FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: John La Rosa
DOCKET NO.: 08-03707.001-R-1
PARCEL NO.: 02-27-405-022

The parties of record before the Property Tax Appeal Board are John La Rosa, the appellant, by attorney Ralph F. Tellefsen, III, of the Law Office of Ralph F. Tellefsen, Elmhurst; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$22,840
IMPR.:	$49,660
TOTAL:	$72,500

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story brick and frame dwelling containing 1,450 square feet of living area that was built in 1968. Features include a concrete slab foundation, central air conditioning, a fireplace and a one-car attached garage. The dwelling is situated on a 7,511 square foot lot.

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 $185,000 as of November 6, 2008.

The appraiser, Robert Kolodziejski, was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Under the cost approach to value, the appraiser estimated the subject property had a land value of $60,000. Improvements were estimated to have a replacement cost new of $162,000. Physical

depreciation was estimated to be $45,360, resulting in a depreciated cost new of $116,640. The value of site improvements was estimated to be $10,000. Based on this information, the appraiser estimated a value conclusion of $186,600 under the cost approach to value.

Under the sales comparison approach to value, the appraiser utilized three suggested comparable sales and one sale offering. The comparables consist of one-story frame dwellings that were built from 1961 to 1968. The dwellings are situated on lots that range in size from 6,724 to 7,705 square feet of land area. The comparables are located in the subject's subdivision. One comparable has a full basement that is partially finished and three comparables do not have basements. Other features include central air conditioning and one or two-car garages. Comparable three has a sunroom. The dwellings range in size from 925 to 1,390 square feet of living area. Comparables 1 through 3 sold from May to September of 2008 for prices ranging from $175,000 to $186,000 or from $131.65 to $196.20 per square foot of living area including land. Comparable 4 was listed for sale on the open market as of November 06, 2008 for $207,900 or $208.11 per square foot of living area including land. The appraiser adjusted the comparables for differences when compared to the subject in view, room count, living area, foundation, garage size and ancillary amenities. The sale offering was also adjusted for seller concessions, listing to sale ratio price and quality of construction. The adjustments resulted in adjusted sale or offering prices that ranged from $183,500 to $187,400. Based on these adjusted values, the appraiser estimated the subject property had a fair market value of $185,000 or $127.59 per square foot of living area including land under the sale comparison approach to value.

In reconciliation, the appraiser gave no weight the cost approach to value due to potential errors in the depreciation estimate. The appraiser indicated the market approach was the most relevant indicator of value. Therefore the appraiser concluded the subject property had a fair market value of $185,000 as of November 6, 2008.

The appellant's counsel also completed Section V of the appeal petition of the three comparables sales contained within the appraisal report. In summary, they sold from May to September of 2008 for prices ranging from $175,000 to $186,000 or from $131.65 to $196.20 per square foot of living area including land.

The appellant's counsel also submitted Exhibit A, which is a schematic diagram of the subject dwelling. The diagram depicts the subject dwelling as containing 1,450 square feet of living area.

At the hearing, the appellant's counsel argued the board of review used comparables sales that occurred in 2005, which are not indicative of market value as of the 2008 assessment year given the spiraling downward real estate market. He argued

DuPage County assessment officials explained that that the use of short and foreclosures sales are not appropriate market value indicators. Counsel argued the real estate market is now made up of short and foreclosure sales. Based on this evidence, the appellants requested a reduction in the subject's assessment.

In response to the appraisal, the board of review raised an objection to the appraisal report because the appraiser was not present at the hearing to be cross-examined.

Appellant's counsel was questioned regarding the the intended use and purpose of the appraisal report. Counsel explained the purpose of the report was to find value of that particular home at that particular time. Counsel was referred to page 4 of the appraisal report, under intended user, which states:

> The intended use of this appraisal report is for the lender/client to evaluate the property that is the subject of this appraisal for a mortgage finance transaction.

Counsel was also question whether the appellant obtained permission from the appraiser or financial institution to use the appraisal. Counsel replied "I'm not sure whether this got attached improperly or not, and cannot tell you that". It was noted the appraiser was from Plano, Texas. Counsel did not have any firsthand knowledge whether the appraiser inspected the subject or comparables.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $87,550 was disclosed. The subject's assessment reflects an estimated market value of $263,150 or $181.48 per square foot of living area including land using DuPage County's 2008 three-year median level of assessments of 33.27%.

In support of the subject's assessment, the board of review submitted a letter addressing the appeal and a limited analysis of four suggested comparable sales that was prepared by the township assessor. The Bloomingdale Township Assessor, John T. Dabrowski, was present at the hearing to provide direct testimony and be cross-examined regarding the valuation evidence he prepared. Dabrowski testified this appeal involves the market value of the subject property as of January 1, 2008. Based on state statutes, Dabrowski testified assessment officials are required to look at sales from the three prior years or from 2005, 2006 and 2007 to calculate 2008 assessments. He could not cite the applicable state statutes.

The comparables consist of one-story frame or brick and frame dwellings that were built from 1963 to 1968. The comparables are located in the subject's subdivision. One comparable has a full unfinished basement; two comparables have full, partial finished basements; and one comparable does not have a basement. Two comparables have one-car attached garages and two comparables

have two-car detached garages. The dwellings range in size from 845 to 1,228 square feet of living area. The comparables' lots sizes were not disclosed. The comparables sold from November 2005 to July 2007 for prices ranging from $230,000 to $254,000 or from $187.30 to $276.92 per square foot of living area including land.

With respect to the comparables contained in the appellant's evidence, the assessor's letter indicates the sales occurred after January 1 2008, and therefore are unable to be considered until the 2009 assessment year. The assessor also testified the 2008 sales should be time adjusted. The assessor also argued the appraiser's sales 1, 2 and 4 are foreclosures and should not be considered. The assessor also indicated the sale offering contained within the appellant's appraisal sold in January 2010 for $103,000 or $103.10 per square foot of living area including land.

Based on this evidence submitted, the board of review requested confirmation of the subject's assessment.

Under questioning, the assessor could not cite the state statutes requiring assessment officials to use sales from the three prior years or from 2005, 2006 and 2007 to calculate 2008 assessments. The assessor agreed the Property Tax Code requires assessors to conduct an annual three–year sales ratio study. The assessor agreed the three-year sales ratio sales study is not contained on the subject's property record card. The assessor agreed the mass appraisal system is utilized to calculated individual assessments for properties located within Bloomingdale Township. He agreed the assessor employs the cost approach under the mass appraisal system to calculate individual assessments for property. The sales ratio study is used to augment or adjust the cost approach to value in calculating individual assessments. He agreed the sales ratio study itself is not the main driver to calculate assessments. The assessor also agreed the sales ratio study is a tool used to calculate equalization factors and a measurement to determine if assessors are accurately assessing properties, as a whole within the township, in relation to 33 and 1/3% of fair cash value. The assessor also agreed sales from 2005 are "weaker" in relation to the subject's January 1, 2008 assessment date.

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 a 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 sales in the record support a reduction in the subject's assessment .

The appellant submitted an appraisal report estimating the subject's fair market value of $185,000 as of November 6, 2008. The board of review submitted four suggested comparables in support of its assessment of the subject property.

The Property Tax Appeal Board gives little weight to the appraisal submitted by appellant. Notwithstanding that the appellant in this appeal was not the intended user of the appraisal report, the appellant's appraiser was not present at the hearing to provided direct testimony or be cross-examined regarding the appraisal methodology and 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 Board will consider the raw sales data contained in the appraisal report because they were contained in Section V of the appeal petition, in addition to the four comparable sales submitted by the board of review. The Board gave less weight to comparables 1 and 3 submitted by the appellant due to their smaller size when compared to the subject. In addition comparable 1 has a finished basement, unlike the subject's concrete slab foundation. The Board also gave less weight to comparables 1 through 3 submitted by the board of review due to their smaller size and finished basements, unlike the subject. Furthermore, comparable 2 and 3 sold in 2005, which are considered less indicative of the subject's value as of the January 1, 2008 assessment date

The Board finds the two remaining comparable sales are most similar to the subject property in location, age, size style and features. Comparable 2 submitted by the appellant is a one-story frame dwelling containing 1,390 square feet of living area that was built in 1968. It does not have a basement, like the subject. It sold in May 2008, just five months subsequent to the subject's January 1, 2008 assessment date, for $183,000 or $131.65 per square foot of living area including land. Comparable 4 submitted by the board of review is a one-story frame dwelling

containing 1,228 square feet of living area that was built in 1963. It does not have a basement, like the subject. It sold in July 2007, six months prior to the subject's January 1, 2008 assessment date, for $230,000 or $187.30 per square foot of living area including land. The subject's assessment reflects an estimated market value of $263,150 or $181.48 per square foot of living area including land. After considering adjustments to the comparables for any differences when compared to the subject and for time adjustment in relation to January 1, 2008 assessment date at issue in this appeal, the Board finds then subject's assessed value is excessive and a 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: June 24, 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.