



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

APPELLANT: Russell Hinnen
DOCKET NO.: 08-01265.001-R-1
PARCEL NO.: 12-02-18-410-056-0000

The parties of record before the Property Tax Appeal Board are Russell Hinnen, the appellant, 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: \$29,100
IMPR.: \$90,564
TOTAL: \$119,664

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 8,925 square feet of land area with a lake front view is improved with a two-story frame and brick exterior constructed dwelling built in 2004.¹ The dwelling consists of approximately 2,786 square feet of living area with a full unfinished basement of 2,075 square feet of building area. Additional features of the dwelling are central air conditioning, a fireplace, and an attached three-car garage. The subject property is located in Bolingbrook, DuPage Township, Will County.

The appellant's appeal is based on overvaluation of the subject property. In support of this market value argument, the appellant filed an appraisal prepared by Mark Wirth of Excel Real Estate Appraisal Services, Inc. in Mokena, a State Certified

¹ In a letter, but without a copy of the subject's property record card, the board of review through the township assessor reported the subject site consists of 12,976 square feet of land area "abutting a large detention pond at rear"; "the builder reports a living area of 2,778 square feet"; "home built in 2003." The Property Tax Appeal Board finds the best evidence of the subject's descriptive information was provided in the appraisal which included a schematic drawing and an inspection of the property as compared to the unsupported statements in the letter from the township assessor which lacked a copy of the subject's property record card.

Residential Real Estate Appraiser. The purpose of the appraisal was for a refinance transaction, but the property rights appraised were fee simple. The appraiser used two of the three traditional approaches to value in concluding an estimated market value of \$360,000 for the subject property as of January 6, 2009.

Under the cost approach, the appraiser estimated the subject's land value at \$65,000 based on the extraction and/or closed land sales within the subject's market area. The appraiser further reported that site values range from 30% to 35% of the overall value. Using the Marshall & Swift Residential Cost Xpress, the appraiser determined a replacement cost new for the subject dwelling including the basement, deck and garage of \$327,845. Physical depreciation of \$11,934 was calculated based on Marshall & Swift Residential Cost Xpress resulting in a depreciated value of improvements of \$315,911. Next, a value for site improvements of \$5,000 was added. Thus, under the cost approach, the appraiser estimated a market value of \$385,911 for the subject.

Under the sales comparison approach, the appraiser used four sales and two listings of comparable homes located between 0.23 and 5.15-miles from the subject property. The appraiser stated that comparable #6 was "bank owned." Also, in the addendum, the appraiser reported that in the subject's neighborhood there were no recently recorded sales of similar lake front homes, thus non-lake front homes in the neighborhood were utilized along with lake front homes from similar competing neighborhoods within the Bolingbrook market area.

The comparables consist of two-story, frame and brick exterior constructed dwellings which were from 3 to 13 years old. The comparables ranged in size from 2,300 to 3,139 square feet of living area. Each of the comparables had a full basement, one of which was finished. Additional features included central air conditioning and a 2-car or 3-car garage. The four sales occurred between January and July 2008 for prices ranging from \$310,000 to \$399,500 or from \$112.39 to \$134.78 per square foot of living area including land. The listings, which had been on the market for 75 and 314 days, respectively, had asking prices of \$374,900 and \$329,000 or \$149.24 and \$118.43 per square foot of living area including land, respectively.

In comparing the comparable properties to the subject, the appraiser made adjustments to the two listings of 3% since they were not sold. Adjustments were also made for view, above-grade area, dwelling size, basement finish, and garage stalls. In the addendum, the appraiser noted that none of the comparables enjoyed the subject's lake front amenity although comparable #4 was a lake front home in a nearby competing neighborhood. Active listings #5 and #6 were also lake homes, but the appraiser gave "no consideration as this is a Bank Owned property and is not considered indicative of market values." The appraiser reported that most consideration was given to comparables #1 through #3 due to location in the subject's neighborhood with additional consideration to comparable #4 with a lake front amenity. The

analysis resulted in adjusted sales prices for the comparables ranging from \$320,000 to \$377,100 or from \$115.19 to \$156.26 per square foot of living area including land. From this process, the appraiser estimated a value for the subject by the sales comparison approach of \$360,000 or \$129.22 per square foot of living area including land.

In his final reconciliation, the appraiser concluded an estimate of value of \$360,000 giving the sales comparison approach the greatest weight as it reflects the actions of typical buyers and sellers in the open market. The appraiser further noted the cost approach supports the sales comparison approach.

Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$120,000 which would reflect a market value of approximately \$360,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$134,100 was disclosed. The final assessment of the subject property reflects a market value of \$403,430 or \$144.81 per square foot including land using the 2008 three-year median level of assessments for Will County of 33.24%.

In response to the appellant's evidence, the DuPage Township Assessor presented a letter outlining five criticisms and shortcomings of the appellant's appraisal along with copies of property record cards for appraisal sales #1, #2 and #3. First, the subject's site size is purportedly erroneous (see footnote #1). Second, sale #3 purportedly has a site size of 1,800 square feet, but the appraiser made no adjustment for land size. The attached property record card reveals a parcel size of 11,784 square feet of land area for this property. Third, "all three comparison sites"² are corner lots and lack the water view/frontage of the subject; the township assessor contends that the appraiser made no adjustment for this difference. Fourth, the township assessor noted the opinion of value is as of January 6, 2009 for the assessment date of January 1, 2008; the township assessor contended this "is inappropriate." Fifth, the assessor reported the subject property is not in a Special Services Area (SSA) for infrastructure, whereas comparables #2 and #3 are in an SSA. The assessor wrote regarding this issue, "As such their annual 'tax' has an additional \$1,562 burden not incurred by the subject site. But the appraiser makes no adjustment for that extra burden. It would be a positive adjustment."

Based on the foregoing assertions that the appellant's appraisal is flawed, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the

² Perhaps the township assessor did not recognize that the appraisal included six comparable properties.

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, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 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.

The Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of \$360,000 as of January 6, 2009, while the board of review submitted no appraisal or market value evidence, but only criticized various aspects of the appellant's appraisal. The Property Tax Appeal Board finds the criticisms presented by the board of review through the township assessor are either irrelevant to a market value determination, erroneous assertions, or criticized factual statements which were not sufficiently supported to overcome the facts presented in the appraisal.

The criticism of the subject's purportedly incorrect site size has been addressed previously; in the absence of the subject's property record card, the Board has determined the best evidence was presented by the appellant's appraiser concerning the subject's site size. While the appraiser most likely made an error in reporting the site size for comparable #3 as it is unlikely that a 2,430 square foot two-story dwelling would be located on a 1,800 square foot site in a subdivision such as the subject's neighborhood, the Board finds this one site size error does not detract from the overall quality and thoroughness of the appraisal. The Board also finds that the board of review falsely asserted that no adjustment(s) were made for the subject's lake view as the appraisal clearly does adjust for this difference as to the first three sales. As shown in the appraisal report, the appraiser adjusted sales #1, #2 and #3 each for "view" by adding \$20,000.

Perhaps the most valid criticism made by the board of review concerns the date of valuation in the appellant's appraisal. However, the Board finds there are several factors that support consideration of the appraiser's opinion of value on this record despite the one year difference in time. The Board finds that the appraiser primarily relied upon sales #1 through #3 in determining the subject's estimated market value with support from sale #4. Each of these four sales occurred between January and July 2008, which is within seven months or less of the

assessment date of January 1, 2008. The appraiser made no adjustment to these four sales for time/date of sale in the appraisal. Moreover, the board of review provided no sales data to refute these sales which were close in time to the assessment date. Therefore, the Board finds that the date of the opinion of value alone is not a sufficient basis to discredit the appellant's appraisal.

The last criticism raised by the township assessor concerns the 'tax burden' of sales #2 and #3. Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill.App.3d at 418, 635 N.E.2d at 1353; see also 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 Illinois Supreme Court has defined fair cash value as 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). The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation. (86 Ill.Admin.Code Sec. 1910.10(f)). In this appeal, the board of review provided no substantive market data to support their contention that the SSA status of sales #2 and #3 did or would affect the sales prices of these properties in January and July 2008. Therefore, on this record, the Property Tax Appeal Board finds that the board of review has failed to support this criticism of the appraisal with any substantive market data.

While the board of review raised five criticisms and/or shortcomings it perceived in the appellant's appraisal, in the end the Property Tax Appeal Board finds that as outlined above and despite those criticisms, the appraisal submitted by the appellant estimating the subject's market value of \$360,000 or \$129.22 per square foot of living area including land is still the best evidence of the subject's market value in the record. Moreover, the appraisal's estimated opinion of value was not substantively challenged with any market value evidence presented by the board of review.

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. (86 Ill.Admin.Code Sec. 1910.50(c)(1)).

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

Frank J. Huff

Member

Member

Shawn R. Lerbis

Member

Member

Mario M. Louie

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: September 23, 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.