



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

APPELLANT: Tomas A Garza
DOCKET NO.: 08-04759.001-R-1
PARCEL NO.: 03-14-307-023

The parties of record before the Property Tax Appeal Board are Tomas A Garza, the appellant, 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: \$41,800
IMPR.: \$117,700
TOTAL: \$159,500

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story single family dwelling with 2,991 square feet of living area. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a two-car integral garage. The dwelling is of frame and brick constructed and was built in 2000. The subject property is located in Bensenville, Addison Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of the overvaluation argument the appellant submitted an appraisal estimating the subject property had a market value of \$315,000 as of March 21, 2009. The appraisal was prepared by Mike Strnad of A Valuation Group, Ltd. The appraisal indicates that Strnad is an Illinois certified appraiser. The appraiser was not present at the hearing. The appraisal also indicates the client was National City Mortgage.

In estimating the market value of the subject property Strnad developed the sales comparison approach to value using four sales and three listings. The comparables were composed of two-story dwellings located in Bensenville that ranged in age from 5 to 10 years old. The homes ranged in size from 2,058 to 3,732 square

feet of living area. Each comparable has a full basement with three being finished. Each of the comparables has central air conditioning, three of the comparables have a fireplace and each comparable has a two-car garage. Four comparables sold from April 2008 to March 2009 for prices ranging from \$258,000 to \$422,000 or from \$113.08 to \$158.42 per square foot of living area, land included. The three listings were listed on the market from January 2009 to March 2009 for prices ranging from of \$399,000 to \$400,000 or from \$147.49 to \$190.18 per square foot of living area, land included. After making adjustments for differences from the subject, the appraiser estimated the comparables had adjusted sales prices ranging from \$309,000 to \$372,000. Based on these sales the appraiser estimated the subject had a market value of \$315,000 as of March 21, 2009.

The appellant testified that the appraisal was done for refinancing purposes but he was unable to refinance due to the appraised amount. The appraisal also reflected the dwelling had 2,511 square feet of living area, however, the appellant was of the opinion the size of the dwelling as reflected by the board of review's evidence of 2,991 square feet was correct. Based on this evidence the appellant requested the subject's assessment be reduced to \$128,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$164,490 was disclosed. The subject's assessment reflects a market value of \$494,409 or \$165.30 per square foot of living area, land included, using the 2008 three year average median level of assessments for DuPage County of 33.27%.

In support of the assessment the board of review submitted an "Addendum to Board of Review Notes on Appeal" and Exhibit #1 which includes a list of three sales indentified by the township assessor and the appellant's appraiser's seven comparables. The township assessor's comparables were improved with two-story dwellings of frame and brick construction that ranged in size from 2,076 to 2,907 square feet of living area. The dwellings were constructed in 1999 and 2000. Each comparable has a basement, each comparable has central air conditioning, two comparables have fireplaces and each comparable has an integral garage with 484 square feet of building area, respectively. The sales occurred from March 2007 to March 2008 for prices ranging from \$396,900 to \$480,000 or from \$156.63 to \$191.18 per square foot of living area, land included.

The board of review called as its witness Dawn Aderholt of the Addison Township Assessor's Office. She testified that the three comparables selected by the assessor's office were located within the subject's neighborhood. She also testified that six of the seven comparables selected by the appellant's appraiser were located in a different neighborhood than the subject property.

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 the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the sales in the record support a reduction in the subject's assessment.

In support of the complaint the appellant submitted an appraisal estimating the subject property had a market value of \$315,000 as of March 21, 2009. The Board finds, however, the appraiser was not present at the hearing to provide testimony about the appraisal or be cross-examined. Additionally, the appraisal estimated the market value of the subject approximately 15 months after the assessment date at issue and the appraiser had the size of the subject dwelling understated by approximately 480 square feet. As a result, the Board gives less weight to the conclusion of value within the appraisal but will consider the comparable sales outlined in the report which were also detailed in the board of review submission.

The Board finds the record contains 10 sales or listings submitted by both parties. The Board gives little weight to comparable sales #1 and #7 contained in the appellant's appraisal due to the fact they differed in size from the subject. The Board also gives little weight to appellant's comparables #4, #5 and #6 because they were listings and comparables #5 and #6 were significantly smaller than the subject. The Board also gives little weight to board of review comparable sale #1 because it was significantly smaller than the subject dwelling.

The Board finds the four remaining comparables, appellant's comparables #1 and #6 and board of review comparables #2 and #4, were the best comparables in the record. These four comparables were improved with two-story dwellings of frame and brick construction that ranged in size from 2,588 to 2,968 square feet

of living area. The dwellings were constructed from 1999 to 2001. The comparables had similar features as the subject dwelling. The comparables sold from March 2007 to August 2008 for prices ranging from \$360,000 to \$480,000 or from \$121.29 to \$165.12 per square foot of living area, land included. The subject's assessment reflects a market value of \$494,409 or \$165.30 per square foot of living area, land included, which is above the range established by the best comparables in the record. Based on these sales the Property Tax Appeal Board finds a 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.

Donald 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: June 24, 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.