



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

APPELLANT: John Lewensky
DOCKET NO.: 08-02407.001-R-1
PARCEL NO.: 03-20-402-010

The parties of record before the Property Tax Appeal Board are John Lewensky, the appellants; and the Kane County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 21,371
IMPR.: \$ 96,617
TOTAL: \$ 117,988

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story brick and frame dwelling containing 2,280 square feet of living area that was built in 2002. Features include a partial crawl space and partial unfinished basement with 1,564 square feet. Other amenities include central air conditioning, a fireplace and a 528 square foot attached two-car garage. The dwelling is situated on a 6,534 square foot lot that backs to Illinois Route 72.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property and a paired sales analysis of four comparable properties to demonstrate a decline in real estate values from the subject's market area.

The appraisal report conveys an estimated market value for the subject property of \$342,000 as of April 4, 2008, using two of the three traditional approaches to value. The appraiser was not present at the hearing for direct testimony or be cross-

examination regarding the appraisal methodology and final value conclusion.

Under the cost approach to value, the appraiser estimated the subject's site had a land value of \$60,000 based on limited recent land sales, site to total value ratios and/or extracted from sales of improved properties, none of which were contained in the appraisal report. The depreciated cost of the improvements was estimated to be \$294,187, resulting in a final value estimate under the cost approach of \$354,200, rounded.

Under the sales comparison approach to value, the appraiser utilized nine suggested comparable properties. The first three comparables consist of one-story brick and frame dwellings that are 3 or 4 years old located in close proximity to the subject. Two comparables have unfinished walkout basements and one comparable has a full, partially finished walkout basement. Comparables 1 and 3 have a fireplace. Other features include central air conditioning and two car garages. The dwellings range in size from 1,988 to 2,144 square feet of living area and are situated on lots that range in size from 6,970 to 9,583 square feet of land area. They sold from April to September of 2006 for prices ranging from \$372,500 to \$425,000 or from \$179.57 to \$213.78 per square foot of living area including land. The appraiser adjusted the comparables for differences when compared to the subject in land area, view, dwelling size, basement area, and various upgrades. The adjustments resulted in adjusted sales prices ranging from \$336,700 to \$358,800 or from \$167.35 to \$179.73 per square foot of living area including land.

Comparables 4 through 7 consist of 5 or 6 year old, one-story brick and frame dwellings that are located in close proximity to the subject. Two comparables have partial finished basements and one comparable has a full unfinished basement. Comparables 2 and 3 are described as "English" style basements. Comparables 1 and 3 have a fireplace. Other features include central air conditioning and two-car garages. Comparable 2 is described as a superior builder's model dwelling. The dwellings range in size from 1,988 to 2,355 square feet of living area and are situated on lots that range in size from 7,841 to 8,276 square feet of land area. Comparable 4 was characterized as a pending sale and comparables 5 through 7 were listed for sale in the open market as of April 2008. The pending and offering prices ranged from \$389,000 to \$459,900 or from \$165.18 to \$214.51 per square foot of living area including land. The appraiser adjusted the comparables' pending and offering prices for typical sale discounts and for physical differences when compared to the subject in land area, view, dwelling size, basement area, and various upgrades. The adjustments resulted in adjusted pending or offering prices ranging from \$332,950 to \$359,700 or from \$144.59 to \$167.77 per square foot of living area including land.

Comparables 8 is located across Illinois Rout 72 from the subject and in the "Timbers" section at Carrington Reserve development. Comparable 9 is located .4 of a mile south of the subject in the

"Valleys" section at Carrington Reserve. The subject is located in the "Enclave" section at Carrington Reserve development. They consist of 5 year old, two-story brick and frame dwellings. Comparable 8 has an unfinished walkout basement and comparable 9 has a full unfinished basement. Other features include central air conditioning, a fireplace and two or three-car garages. The dwellings contain 2,146 and 2,508 square feet of living area and are situated on lots that contain 10,454 and 12,632 square feet of land area. The comparables sold in October and November of 2007 for \$350,000 each, or \$139.55 and \$163.09 per square foot of living area including land, respectively. The appraiser adjusted the comparables for physical differences when compared to the subject in land area, view, design, room count, dwelling size, basement area, and various upgrades. The adjustments resulted in adjusted sale prices of \$300,600 and \$343,200 or \$119.86 and \$159.93 per square foot of living area including land, respectively.

The addendum of the appraisal report under comments on sales comparison, the appraiser concluded comparables 1 through 3 are dated sales, but are included because they were most similar and timely ranch sales located in the subject's neighborhood. The appraiser was unable to find three comparable closed sales less than six months old. Pending sale comparable 4 backed to Illinois Route 72 and required no view adjustment. Sales 8 and 9 were included, although they dissimilar two-story style dwellings, because of their more recent sale prices. Upgraded features contained within each comparable was noted along with an explanation for the source(s) of the adjustments amounts.

Under reconciliation, the appraiser gave more weight to the sales comparison approach to value with support from the cost approach to value. Therefore, the appraiser concluded the subject property had a fair market value of \$342,000 or \$150.00 per square foot of living area including land as of April 4, 2008.

The appellant next presented a paired sales analysis of four properties located within various areas of the subject's development to demonstrate property values are declining. The properties initially sold from October 2004 to July 2006 for prices ranging from \$356,450 to \$470,000. The properties re-sold from February to June of 2008 for prices ranging from \$300,000 to \$340,000, which represent market value decreases ranging from 6.9% to 36.1%. Based on this analysis, the appellant argued it was unjust to increase the subject's assessment from \$111,513 in 2007 to \$117,988 in 2008. Thus, the appellant requested the subject's assessment be restored to the 2007 assessment amount of \$111,513, which reflects an estimated market value of \$334,539.

Under cross-examination, the appellant testified he originally purchased the subject property for \$299,000, which was the lowest original sale price within the development. The appellant testified other homes in the development originally sold for prices ranging from \$300,000 to \$440,000. The appellant

testified all three sections of Carrington Reserve are under the same homeowners association and it is a single community.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$117,988 was disclosed. The subject's assessment reflects an estimated market value of \$354,638 or \$155.54 per square foot of living area including land using Kane County's 2008 three-year median level of assessments of 33.27%.

In support of the subject's assessment, the board of review submitted 10 suggested comparable sales, three of which were contained in the appellant's appraisal report. They consist of one-story frame or brick and frame dwellings that were built in 2002 or 2003. The comparables are located in close proximity to the subject and eight comparables are the same model type as the subject. Three comparables have finished walkout basements; one comparable has an unfinished walkout basement; two comparables have unfinished lookout basements; two comparables have full or partial finished basements; and two comparables have unfinished basements. The comparables have one or two fireplaces, central air conditioning and attached garages that contain from 453 to 528 square feet. The dwellings range in size from 1,865 to 2,392 square feet of living area. Their lots sizes were not disclosed. The properties sold from March 2005 to September 2006 for prices ranging from \$308,500 to \$468,000 or from \$155.18 to \$213.78 per square foot of living area including land.

At the hearing, the board of review argued it is more appropriate to compare 2006 sales within the subject's section of Carrington Reserve than other sections of the development, even if the sales occurred more proximate to the subject's January 1, 2008 assessment date. The board of review also argued the appellant's appraiser did not make time adjustments to the comparables for their 2006 sales dates. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 no reduction 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 appellant has not overcome this burden of proof.

The appellant submitted an appraisal report estimating the subject property has a fair market value of \$342,000 as of April 4, 2008. The board of review submitted 10 suggested comparables sales to support its assessed valuation of the subject property.

The Property Tax Appeal Board gave little weight to the appraisal and final value conclusion 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, selection of the comparables adjustment process and amounts or 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 reviewed the raw sales data for the 16 suggested comparable properties contained in this record. The Board gave less weight to comparables 8 and 9 contained in the appraisal report submitted by the appellant due to their dissimilar two-story design when compared to the subject's one-story design. The Board also gave little weight to six comparable sales submitted by the board of review. These sales occurred between March and October of 2005 and are not considered indicative of the subject's market value as of its January 1, 2008 assessment date.

The Board finds the remaining eight comparables are most similar when compared to the subject in location, design, age, and size. However, the Board finds many of these comparables have upgraded features when compared to the subject, notably look out or walkout finished basements. The Board finds comparables 4 through 7 contained in the appraisal report had pending or listing prices ranging from \$389,000 to \$459,000 or from \$165.18 to \$214.51 per square foot of living area including land. The Board finds the listing prices set the upper limit of value and tend to support the subject's assessment, which reflects an estimated market value of \$354,638 or \$155.54 per square foot of living area including land.

The Board finds the other four comparables sold from April 2006 to September 2006 for prices ranging from \$372,000 to \$468,000 or from \$168.86 to \$213.78 per square foot of living area including land. The subject's assessment reflects an estimated market

value of \$354,638 or \$155.54 per square foot of living area including land, which is less than the most similar comparables sales contained in this record. After considering any necessary adjustments to the comparables sales for differences when compared to the subject, the board finds the subject's assessment is supported and no reduction is warranted.

Based on this analysis, the Property Tax Appeal Board finds the appellant failed to demonstrate the subject property was overvalued by a preponderance of the evidence and no reduction is warranted.

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: September 24, 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.