



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

APPELLANT: Nicholas J. Lombardi
DOCKET NO.: 08-03748.001-R-1
PARCEL NO.: 06-28-307-010

The parties of record before the Property Tax Appeal Board are Nicholas J. Lombardi, the appellant, by attorney Whitney T. Carlisle of McCracken, Walsh & de LaVan, Chicago; and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$506,740
IMPR: \$ 0
TOTAL: \$506,740

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 4.401 acre or 191,708 square foot vacant parcel. The subject parcel contains one-acre of buildable land and 3.401 acres of unbuildable floodplain land. The subject property is located in York Township, DuPage County.

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 the sales comparison approach to value, the appraisal report conveyed an estimated market value for the subject property of \$1,375,000 or \$7.17 per square foot of land area as of January 1, 2008. The appraiser was not present at the hearing for direct and cross-examination regarding the appraisal methodology and final value conclusion.

Under the sales comparison approach to value, the appraiser utilized three suggested comparable sales that are located from .02 to .61 of a mile from the subject. The comparables are reported to range in size from .73 of an acre to 2.53 acres of land area. The appraiser described the comparables as wooded

with a good view like the subject. They sold in July 2007 or June 2008 for prices ranging from \$1,060,000 to \$1,375,000. The appraiser adjusted comparables 2 and 3 by \$126,000 and \$150,000 or approximately \$40,000 per acre for the differences in land size when compared to the subject. In addition, the appraiser adjusted comparable 3 by -\$50,000 to account for points reported. These adjustments resulted in adjusted sale prices ranging from \$1,160,000 to \$1,375,000. The appraiser placed most weight on comparable sales 2 and 3. Based on these adjusted sale prices, the appraiser estimated the subject property had a fair market value of \$1,375,000 as of January 1, 2008.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final land assessment of \$506,740 was disclosed. The subject's land assessment reflects an estimated market value of \$1,523,114 or \$7.95 per square foot of land area 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, property record cards, a location map, and an analysis of three suggested comparables. This evidence was prepared by Deputy Township Assessor, Ronald Pajda. Pajda was present at hearing for direct and cross-examination regarding the evidence he prepared. One comparable sale is comprised of two separate parcels that were sold together. Two of the three comparable sales were also used by the appellant's appraiser. The comparables are located in close proximity to the subject. Comparable sale 1 (two parcels) is located next to the subject and comparable 3 is located along the subject's street.

The comparables range in size from 1.26 to 2.53 acres of land area or from 54,885 to 110,076 square feet of land area. Comparables 2 and 3 have 27.4% and 25.69% of their land in a floodplain, respectively. The floodplain land for comparable 2 is a pond. They sold from July 2005 to June 2008 for sales prices ranging from \$1,190,000 to \$1,475,000 or from \$12.49 to \$21.68 per square foot of land area.

Pajda testified the subject property has one acre of buildable land that is assessed at \$4.31 per square foot of land area and 3.401 acres unbuildable floodplain land that is assessed at \$2.16 per square foot of land area, respectively. Pajda testified it is the assessor's office policy to value unbuildable land at one-half the value of buildable land. The assessor also indicated the appellant uses the unbuildable land as a golf practice range.

With respect to evidence submitted by the appellant, Pajda testified comparable 3 was improved and being used as a single-family dwelling at the time of its July 2007 sale; it is

considerably smaller in size than the subject property; and is located in a different assessment neighborhood than the subject.

The board of review also objected to the appraisal report submitted by the appellant because the appraiser was not present at the hearing for cross-examination regarding the appraisal methodology and final value conclusion. More specifically, the board of review questioned the selection of comparable 3 and the size adjustment amounts, or lack thereof, applied by the appellant's appraiser. In response, the appellant's counsel argued the Property Tax Appeal Board is empowered to hear all evidence submitted and the appraisal is part of the record.

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 appellant has not overcome this burden of proof.

The appellant submitted an appraisal report estimating a fair market value for the subject property of \$1,375,000 as of January 1, 2008. The board of review submitted three suggested comparable sales along with the testimony of the deputy township assessor to support its assessment of the subject property.

The board of review objected to the appraisal report on the grounds the appellant's appraiser was not present at the hearing for cross-examination regarding the appraisal methodology and final value conclusion. More specifically, the board of review questioned the selection of comparable 3 and the size adjustment amounts, or lack thereof, applied by the appellant's appraiser. The Property Tax hereby sustains the objection. As a result, the Property Tax Appeal Board gave little weight to the appraisal submitted by the appellant. The Board finds 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. Absent 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 finds the best evidence of the subject's fair market value are the comparable sales submitted on behalf of the DuPage County Board of Review. The comparables were located in the same township and two comparables are located in close proximity along the subject's street. They range in size from 1.26 to 2.53 acres of land area or from 54,885 to 110,076 square feet of land area. Comparables 2 and 3 have 27.4% and 25.69% of their land in a floodplain, respectively. They sold from July 2005 to June 2008 for sales prices ranging from \$1,190,000 to \$1,475,000 or from \$12.49 to \$21.68 per square foot of land area. The subject's land assessment reflects an estimated market value of \$1,523,114 or \$7.95 per square foot of land area. The subject's land assessment reflects an estimated market value that is below the range established by the best comparable sales contained in this record on a per square foot basis. After considering adjustments for any differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its 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. Therefore, no reduction in the subject's assessment is justified.

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

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: July 22, 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.