



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

APPELLANT: Myron Pengiel
DOCKET NO.: 07-02952.001-R-1
PARCEL NO.: 09-35-302-007

The parties of record before the Property Tax Appeal Board are Myron Pengiel, the appellant, and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$65,750
IMPR: \$56,920
TOTAL: \$122,670

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story single family dwelling that contains 2,106 square feet of living area. Features of the home include a fireplace and central air conditioning. The subject property also has a detached two-car garage with 400 square foot of building area. The dwelling has a wood frame and brick exterior and was constructed in 1957 with an addition in 1996. The property is located in Hinsdale, Downers Grove Township, DuPage County.

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 an appraisal prepared by a state certified appraiser estimating the subject had a market value of \$365,000 as of January 1, 2007. The appraiser was not present at the hearing. The board of review objected to the appraisal due to the inability to cross-examine the appraiser. The Property Tax Appeal Board sustains the objection to the extent it goes to the conclusion of value contained in the report; however, the Property Tax Appeal Board finds the board of review acknowledged the comparable sales contained in the report sold as reported. Therefore, the Property Tax Appeal Board will

consider the comparable sales in determining the correct assessment of the subject property.

The appraisal contained three comparable sales composed of a one-story dwelling, a split level dwelling, and a raised ranch dwelling. These comparables ranged in size from 1,563 to 2,457 square feet of living area and were either 29 or 36 years old. Each comparable had a basement with one being finished, one comparable had central air conditioning, two comparables had one fireplace, one comparable had a built in swimming pool and each comparable had a two-car attached garage. These comparables sold from January 2006 to September 2006 for prices ranging from \$368,000 to \$425,000 or from \$158.73 to \$271.91 per square foot of living area.

At the hearing the appellant asserted the subject dwelling is the only home in the neighborhood without a basement and has a detached garage. Additionally, the appellant asserted the subject was on an arterial street which is a route for emergency vehicles and much traffic causing noise and discarded trash on the lawns. Based on this evidence the appellant requested the subject's assessment be reduced to reflect a market value of \$365,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the total assessment of \$140,580 was disclosed. The subject's assessment reflects a market value of approximately \$421,782 or \$200.28 per square foot of living area, including land.

In support of the assessment the board of review submitted Exhibit #1, an Assessment Data Sheet listing the appellant's comparables as well as four comparables selected by the township assessor's office. The board of review called as its witness Joni Gaddis, Chief Deputy Assessor of the Downers Grove Township Assessor's Office, as its witness.

Ms. Gaddis testified there were no sales in the subject's neighborhood; however, she submitted four equity comparables to demonstrate the subject was being equitably assessed. The comparables were composed of one-story dwellings that ranged in size from 1,858 to 2,286 square feet of living area. The dwellings were constructed from 1956 to 1968 with three having additions in 1972, 1974 and 2006. Each comparable had a basement and a two-car attached garage. Gaddis indicated the comparables had improvement assessments ranging from \$73,780 to \$108,310 or from \$38.00 to \$47.00 per square foot of living area, rounded. The subject has an improvement assessment of \$74,830 or \$36.00 per square foot of living area, rounded.

Gaddis also testified the three sales contained in the appellant's appraisal had smaller lots than the subject property, which needs to be considered. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant contends overvaluation as the basis of the appeal. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean 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). Proof of market value may consist of an appraisal as of the assessment date, comparable sales, construction costs or a recent sale of the subject property. (86 Ill.Admin.Code §1910.65(c)). 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 finds the only evidence of market value in this record was provided by the appellant. The appellant's evidence included three comparable sales that had varying degrees of similarity to the subject property. The Board finds the most similar comparable was sale #1, which was improved with a one-story dwelling with 1,983 square feet of living area. This dwelling was slightly newer than the subject and had a full unfinished basement superior to the subject's crawl space foundation. This comparable sold in January 2006 for a price of \$368,000 or \$185.58 per square foot of living area, including land. The subject's assessment reflects a market value of approximately \$421,782 or \$200.28 per square foot of living area, including land, which is significantly above the best comparable in the record.

Although the board of review submitted comparables to demonstrate the subject property was being equitably assessed, it did not submit any market data to refute the appellant's market value argument.

Based on this record the Board finds a reduction in the subject's assessment is justified.

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 M. Louie

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: May 20, 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.