



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

APPELLANT: Lance & JoAnn Lunte
DOCKET NO.: 07-03525.001-R-1
PARCEL NO.: 03-33.0-104-003

The parties of record before the Property Tax Appeal Board are Lance & JoAnn Lunte, the appellants; and the St. Clair 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 St. Clair County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 9,346
IMPR.: \$25,077
TOTAL: \$34,423

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story brick and frame dwelling containing 2,017 square feet of living area that was built in 1988. Features include an unfinished basement, central air conditioning, a fireplace, a deck, a patio and attached two-car garage. The record is undisputed that the subject dwelling suffers from mine subsidence and is in need of repairs.

The appellant, Lance Lunte, appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of the overvaluation argument, the appellant submitted an appraisal of the subject property. Utilizing the cost and sales comparison approaches to value, the appraiser estimated the subject property has a fair market value of \$103,000 as of January 1, 2007, as the result of mine subsidence.

Under the sales comparison approach to value, the appraiser identified five comparable sales. The appraiser adjusted the

sales for differences to the subject in lot size, dwelling size and features. The appraiser also adjusted the comparables by \$62,400 for their different condition when compared to the subject based on the depreciated cost to repair the subject dwelling from mine subsidence. In addition, the appraiser adjusted the comparables by 25% or by \$22,900 to account for curable depreciation and obsolescence in the market caused by buyer resistance associated with the risk of purchasing a property affected by mine subsidence. This adjustment amount was based upon a paired sales analysis comparing home sales affected by mine subsidence to similar properties not affected by mine subsidence.

The appraisal was prepared by Lance Lunte, the appellant and owner of the subject property. Lunte is state licensed appraiser with the MAI and SRA professional designations from the Appraisal Institute. Based on this evidence, the appellants requested a reduction in the subject's assessment.

Under cross-examination, the appellant testified he disclosed in the appraisal certification that he is the owner of the subject property and has a present interest in the property. The board of review asserted that in performing the appraisal of the subject, the appellant is in violation of the Uniform Standards of Professional Appraisal Practice (USPAP). The board of review cited no specific rule violation. Since the appellant prepared his own appraisal of the subject property, the board of review requested no weight be placed on the appraisal report and requested the Board to "throw out" the appraisal. The Property Tax Appeal Board hereby denies the board of review's requests. The Board finds section 16-185 of the Property Tax Code provides in part:

The Board shall make a decision in each appeal or case appealed to it, and the decision shall be based upon equity and weight of evidence. . . . (35 ILCS 200/16-185).

Based on this statute, the board will make its decision based upon the weight and equity of the evidence. In addition, the Board has no sanctioning authority as to any purported violation of USPAP standards.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$44,358 was disclosed. The subject's assessment reflects an estimated market value of \$132,729 using St. Clair County's 2007 three-year median level of assessment of 33.42%.

In support of the subject's assessment, the board of review submitted property record cards and an assessment analysis of six assessment comparables, three of which were affected by mine subsidence, to demonstrate the subject property was uniformly

assessed. Additionally, the board of review argued the subject's assessed valuation has been reduced by 30% under the cost approach to account for mine subsidence damage in addition to 16% for physical depreciation. The cost approach detailed on the subject's property record card depicts an estimated market value of \$133,000. The board of review acknowledged they submitted no similar market sales to support the assessment of the subject, specifically addressing the mine subsidence issue raised by the appellant.

Under cross-examination, the board of review indicated a 30% obsolescence factor was applied to homes suffering from mine subsidence based on inspection by field personnel. The board of review could not explain how or what, if any, market evidence was utilized to calculate the 30% obsolescence factor to account for mine subsidence.

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's assessment is warranted.

The appellants argued the subject property is overvalued. 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.2d 1256 (2nd Dist. 2000). After an analysis of the evidence, the Board finds the appellants have overcome this burden.

The Board gave no weight to the equity analysis and assessment comparables submitted by the board of review. The Property Tax Appeal Board finds the assessment equity evidence fails to adequately address the overvaluation argument due to mine subsidence raised by the appellants.

The Board further finds the appellants presented the best evidence of the subject's fair market value. The appraisal submitted and prepared by appellant Lance Lunte estimated the subject property had a market value of \$103,000 as of January 1, 2007. The Board finds the appellant, who is a state licensed appraisal and holds professional real estate appraisal designations, provided competent un-refuted testimony supporting the appraisal methodology and final value conclusion. The subject's assessment reflects an estimated market value of \$132,729 considerably more than the appraised value. Therefore, the Board finds a reduction in the subject's assessed valuation is warranted.

The Property Tax Appeal Board gave less weight to the cost approach to value as depicted on the subject's property record card submitted by the board of review. 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.

Based on this analysis, the Property Tax Appeal Board finds the appellants have demonstrated the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the subject's assessment as established by the board of review is incorrect and 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

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

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 23, 2009

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.