



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

APPELLANT: John Sek
DOCKET NO.: 08-01208.001-R-1
PARCEL NO.: 07-01-31-302-007-0000

The parties of record before the Property Tax Appeal Board are John Sek, the appellant, by attorney Michael Elliott, of Elliott & Associates, P.C. in Des Plaines, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$37,480
IMPR: \$78,860
TOTAL: \$116,340

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 13,300 square feet of land area is improved with a two-story frame and brick exterior constructed single-family dwelling built in 2004. The dwelling consists of approximately 3,373 square feet of living area¹ with a full unfinished basement of 1,702 square feet of building area. Additional features of the dwelling are central air conditioning, a fireplace, and a 3.5-car garage.² The subject property is located in Plainfield, Wheatland Township, Will County.

¹ The appellant's appraiser reported a dwelling size of 3,373 square feet of living area supported by a schematic drawing. The board of review presented the subject's property record card with a schematic drawing and a dwelling size of 3,591 square feet of living area. Since the best evidence of value was presented by the appraiser, the Board has accepted the appraiser's dwelling size determination for purposes of this appeal.

² The appellant's appraiser reported this as a 4-car garage in the sales comparison approach to value, but in the description said it was a 3.5-car garage.

The appellant filed this appeal through legal counsel contending overvaluation of the subject property. In support of this market value argument, the appellant presented a recent purchase price of the subject property along with a recent appraisal and a brief from counsel.

As to the recent sale data in Section IV of the Residential Appeal form, the appellant reported the subject property was purchased in February 2008 for \$335,000 from M & T Bank. The appellant also reported the parties to the transaction were unrelated and the property was sold at auction. No further information regarding the nature of the transaction as requested in Section IV of the appeal form was presented. The appellant did attach a copy of the Final Statement with a settlement date of February 25, 2008 and the purchase price of \$335,000. In the brief, counsel contended based on the sale price the subject's total assessment should be reduced to \$110,148.

As to the appraisal, the client for purposes of the appraisal was Countrywide Bank, FSB-Landsafe and the appraisal was prepared for a purchase transaction appraising the fee simple rights. The report was prepared by John Gazda of Alliance Appraisal, Inc. in Stickney, a State Certified Residential Real Estate Appraiser. In the report, he indicated that the subject property was listed for sale in the Multiple Listing Service (MLS) twice previously in the prior twelve month period for both \$499,900 and \$529,900. The appraiser further acknowledged that the contract sales price for this property was \$335,000 and the property was currently vacant and being purchased as a bank foreclosure. The subject property also previously sold in June 2006 for \$533,000.

For this report, Gazda used two of the three traditional approaches to value in concluding an opinion of market value of \$350,000 for the subject property as of February 2, 2008. In the addendum, in discussing the property, he noted all appliances were missing and all doors were removed. He described the kitchen as modern with wood cabinetry, granite countertops and island. The foyer, breakfast and kitchen areas had hardwood flooring.

Under the cost approach, the appraiser estimated the subject's land value at \$70,000 based on market analysis of land sales data in the subject's market area. Using Marshall Swift, the appraiser determined a replacement cost new for the subject dwelling of 3,373 square feet along with the basement, garage and additional features of \$290,820. Physical depreciation of \$8,317 was calculated using the age/life method resulting in a depreciated value of improvements of \$282,503. Next, a value for site improvements of \$10,000 was added. Thus, under the cost approach, the appraiser determined an indicated market value of \$362,503 for the subject.

Under the sales comparison approach, the appraiser used three sales and two listings of comparable homes located between 0.08 and 0.48 miles from the subject property. The comparables

consist of two-story brick and frame exterior constructed dwellings which were 3 or 4 years old. The comparables range in size from 2,959 to 4,039 square feet of living area. Each of the comparables had a full unfinished basement, central air conditioning, and a three-car garage. Four comparables have a fireplace. The appraiser reported that sales #1 through #3 were on the market from 161 to 1,068 days; no sales or transfers of the these comparables were found by the appraiser within the prior twelve months. These three comparables sold between October 2007 and January 2008 for prices ranging from \$350,000 to \$380,000 or from \$94.08 to \$115.17 per square foot of living area including land. The two active listings located in the subject's subdivision had been on the market for 89 and 160 days, respectively, with asking prices of \$350,000 and \$439,900 or \$95.63 and \$148.67 per square foot of living area including land.

The appraiser acknowledged that sales #2 and #3 were similar foreclosure sales to the subject property. The appraiser found no financing adjustments were necessary, but he did adjust the listings downward by 3% to reflect current market conditions. In comparing the comparable properties to the subject, besides the afore-mentioned, the appraiser made adjustments for condition, room count, dwelling size, garage stalls, and lack of a fireplace. The appraiser continued to describe the subject dwelling as a 3,373 square foot home. This analysis by the appraiser resulted in adjusted sales prices for the comparables ranging from \$327,455 to \$406,193. From this process, the appraiser estimated a value for the subject by the sales comparison approach of \$350,000 or \$103.77 per square foot of living area including land based on his 3,373 square foot size determination.

In his final reconciliation, the appraiser concluded an estimate of value of \$350,000 relying upon the sales comparison approach with supportive consideration to the cost approach.

Based on the appraisal, legal counsel argued that the subject's total assessment should be reduced to \$115,080 to reflect the three-year median level of assessment in Will County.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of \$169,179 was disclosed. The final assessment of the subject property reflects a market value of \$508,962 or \$150.89 per square foot including land using the 3,373 square foot size determination made for this appeal and the 2008 three-year median level of assessments for Will County of 33.24%.

In support of the subject's assessment, the board of review submitted a two-page letter from Kelli Lord, Wheatland Township Assessor, along with supporting documents. In response to the appellant's evidence, as to the appraisal, the assessor noted that the subject was purchased as a foreclosure. In support of this contention, a copy of the Illinois Real Estate Transfer Declaration (PTAX-203) was included reflecting that the property

was advertised for sale, but that the transfer instrument was a 'special warranty deed' and the seller was a financial institution or government agency. The assessor also asserted that appraisal sales #1, #2 and #3 are located in a "different neighborhood"; sale #2 was a foreclosure property; and 2008 sales "did not exist at the time of assessments." The assessor also disputed the valuation date of February 1, 2008 for the assessment date of January 1, 2008. Lastly, the assessor stated "[t]he appraisal was done for financing purposes and not assessment purposes using 3 years worth of sales."

In support of the subject's estimated market value, the assessor provided three "valid" sales purportedly from the subject's subdivision, although each comparable has a different neighborhood code assigned by the assessor than the subject dwelling. In addition, comparables #1 and #2 are reported to be on a pond, unlike the subject. The comparables are described as two-story frame dwellings that were built between 2004 and 2006. The homes range in size from 3,269 to 3,441 square feet of living area and feature unfinished basements, central air conditioning, a fireplace and a 3-car garage. The sales occurred between February 2005 and December 2007 for prices ranging from \$445,000 to \$515,770 or from \$134.15 to \$149.88 per square foot of living area including land.

Based on the foregoing evidence and based on the assertion that the appellant's appraisal is flawed, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

In rebuttal, appellant's counsel argued that the board of review's sales data from 2005, 2006 and 2007, given the declining real estate market, is not a strong indicator of the value of the subject property as of January 1, 2008. In support of the contention of a declining sales market, attached were MLS printouts of the properties presented in the appraisal. Appraisal sale #2 sold in October 2005 for \$450,000 and resold in October 2007 for \$375,000, a 17% decline. Appraisal sale #3 likewise sold in February 2005 for \$560,000 and resold in October 2007 for \$380,000, a 32% decline.

Lastly, appellant cited to the Illinois Supreme Court case of Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983), for the proposition that a sale of property during the tax year in question is a "relevant factor" in considering the validity of an assessment.

After reviewing the record 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 that a reduction in the subject's assessment is warranted.

The appellant argued that the subject's assessment was not reflective of market value. When market value is the basis of the appeal the value of the property must be proved by a

preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 728 N.E.2d 1256 (2nd Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code Sec. 1910.65(c)). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted on this record.

As an initial argument, the appellant contends the subject's assessment should be reduced based on the sale of the subject as set forth in the record. The evidence disclosed that the subject sold in February 2008 for a price of \$335,000 having been sold by M & T Bank at auction and the parties to the transaction were not related. The Board finds that this minimal information provided by the appellant is insufficient to determine whether the sale has the elements of an arm's length transaction in that no data was provided regarding whether the property was advertised and, if so, for what period of time, among other important factors necessary to determine the details of the transaction. Therefore, the Property Tax Appeal Board finds the facts on this record are insufficient to determine if the recent sale of the subject was an arm's length transaction and thus supportive of the appellant's overvaluation argument.

The Board also finds the appellant submitted an appraisal of the subject property with an opinion of value of \$350,000 as of February 1, 2008, while the board of review submitted no appraisal, but provided three sales, only one of which was proximate in time to the assessment date of January 1, 2008. The board of review also criticized the sales selected by the appraiser for location despite their proximity to the subject, for date of sale despite their proximity to January 1, 2008, and, in one instance, for being a foreclosed property, despite that this property was listed on the market for nearly 200 days before being sold. Furthermore, the most similar comparable in size and that was also proximate in time set forth by the board of review sold in December 2007 for \$445,000 or \$134.15 per square foot of living area including land, which is less than the subject's estimated market value of \$150.89 per square foot of living area including land. The Board finds this one sale from the board of review with a lower per-square-foot sale price does not support the subject's estimated market value. Board of review comparable #2 is also superior to the subject by being located on a pond. Therefore, based on this record, the Board finds that the subject property's estimated market value of \$508,962 or \$150.89 per square foot including land using the 3,373 square foot size determination appears to be excessive based on the most comparable data from the board of review.

Based on this record, the Property Tax Appeal Board finds that, despite the assessor's criticisms, the appraisal submitted by the appellant estimating the subject's market value as \$350,000 is the best evidence of the subject's market value in the record.

The sales considered in the appraisal were within approximately 0.39 mile of the subject and were proximate in time to the assessment date of January 1, 2008. Moreover, the board of review's one sale most close in time to the assessment date does not support the subject's estimated market value as reflected by its assessment where the comparable property is located on a pond.

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 three-year median level of assessments for Will County for 2008 of 33.24% 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. 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: October 21, 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.