FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Marian Skolarz
DOCKET NO.: 08-01917.001-R-1
PARCEL NO.: 15-17-201-066

The parties of record before the Property Tax Appeal Board are Marian Skolarz, the appellant, by attorney Scott Shudnow of Shudnow & Shudnow, Ltd., Chicago; and the Lake County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***an increase*** in the assessment of the property as established by the **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$ 77,775
IMPR.:	$ 221,295
TOTAL:	$ 299,070

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story brick dwelling containing 4,006 square feet of living area that was built in 1989. Features include a full basement with approximately 2,000 square feet of finished area, central air conditioning, two fireplaces, an 840 square foot elevated wood deck, and a 786 square foot three-car attached garage. The dwelling is situated on a 55,976 square foot or 1.29 acre site.

The appellant appeared before the Property Tax Appeal Board through 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 conveys an estimated market value for the subject property of $750,000 as of January 1, 2008. The appraiser, Israel J. Smith, was not present at the hearing for direct and cross examination regarding the appraisal methodology and final value conclusion.

At the hearing, counsel indicated he could not get his appraiser to appear at the hearing because he could not contact his client.

Counsel argued the appraisal speaks for itself and is self contained. He further explained the appraiser is now employed by the Cook County Board of Review.

Under the cost approach to value, the appraiser estimated the subject's site had a land value of $185,000 based on local land sales and the extraction method. However, the report did not contain any land sales or evidence showing how the estimated land value was calculated. The depreciated cost of the improvements was estimated to be $739,443. Adding the value for site improvements of $95,000, the appraiser concluded a value under the cost approach of $1,019,443.

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 July to November 2007 for prices ranging from $651,000 to $917,500 or from $179.14 to $232.16 per square foot of living area including land. The appraiser adjusted the comparables for differences when compared to the subject in land area, quality of construction, living area, and "some" or "high end" updates. The adjustments resulted in adjusted sales prices ranging from $691,000 to $827,500 or from $190.15 to $209.39 per square foot of living area including land. Based on the adjusted sale prices, the appraiser estimated the subject property had a fair market value of $750,000 or $187.22 per square foot of living area including land under the sales comparison approach.

Under reconciliation, the appraiser gave most weight to the sales comparison approach because it closely reflects the actions of buyers and sellers in the market. Therefore, the appraiser concluded the subject property had an estimated market value of $750,000 as of January 1, 2008.

Counsel argued the main issue in this appeal is that most homes in the area were built in approximately 1989, but sold in 2007 at the height of the market after upgrading. Counsel claimed most homeowners make substantial upgrades to homes in order to sell. Counsel argued the subject property has not been updated since its construction, according to both the appraiser and the appellant, neither of whom were present at the hearing. Appellant's counsel argued the assessor and board of review valued the subject property as if it had significant upgrades as other homes in the area, which is not true. Counsel argued comparable 2 used by the appraiser was also used by the board of review and the board of review's appraiser. He concluded this property "must be a strong comparable" since it was used by both parties. This property sold in July 2007 for $917,500 or $232.16 per square foot of living area including land. However, counsel argued the appellant's appraiser made downward adjustments to this common sale of -$75,000 for high end upgrades and -$20,000 for superior basement quality finish. Counsel argued the board of review's appraiser failed to make any adjustments to reflect the difference of superior upgrades. Appellant's counsel acknowledged the appraiser used sales located outside the

subject's area in order to find properties that were truly comparable to the subject, rather than using properties on the subject's street that had substantial upgrades.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect a fair market value of $750,000.

Under questioning, counsel did not know if the appraiser inspected the comparables to determine the amount of substantial upgrades in comparison to the subject. Counsel opined the appraiser used Multiple Listing Service (MLS) sheets to determine their amount of upgrades. The MLS sheets were not contained within the appraisal report.

The board of review objected to the appraisal report submitted by the appellant. The board of review argued the appellant's appraiser was not present at the hearing for cross-examination regarding the appraisal methodology and value conclusion, which constitutes hearsay. In response to the objection, appellant's counsel indicated he is well aware of the Property's Tax Appeal Board's rules regarding the weight of evidence, but had no direct response to the board of review's objection. The Board reserved ruling.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $289,971 was disclosed. The subject's assessment reflects an estimated market value of $872,618 or $217.83 per square foot of living area including land using Lake County's 2008 three-year median level of assessments of 33.23%.

In support of the subject's assessment, the board of review submitted an independent appraisal of the subject property. Using two of the three traditional approaches to value, the appraisal report conveys an estimated market value for the subject property of $900,000 as of January 1, 2008. The appraisal was prepared by Arthur K. Klemp and Michael J. Sullivan. Sullivan was present at the hearing for direct testimony and cross examination regarding the appraisal methodology and final value conclusion. In further support of the subject's assessment, the board of review submitted property record cards and a grid analysis detailing four suggested comparable sales. Two of the comparable sales were also utilized by the board of review's appraiser.

The four comparable sales submitted by the board of review consist of two-story brick and frame dwellings that were built in 1989 or 1991. The comparables have full or partial basements with finished areas ranging in size from 615 to 1,767 square feet. Other features include central air conditioning, one to three fireplaces, decks that range size from 361 to 1,242 square feet and attached garages ranging in size from 690 to 847 square feet. The dwellings are situated on lots that range in size from 43,829 to 64,438 square feet of land area. The comparables sold

from June 2006 to July 2008 for prices ranging from $917,500 to $1,057,500 or from $227.43 to $251.67 per square foot of living area including land.

The Vernon Township Assessor Gary Raupp was also present at the hearing and provided testimony in connection to this appeal. Raupp was qualified as an expert in the field of real estate valuation without objection. He testified he reviewed the appraisal prepared by Smith and Sullivan. Raupp testified the comparables used by Sullivan are located in the subject's same neighborhood and are of the same quality as the subject. He was not aware of any permits for the updating of any of the homes.

Under cross-examination, Raupp testified he had not been inside the homes but he has viewed them from the exterior since they were originally constructed. Raupp opined the comparable properties used by Sullivan are more similar to the subject than those used by Smith. He testified comparable 3 used by Smith is located in a different subdivision and village with a considerably smaller lot.

Michael J. Sullivan was next called as a witness to provided testimony in connection with the appraisal he prepared of the subject property. Sullivan was qualified as an expert witness without objection.

Under the cost approach to value, the appraiser estimated the subject's site had a land value of $250,000 based on vacant land sales in comparable areas. However, the report did not contain any land sales. The depreciated cost of the improvements was estimated to be $624,120. Adding the value for site improvements of $40,000, the appraiser concluded a value under the cost approach of $914,100.

Under the sales comparison approach to value, the appraiser utilized three suggested comparable sales located in close proximity within the subject's neighborhood and subdivision. One comparable is located on the subject's street. The comparables consist of two-story brick or brick and frame dwellings that were built in 1989. The comparables have full or partial finished basements, central air conditioning, one or three fireplaces and three-car attached garages. Other features include decks, open and enclosed porches, and patios. The dwellings are situated on lots that range in size from 1.14 to 1.5 acres of land. The comparables sold in June or July of 2007 for sale prices ranging from $892,000 to $1,057,500 or from $187.08 to $251.67 per square foot of living area including land. The appraiser adjusted the comparables for differences when compared to the subject in land size, featured location, room count, living area, finished basement area, and various ancillary amenities such as decks, porches and patios. Comparable 3 was also adjusted for its superior interior finish. The adjustments resulted in adjusted sales prices ranging from $850,000 to $913,000 or from $178.27 to $230.78 per square foot of living area including land. Based on the adjusted sale prices, the appraiser estimated the subject

property has a fair market value of $900,000 or $224.66 per square foot of living area including land as of January 1, 2008.

Sullivan testified he ascertained the condition of the comparables by consulting the Multiple Listing Service (MLS). Copies of the MLS sheets for the comparables were admitted into the record at hearing. From reviewing the MLS sheets, Sullivan considered the comparables to be similar to the subject in condition. Sullivan testified comparable 1 had its original kitchen and bathrooms, but did have updated appliances. He also pointed out the subject is unusual because it has a two-story kitchen and eating area. Comparable 2 was adjusted for its inferior basement quality. Comparable 3 was adjusted for its larger site that backed to a conservancy area. It was also adjusted for granite countertops and trim, but it did not have updated cabinets or appliances.

Under reconciliation, the appraiser gave most weight to the sales comparison approach. Therefore, the appraiser concluded the subject property had an estimated market value of $900,000 as of January 1, 2008.

Based on this evidence, the board of review requested an increase in the subject's assessment.

Under cross-examination, Sullivan testified he did not personally inspect the subject property. He explained he was the supervisory appraiser, which in customary practice include involvement in the appraisal process and reviewing the final report. Sullivan testified the comparables' condition was determined by reviewing MLS sheets and conversations with brokers. The amount of upgrades, if any, were also discussed by reviewing the MLS sheets. Sullivan testified homes that are over 18 years old tend to need some updating, but the comparables used in the appraisal report did not have upgrades except comparable 3, which had new granite countertops and trim. He reiterated comparable 1 was in similar condition to the subject with little upgrading except appliances.

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 an increase in the subject property’s assessment is warranted.

The appellant 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 preponderance of the most credible market value evidence contained in this record demonstrates the subject property is under-assessed in relation to its fair market value as of January 1, 2008. Therefore, the Board finds an increase in the subject's assessment is warranted.

The appellant submitted an appraisal report estimating the subject's fair market value of $750,000 as of January 1, 2008. The board of review submitted an appraisal of the subject property estimating a fair market value of $900,000 as of January 1, 2008. In addition, the board of review submitted a grid analysis of four comparable sales, two of which were utilized by the appraisers.

The Property Tax Appeal Board finds the best evidence of the subject's fair market value is the appraisal submitted by the board of review estimating a market value of $900,000 as of January 1, 2008, using two of the three traditionally accepted approaches to value. The Property Tax Appeal Board finds the board of review's appraiser provided credible, logical and professional testimony regarding the selection of the comparables, reasonable 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 $900,000 as of January 1, 2008. The subject's assessment reflects an estimated market value of $872,618, which is less than the most credible valuation evidence contained in this record. Therefore, an increase in the subject's assessed valuation is warranted.

The Property Tax Appeal Board gave no weight to the appraisal submitted by the appellant. The appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Given that the main thrust of the appellant's appeal was based on the lack of "upgrades" for the subject and the amount of purported "upgrading" of the comparables, the testimony of Smith is a critical factor in this appeal. Therefore, the Board hereby sustains the hearsay objection raised by the board of review. Without the testimony of the appellant's 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.

Based on this analysis, the Property Tax Appeal Board finds the best evidence contained in this record demonstrates the subject property was under-valued by a preponderance of the evidence and an increase in the subject's assessment is warranted. Since fair market value has been established, Lake County's 2008 three-year median level of assessments of 33.23% 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: October 21, 2011

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.