FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Edward & Denise Schainker
DOCKET NO.: 08-01826.001-R-2
PARCEL NO.: 23-19.0-201-002

The parties of record before the Property Tax Appeal Board are Edward & Denise Schainker, the appellants, and the Sangamon 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 **Sangamon** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$55,702
IMPR.:	$175,018
TOTAL:	$230,720

Subject only to the State multiplier as applicable.

ANALYSIS

The subject's 1.5-acre parcel located on Lake Springfield is improved with a 2-year old, one-story brick single-family dwelling containing 2,275 square feet of living area.[1] Features of the home include a full walkout-style basement with 1,427 square feet of finished area, central air conditioning, two fireplaces, and both a two-car and a three-car garage. The property also features an inground swimming pool and boat storage. The subject is located in Springfield, Capital Township, Sangamon County.

There is a slight size dispute on the record. The appellants' appraiser reported a dwelling size of 2,140 square feet whereas the board of review, which had assessing officials remeasure the subject dwelling, reported a dwelling size of 2,275 square feet of living area. Based on this record and after examining the slight variations in the schematic drawings presented by both parties, given the ability of the board of review representatives

[1] Both the appraisal report and the board of review's evidence include schematic drawings of the subject dwelling. The appraiser was not present to testify; representatives from the board of review were present.

to answer questions about the measurements taken, the Board finds the board of review presented the best evidence of the subject's dwelling size.

The appellant Edward Schainker appeared before the Property Tax Appeal Board on behalf of the appellants contending that the market value of the subject property is not accurately reflected in its assessed valuation. In support of the overvaluation argument, the appellants had previously filed an appraisal report with the Property Tax Appeal Board wherein the appraiser estimated the subject property had a market value of $600,000 as of September 9, 2008.

Appellant argued that real estate values have changed substantially since the appellants began construction of the subject dwelling in 2006/2007 to the date of valuation at issue in this matter of January 1, 2008.

The appraisal filed in this matter was prepared by Mark Zeigler of the Zeigler Appraisal Group. The appellant argued that the State certified appraiser was present at the hearing previously held before the Sangamon County Board of Review and at that time, the appraiser answered all of the questions presented by the county representative(s). Moreover, as a consequence of that hearing, the appellants agreed to allow a re-measurement of the subject property which was also performed. Thereafter, the appellant received the Final Decision issued by the Sangamon County Board of Review which made no change to the assessment of the subject property for 2008. As a consequence of that notice, the appellants filed the instant appeal to the Property Tax Appeal Board.

The appraiser was unavailable to appear at the hearing of this matter for testimony and cross-examination before the Property Tax Appeal Board.[2]

As a consequence of that non-appearance, the board of review objected to consideration of the appraisal since the appraiser was not present to provide testimony and/or be cross-examined with regard to the report. In particular, the board of review would inquire of the appraiser as to the subject's reported dwelling size, adjustments made for basements and basement finish, how adjustments were calculated along with other inquiries.

In response to the objection, appellant argued that the appraiser was simply not available for hearing and appellant reiterated that the appraiser previously answered the questions placed to him by representative(s) of the Sangamon County Board of Review

[2] It should be noted that the appellants never sought a continuance of the hearing due to the inability of a material witness to be present at the time and date set for hearing in accordance with the Board's rules. 86 Ill.Admin.Code Sec. 1910.67(i).

about the appraisal report. At hearing, ruling on the objection was reserved by the Hearing Officer.

The Property Tax Appeal Board sustains the objection of the board of review to the appellants' appraisal report. The Board finds that in the absence of the appraiser at hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Property Tax Appeal Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appraiser. Novicki v. Dept. of Finance, 373 Ill. 342 (1940); Grand Liquor Co., Inc. v. Dept. of Revenue, 67 Ill. 2d 195 (1977); Jackson v. Board of Review of the Dept. of Labor, 105 Ill. 2d 501 (1985). The Property Tax Appeal Board finds the appraisal report is tantamount to hearsay. Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill. App. 3d 887 (1st Dist. 1983). Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2nd Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1st Dist. 1971). In the absence of an appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Property Tax Appeal Board finds that the weight and credibility of the evidence and the value conclusion of $600,000 as of September 2008 has been significantly diminished and cannot be deemed conclusive as to the value of the subject property.

Examining the raw sales data in the appraisal, there are four comparable sales located from .27 to 4.82-miles from the subject property. It is further noted that the appraiser described the subject dwelling as having an effective age of 10 years and containing 2,140 square feet of living area. The appraiser described the subject as having only a three-car garage whereas in Section III of the Residential Appeal form the appellants reported two separate garages as described above. Two of the comparable sites in the appraisal report were 'equal' to the subject and two of the comparables had parcels of 2 and 2.95-acres, respectively. The parcels were improved with either two-story or one-story dwellings of brick exterior construction ranging in age from 8 to 58 years old, with two dwellings having effective ages of 15 and 25 years. The comparables range in size from 1,934 to 2,757 square feet of living area. The comparables have full basements, two of which are walkout-style and each of which has some finished area. Each dwelling has two fireplaces, three comparables have a boat dock and two comparables have inground pools. The properties also have from two-car to four-car garages with one property having both a two-car and a three-car garage. The comparables sold between September 2007 and July 2008 for prices ranging from $460,000 to $649,000 or from $221.62 to $298.32 per square foot of living area including land.

On the basis of the foregoing evidence, the appellants requested a total assessment for the subject property of $200,000 or an estimated market value of approximately $600,000 based on their appraisal evidence.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject's final equalized assessment of $318,281 was disclosed. Based on the equalized assessment, the subject property has an estimated market value of $965,658 or $424.47 per square foot of living area, land included, based on the 2008 three-year median level of assessments in Sangamon County of 32.96%.

The board of review submitted a memorandum discussing their sales analysis of properties on Lake Springfield and contending that the subject property should have a value of $700,000. The memorandum concluded that the board of review was requesting an adjustment in the subject's assessment to reflect a market value of $700,000.

As discussed in the memorandum, the board of review presented an adjustment analysis of five suggested sales comparables, two of which were sales #2 and #1 from the appellants' appraisal. The amenities of the individual properties are difficult to ascertain because the individual amenities or features have various adjustments for each property.

The comparables were said to be located on the "main body of the lake." The analysis did not present land sizes for comparison purposes. The comparables were, however, described as one-story frame or masonry dwellings that range in age from 1 to 58 years old. The dwellings contain from 1,263 to 2,959 square feet of living area and feature full or partial finished basements. Each comparable has a covered boat dock, a garage, a deck, and a fireplace. The comparables sold between September 2007 and September 2008 for prices ranging from $339,900 to $1,085,000 or from $210 to $366 per square foot of living area, land included, rounded.

The township assessor testified that the adjustments on the analysis were derived from the Illinois Department of Revenue cost manual. As a consequence of those adjustments, the township arrived at adjusted sales prices for the five comparables ranging from $628,023 to $764,247 or from $226.23 to $529.70 per square foot of living area, including land. From this analysis, the township official arrived at an estimated market value for the subject property of $700,000 or $307.69 per square foot of living area including land.

In written rebuttal, the appellant submitted a new appraisal prepared by Mark Zeigler with an opinion of value as of October 2, 2010 of $575,000 along with data printed from the internet on December 1, 2010 discussing home price declines at that time.

Pursuant to the Official Rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill. Admin. Code, Sec. 1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties [emphasis added]. (86 Ill. Admin. Code, Sec. 1910.66(c)). In light of these Rules, the Property Tax Appeal Board has not considered the new appraisal with a valuation date of October 2, 2010 submitted by appellant in conjunction with his rebuttal argument. Similarly, there is nothing in the internet article that rebuts, repels or counteracts the board of review's evidence in this matter which concerned sales of properties in 2007 and 2008 on Lake Springfield as the substance of this 2010 article concerns housing prices in 2010 that were falling from the prior year across much of the United States.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds based on the evidence presented that a reduction in the subject's assessment is warranted based on the evidence submitted by the board of review.

The appellants contend the assessment of the subject property is excessive and not reflective of its 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the evidence in the record does support a reduction in the subject's assessment.

The appellants submitted four comparable sales through their appraisal for the Board's consideration and the board of review presented three additional comparable sales. The Property Tax Appeal Board has given most weight to the board of review's sale #1 due to the age of the dwelling which is similar to the subject. Based on the evidence presented, the Property Tax Appeal Board finds a reduction in accordance with the recommendation of the board of review is supported given the market data. The subject's estimated market value based on its equalized assessment of $965,658 or $424.47 per square foot of living area, land included, is greater than the most similar sales comparable on this record.

In conclusion, the Board finds that the subject's assessment as established by the board of review is incorrect and a reduction is warranted. Since market value has been established, the three-year median level of assessments for Sangamon County for 2008 of 32.96% 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.

Chairman

Member

Member

Member

Acting 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: January 20, 2012

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.