FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: B.F. and Dorothy McClerren
DOCKET NO.: 07-05193.001-R-1
PARCEL NO.: 02-1-01054-000

The parties of record before the Property Tax Appeal Board are B.F. and Dorothy McClerren, the appellants, by attorney James M. Grant of the Law Office of James M. Grant, Charleston; and the Coles 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 **Coles** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$6,613
IMPR.:	$62,754
TOTAL:	$69,367

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one and one-half story brick and frame dwelling containing 3,996 square feet of living area that is approximately 38 years old. Features include a crawl space foundation, geothermal central heating/air conditioning, a fireplace and a two-car attached garage. The dwelling is situated on a two acre site.

The appellants appeared before the Property Tax Appeal Board with counsel claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property. Using two of the three traditional approaches to value, the appraisal report indicates the subject property has a fair market value of $209,000 as of January 1, 2007.

The appraiser, Stanly D. Gordon, was present at the hearing and provided direct testimony regarding the appraisal methodology and

final value conclusion. Under the cost approach to value, the appraiser estimated the subject's two acre site has a land value of $20,000 or $10,000 per acre. The deprecated cost of the improvements and driveway was estimated to be $193,535, resulting in a final value estimate under the cost approach of $214,000, rounded. Under the sales comparison approach to value, the appraiser utilized three suggested comparable sales with varying degrees of similarity when compared to the subject. They sold from January 2006 to July 2006 for prices ranging from $175,000 to $256,000 or from $74.60 to $77.21 per square foot of living area, including land. The appraiser adjusted the comparables for differences when compared to the subject in land area, design, age, room count, living area and various amenities, resulting in adjusted sales prices ranging from $175,500 to $226,300. Based on the adjusted sale prices, the appraiser estimated the subject property had a fair market value of $209,000 as of January 1, 2007.

Based on this evidence, the appellants requested a reduction in the subject's assessment.

The appraiser was not cross-examined by the board of review.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $75,098 was disclosed. The subject's assessment reflects an estimated market value of $226,335 using Coles County's 2007 three-year median level of assessments of 33.18%.

In support of the subject's assessment, the board of review submitted an appraisal of the subject property. Using only the sales comparison approach to value, the appraisal report indicates the subject property has a fair market value of $227,000 as of January 1, 2007.

The appraiser, Ronald C. Reardon, was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Under the sales comparison approach to value, the appraiser utilized four suggested comparable sale with varying degrees of similarity when compared to the subject, including the subject's sale in April 2006[1]. The properties sold from May 2005 to April 2006 for prices ranging from $175,000 to $269,000. The appraiser adjusted the comparables for differences when compared to the subject in land size, living area, basement area, garages and various ancillary amenities, resulting in adjusted sales prices ranging from $190,200 to $227,250. Based on the adjusted sale prices,

[1] The subject property sold for $269,000 in April 2006. At that time, the subject property had 10 acres of land area, which was split into two separate parcels: an eight parcel improved with a barn and a two acre parcel improved with the single-family residence that is the matter of this appeal.

the appraiser estimated the subject property has a fair market value of $227,000 as of January 1, 2007.

The board of review also submitted a Real Estate Transfer Declaration indicting the subject property sold in December 2008 for $227,400, almost 24 months subsequent to the subject's January 1, 2007 assessment date. This document was filed with the Property Tax Appeal Board on June 11, 2009, without objection. Based on this evidence submitted, the board of review requested confirmation of the subject's assessment.

At the hearing, the appellant's counsel raised some questions with respect to the board of review's appraiser's final value conclusion, selection of the comparables and overall appraisal methodology. However, the board of review's appraiser was not present at the hearing for cross-examination.

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 Property Tax Appeal Board further finds a reduction in the subject property's assessment is warranted.

The appellants argued the subject property was 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). The Board finds the appellants have overcome this burden of proof.

The appellants submitted an appraisal report estimating the subject's fair market value of $209,000 as of January 1, 2007. The board of review submitted an appraisal of the subject property estimating a fair market value of $227,000 as of January 1, 2007. In addition, the board of review submitted a Real Estate Transfer Declaration indicting the subject property sold in December 2008 for $227,400. Finally, the evidence disclosed the subject property was purchased by the appellants in April 2006 for $269,000.[2]

The Property Tax Appeal Board finds the best evidence of the subject's fair market value is the appraisal submitted by the appellants' estimating a market value for the subject property of $209,000 as of January 1, 2007, using two of the three traditionally accepted approaches to value. The Property Tax Appeal Board finds the appellants' appraiser provided credible, logical and professional testimony regarding the reasonable

[2] In April 2006, the subject property had 10 acres of land area, which was split into two separate parcels: an eight parcel improved with a barn and a two acre parcel improved with the single-family residence that is subject matter of this appeal.

application of the adjustment amounts and final value conclusion. Based on this record, the Property Tax Appeal Board finds the subject property has a fair cash value of $209,000 as of January 1, 2007. The subject's assessment reflects an estimated market value of $226,335, which is not supported by the most credible valuation evidence contained in this record. Therefore a reduction in the subject's assessed valuation is supported.

The Property Tax Appeal Board gave minimal weight to the appraisal submitted by the board of review. The board of review's appraiser was not present at the hearing to provided direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Without the testimony of the appraiser, the Board was not able to accurately determine the credibility, reliability and validity of the value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined.

The Property Tax Appeal Board also gave less weight the subject's December 2008 sale price $227,400. The Board finds this sale occurred almost two years subsequent and is considered less indicative of fair cash value as of the subject's January 1, 2007 assessment date at issue in this appeal. The Board also placed diminished weight to sale that occurred in April 2006, which included the subject property. The Board finds the 2006 sale included an additional eight acres of land area and a barn, which is not the subject valuation matter of this appeal.

Based on this analysis, the Property Tax Appeal Board finds the evidence contained in this record demonstrated the subject property was overvalued by a preponderance of the evidence and a reduction is warranted. Sine fair market value has been established, Coles County's 2007 three-year medial level of assessments of 33.18% 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: March 23, 2010

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.