 square feet of living area; and in land size from 3,125 to 3,600 square feet of land. Each property also included a two-car garage, while only two properties included basement area. After making adjustments to the suggested comparables, the appraisers estimated the subject's market value was \$1,000,000.

Upon cross-examination, O'Dwyer testified that he was not sure whether the subject's improvement having been built by a known architect would impose a value premium or have the opposite effect. In addition, he opined that the fact that an architect had lived in the subject property would not hurt the value of the house.

As to the sale comparables, O'Dwyer testified that there were variances in actual age in comparison to the subject, but not effective age, which he opined was approximately 20 years. As to style, he testified that the subject's unique confirmation was commensurate with a two and one-half story building, which was the basic style of his sale comparables. Based upon this data, the appellants requested a reduction in the subject's market value.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$316,289 for tax years 2006 and 2007. The subject's assessment reflects a market value of \$3,125,385 using the Illinois Department of Revenue median level of assessment for class 2, residential property of 10.12% for tax year 2006. For the 2008 tax year, the subject's total assessment was \$254,140.

The board also submitted descriptive and assessment data on three suggested equity comparables identified as being located in the subject's subarea or within a quarter-mile radius of the subject. These properties ranged in land size from 3,100 to 3,187 square feet. They were improved with a three-story, masonry, single-family dwelling. The improvements ranged: in age from two to four years; in bathrooms from three full and one half-baths to four full and one half-baths; in size from 3,983 to 4,534 square feet of living area; and in improvements assessments from \$77.63 to \$90.96 per square foot of living area. The properties include from two to three fireplaces and a two-car garage, while only properties #2 and #3 include a full basement. The subject's improvement assessment is \$59.96 per square foot based upon 4,941 square feet of living area.

In addition, the grid analysis indicated that the suggested comparables sold from May, 2004, to November, 2005, for prices that ranged from \$815.97 to \$931.12 per square foot of living area. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board of review's representative asserted that the county would rest on the written evidence submissions. He also argued that the subject property was unique, but that the artistic functionality was inherent in the builder's own home.

After considering the arguments as well as testimony and reviewing the evidence, 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); 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 presented, the Board concludes that the appellants have met this burden and that a reduction is warranted.

In determining the fair market value of the subject property, the Board finds the best evidence to be the appellants' appraisal. The Board finds this appraisal to be persuasive for the appraisers personally inspected the subject property and undertook one of the three traditional approaches to value in estimating the subject's market value. Moreover, the appraisers utilized market data to obtain improved sale comparables while providing sufficient detail regarding each sale as well as appropriate adjustments where necessary.

Further, the Board finds that the board of review's evidence failed to make any adjustments to the raw sales data provided and to confirm that the sales data reflected an arm's length transaction.

As to an issue of variance in the subject's square footage of living area raised by appellants' attorney, the Board finds that this assertion is unsubstantiated by expert testimony. In contrast, the Board finds that the appellants' appraiser referred to the county assessor's official records regarding the subject's size, while also testifying that the subject's improvement contains 4,941 square feet of living area after his personal inspection of the improvement.

As to the appellants' ancillary issue of landmark status, the Board finds this argument unpersuasive. The Board finds that the appellant failed to proffer certified documentation or authoritative testimony confirming and explaining any landmark status. Moreover, the Board finds that the appellants failed to provide evidence that any such status would have an effect on the subject's market value, either in a positive or negative manner.

Therefore, the Board finds that the subject property contained a market value of \$1,000,000 for tax year 2006. Since the market value of the subject has been established, the median level of assessment as determined by the Illinois Department of Revenue for class 2, residential property of 10.12% will apply. In applying this level of assessment to the subject, the total assessed value is \$101,200, while the subject's current total assessed value is above this amount at \$316,289. Therefore, the Board finds that a reduction is warranted.

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

Frank J. Huff

Member

Member

Mario M. Louie

Member

J.R.

Acting 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: December 23, 2011

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.