



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

APPELLANT: Stephen & Amy Wright
DOCKET NO.: 07-01103.001-R-1
PARCEL NO.: 04-23-128-018

The parties of record before the Property Tax Appeal Board are Stephen & Amy Wright, the appellants, by attorney James E. Tuneberg with co-counsel James A. Rodriguez, both of Guyer & Enichen in Rockford, and the Winnebago 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 Winnebago County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$19,683
IMPR.: \$136,733
TOTAL: \$156,416

Subject only to the State multiplier as applicable.

ANALYSIS

The subject's 30,823 square foot parcel is improved with a 1-year old, two-story frame and masonry single-family dwelling containing 4,188 square feet of living area.¹ Features of the home include a full, partially exposed, basement which is 77% finished as a recreation room, central air conditioning, two fireplaces, and a three-car garage. The property is located in Roscoe, Roscoe Township, Winnebago County.

The appellants appeared before the Property Tax Appeal Board through attorney James A. Rodriguez of Guyer & Enichen contending that the market value of the subject property is not accurately reflected in its assessed valuation. In support of the overvaluation argument, the appellants submitted an appraisal

¹ At hearing, the parties agreed to accept the appellants' appraiser's size determination over the township assessor's reported dwelling size of 4,159 square feet. It is noted also that the board of review did not provide the property record card of the subject as required by the Official Rules of the Property Tax Appeal Board. (86 Ill. Admin. Code, Sec. 1910.40(a)).

estimating the subject property had a market value of \$470,000 as of January 1, 2007.²

The appraisal was prepared by Gary A. Zandonatti of Zandonatti Appraisal who was present at the hearing to testify and be cross-examined with regard to the "Restricted Use Restrospective Summary Report" he prepared. Zandonatti testified that he has 20 years of appraisal experience and is a certified and licensed appraiser in the State of Illinois. He opined that the best method for determining value on a residential property is typically the sales comparison approach to value using resales in the marketplace. Zandonatti explained resale value was the scope of work to determine fair market value. Cost of new construction is typically "an up range" for which values are based on current labor costs and materials among other things. While there are new construction sales, even in a mortgage loan, lenders always seek to include resales of existing homes to actually show what the market is. Zandonatti further stated that cost of construction in custom homes means the person may install various amenities in the dwelling, but when it resells is when its true value is seen in the market.

Zandonatti utilized the sales comparison approach in arriving at his opinion of value for use with a tax assessment appeal from "data sold and closed prior and up to December 31, 2006." (See page 1 of report). Zandonatti testified that after personally inspecting the subject property, he gathered data for comparison. He sought sales in the Roscoe area market from 2004, 2005 and 2006 with sale prices above \$400,000. Being in the upper range of value, there were a limited number of sales, but he found there were an adequate number for analysis. From his research, Zandonatti found 15 sales from the Multiple Listing Service (area grids 32, 35 and 39) with the highest sale price being \$730,000 for a home with 20-acres. Eliminating that highest sale price, the remaining 14 sales ranged from \$405,000 to \$505,000.

The sale history of the subject revealed the lot was purchased in 2004 with the subject dwelling built new and completed in March 2006. The appraiser described the home as a custom built two-story dwelling with good quality of construction and an open two-story ceiling in the family room.

² Based on the responsive data submitted by the board of review, it appears that the board of review may have been examining a different copy of the appraisal than the one presented to the Property Tax Appeal Board for purposes of this appeal and which was forwarded to the board of review. Namely, the appraiser testified that a computer programming problem resulted in the date of inspection and the date of valuation being the same on a version of the appraisal report. The version submitted in this appeal, however, clearly reflects a valuation date of January 1, 2007, although it also reflects that as the date of viewing; the appraiser testified he viewed the property in October 2007.

To arrive at an estimate of value, Zandonatti relied upon Sales #1, #2 and #3, but he also presented an additional sale and two listings. At hearing, Zandonatti acknowledged that Sale #4 and the two listings were after the effective date of value of January 1, 2007, but he presented them due to the limited number of sales. The six comparables were located between .11 and 2.4-miles from the subject and the parcels ranged in size from 24,734 to 4.20-acres. Each parcel was improved with a one-story or two-story dwelling of stucco and masonry or frame and masonry exterior construction. The dwellings range in age from 1.5 to 14 years old and range in size from 2,932 to 5,165 square feet of living area. Each comparable has a full basement, two of which are partially exposed like the subject and four of which are walkout style. Five of the basements were finished with recreation rooms or family rooms. Additional features include central air conditioning, one to three fireplaces, and a three-car or four-car garage. One comparable also has an inground swimming pool and a stocked pond. Four of the comparables sold between November 2005 and November 2007 for prices ranging from \$430,000 to \$505,000 or from \$102.95 to \$146.66 per square foot of living area including land. Comparables #5 and #6 were denoted as active listings for \$450,000 and \$595,000 or \$117.00 and \$115.20 per square foot of living area including land, respectively. Zandonatti noted in the report that typical listing/selling ratio in the market location was 97%.

In the report and at hearing, the appraiser noted Sale #4 was a very recent sale in the subject's subdivision of a custom house built and listed for about \$600,000, but "with the reported investment well over the recent selling price" of \$470,000. Zandonatti further reported that Sale #3 was on the market for over a year with an original list price of \$679,000, reduced to \$529,000 after a year and then sold for \$470,000. Listing #5, a ranch home and smaller than the subject has been listed since July [2007] for \$450,000, although it had a higher listing price for the previous year. Listing #6 is larger and on a 4-acre parcel with a stocked pond, inground pool and full walkout basement.

In comparing the properties to the subject, the appraiser made adjustments for time or location for the two active listings. All of the comparables were adjusted in various respects for land area, view, quality of construction, age, dwelling size, room count, walkout basement feature, basement finish, and other amenities. Zandonatti testified that in making his land adjustments he examined three 2005 sales of vacant parcels from the subject's street which sold between \$45,000 and \$49,000. The appraiser also had >2-acre sales at \$79,000 and a 1-acre sale at \$64,000.

Lastly as to the sales comparison approach, Zandonatti wrote:

The current and recent past re-sale market of houses similar to the subject has been very light in the past few years. The adjusted value range of the comparables

is very wide, but the re-sale market is erratic in this price range.

(Addendum, page 1 of 1). Zandonatti's sales analysis resulted in adjusted sales prices for the comparables ranging from \$418,500 to \$493,000 or from \$91.06 to \$154.91 per square foot of living area including land. Zandonatti testified that he gave most weight to Sales #1, #2 and #3, recognizing Sale #3 as the most dated sale. The appraiser then reconciled the value of the subject between the adjusted sale prices of Sales #1 and #2 which had occurred in 2006. Based on this analysis, the appraiser opined the subject's fair market value as of January 1, 2007 was \$470,000 or \$112.23 per square foot of living area including land.

On cross examination the appraiser verified that the subject property was viewed on October 20, 2007 and while he made no adjustments to the sales for time, he testified that he could have made downward adjustments of 8% or 10% for properties in the subject's price range from 2004 to 2006 based on the median price sales for that time period. While market changes were beginning in 2006, up to 2007 time adjustments were not that common. On further questioning, Zandonatti acknowledged that time adjustments would have brought his final opinion of value down.

While Zandonatti had 15 sales from his data search, there were not many dwellings in the size and price range of the subject. From the grouping of 15 sales, he utilized the upper end of the range. He further noted that there were no other resales of properties in closer proximity to the subject than those presented in the appraisal. The two active listings presented were custom built homes that were now being exposed to the market as compared to new construction that had not been exposed to the open market. As to the four sales presented by the board of review, the appraiser did not use them in his report as these were not resales of existing properties. Zandonatti explained further that custom built homes include add-ons that are personal to the individual along with applicable cost factors which do not really show what the resale existing market is; it will show cost of construction, but does not show market value particularly.

Zandonatti was aware that Sale #4 was sold due to a relocation of the owner and while no adjustment was made for that fact, he further noted this sale was not given a lot of weight because of the date of sale. Moreover, he noted Sale #4 was exposed on the open market and while originally listed at about \$600,000, it was reduced several times in order to eventually sell at \$470,000 showing the market reaction to that property in that price range.

On redirect examination, Zandonatti reiterated that a time adjustment downward to the comparable sales would have also reduced the final value conclusion for the subject property. Also, the newly constructed custom built homes presented as sales comparables by the board of review do not have the published amenity data, include labor and material costs, and have never

been exposed on the open market. The appraiser testified that removing Sale #4 and the two listings from the appraisal report would have no effect on the final value conclusion as these properties were listed and presented simply as additional information and to show the trend in the market since the listings were as of January 1, 2007. Sales #1 through #3 were the best, most comparable sales that the appraiser could find.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$183,241 was disclosed. The subject's assessment reflects a market value of \$550,604 or \$131.47 per square foot of living area including land using the 2007 three-year median level of assessments for Winnebago County of 33.28%. In support of the subject's assessment, the board of review submitted a letter from the Roscoe Township Assessor, a desk top appraisal review of another Zandonatti appraisal, and four comparable sales in a grid analysis along with a grid analysis of four equity comparables.³

The board of review called Joann Hawes, Roscoe Township Assessor as a witness. Hawes has been township assessor for 9 years. In her letter, the assessor noted the subject property is a custom built home in Promontory Ridge South, one of Roscoe Township's most desirable neighborhoods. Hawes testified that Promontory Ridge North has about 30 homes and Promontory Ridge South also has about 30 homes. In her letter, the assessor pointed out an apparent conflict in the effective date of appellants' appraisal as written above the appraiser's signature.⁴ Also, the assessor noted age adjustments were inconsistent. No age adjustments were made for 8 and 9 year old dwellings, but a 14-year-old dwelling had an upward \$8,000 adjustment. Hawes also testified that Sale #3 is located on a busy road as compared to the subject's location in a subdivision, but there was no adjustment for location. Lastly, the assessor noted in her letter that the appraisal did not include a cost approach to value on this new dwelling, even though the appraiser in the reconciliation wrote "[t]he cost approach is most relevant for houses that are newer and is supportive."

The desk top appraisal review submitted by the board of review was prepared by Joseph C. Magdziarz, a Certified General Appraiser, who was not present to testify at the hearing regarding the report. Also, by the terms of the document, the review appraiser was reviewing an appraisal prepared by Zandonatti of a property at 7470 Timber Ridge Road, Roscoe, Illinois with an effective date of October 24, 2007. The subject

³ Submission of equity evidence in response to an overvaluation argument is not responsive.

⁴ The complete copy of the appraisal presented to the Property Tax Appeal Board had no apparent date conflict, but the board of review's submission included a different signature page for the appraisal with an effective date of valuation of 10/29/07. Zandonatti had testified regarding a computer program problem with regard to that effective date for the report.

is located at 7418 Timber Ridge Road and the purported erroneous valuation date was October 29, 2007. At the hearing appellants' counsel objected to consideration of the review report on grounds of hearsay since the review appraiser was not present at hearing to testify regarding the document. In response, the board of review acknowledged that the review report did not concern the appraisal presented in this matter, but was another appraisal prepared by Zandonatti. The Property Tax Appeal Board sustains the appellants' objection to consideration of the review report. The Board finds the review report is tantamount to hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1971).

The board of review also submitted a grid analysis of four comparable sales. The comparables consist of two-story frame or frame and masonry dwellings that were built from 2003 to 2006 and range in size from 2,359 to 3,037 square feet of living area. Each comparable has a basement, one of which is partially exposed and two of which have finished area. The comparables feature central air conditioning, a fireplace, and a garage. The comparables sold between May 2006 and October 2007 for prices ranging from \$362,500 to \$457,000 or from \$128.42 to \$165.27 per square foot of living area including land. As a result of its analysis, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment of \$550,604 or \$131.47 per square foot of living area including land.

On cross examination, Hawes acknowledged that the board of review's comparables were new construction sales which she felt reflected market value as they were "the same year as the subject and in the same subdivision." Hawes acknowledged that she had no evidence submitted to support the contention that new construction sales fairly and accurately reflect resale market value of a home. While Hawes agreed that sales are relevant in determining value, also important is use of the cost approach which the assessor uses in determining value. She admitted a cost approach was not submitted in this matter. The assessor also acknowledged that no inspections had been performed on any of the sales comparables presented so it is unknown what upgrades or amenities those properties might have.

On questioning by the Hearing Officer, Hawes acknowledged that none of the four comparable sales presented were similar to the subject in dwelling size. Hawes also acknowledged accepted real estate valuation theory provides that all factors being equal, as the size of a property increases, the per unit value decreases and conversely, as the size of a property decreases, the per unit value increases.

In written rebuttal, the appellants' argued the two active listings from the appraisal of \$450,000 and \$595,000 eventually sold for \$425,000 and \$555,000, respectively. Appellants argued these values, which support the assessor's values, should be considered as valid comparables.

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.

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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Having considered the evidence presented, the Property Tax Appeal Board finds that the evidence indicates a reduction is warranted.

As to the appellants' appraisal in this proceeding, the version of the appraisal presented in this appeal before the Property Tax Appeal Board consists of a twelve-page appraisal with an effective date of valuation of January 1, 2007 and a "property viewing" date of January 1, 2007. The Board finds credible the testimony of Zandonatti that the viewing occurred in October 2007 and it was a programming glitch that caused the date of value and the date of inspection to be the same. This record also reflects an additional submission of the addendum and signature pages of the appraisal which the board of review confirmed as having. This signature page again shows a valuation date of January 1, 2007 and an inspection date of October 20, 2007. While the board of review contends the date of valuation of the appraisal was October 29, 2007, the Property Tax Appeal Board does not find that assertion credible in light of the documentary evidence in this record and the credible testimony of the appraiser.

In determining the fair market value of the subject property, the Property Tax Appeal Board finds the best evidence to be the appellants' appraisal of \$470,000. More importantly, the four comparable sales submitted by the board of review from the subject's subdivision were all substantially smaller dwellings. The largest comparable dwelling set forth by the board of review of 3,037 square feet is more than 1,000 square feet smaller than the subject. It sold in October 2007 for \$390,000 or \$128.42 per square foot of living area including land, which is slightly less than the subject's estimated market value of \$131.47 on a per-square-foot basis.

While the appraisal may lack some details as to the manner in which various conclusions were reached and questions can be raised as to adjustments made by the appraiser, the Property Tax Appeal Board finds that despite the assessor's criticisms the appraisal submitted by the appellants estimating the subject's market value of \$470,000 or \$112.23 per square foot of living

area including land is still the best evidence of the subject's market value in the record.

Based upon the market value as stated above, the Property Tax Appeal Board finds that a reduction is warranted. Since market value has been established, the 2007 three-year median level of assessments for Winnebago County of 33.28% 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.

Ronald R. Guit

Chairman

K. L. Fern

Member

Member

Mario Morris

William R. Lerbis

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: December 3, 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.