



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

APPELLANT: Thomas & Sandra Homer
DOCKET NO.: 08-06084.001-R-1
PARCEL NO.: 12-02-05-306-018-0000

The parties of record before the Property Tax Appeal Board are Thomas & Sandra Homer, the appellants, by attorney Thomas J. Homer, of Thomas J. Homer, P.C. in Naperville; and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$50,200
IMPR.: \$250,000
TOTAL: \$300,200

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 17,030 square foot parcel that is improved with a ten year-old, part one-story and part two-story all brick home that contains 4,165 square feet of living area. Features of the home include central air conditioning, two fireplaces, a partial unfinished basement and a four-car garage. The subject is located in Fialla Woods Court subdivision, Naperville, Du Page Township, Will County.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation and assessment inequity regarding the subject's improvements as the bases of the appeal. While the appellants' petition indicated they sought a nominal reduction also in the subject's land assessment, they submitted no evidence or testimony to support a land inequity argument. In support of the overvaluation argument, the appellants submitted an appraisal of the subject property with an effective date of January 1, 2009. The appraiser, who was not present at the hearing to provide testimony regarding his selection of comparables, adjustments to their sales prices for differences when compared

to the subject, or be cross-examined, used the cost and sales comparison approaches in estimating the subject's value at \$738,000.

In the cost approach, the appraiser estimated the subject's site value at \$125,000, based on the abstraction method. The appraiser determined a cost new for the subject dwelling, based on "data obtained from public services and builders cost estimates for similar structures," at \$640,560. After subtracting depreciation of \$27,480 and adding back the site value (no value for site improvements was indicated), the appraiser estimated a value for the subject by the cost approach of \$738,080.

In the sales comparison approach, the appraiser examined three comparable properties, one of which is located in the subject's subdivision. The comparables consist of two-story style brick and frame dwellings that range in age from 5 to 20 years and range in size from 3,824 to 4,427 square feet of living area. Features of the comparables include central air conditioning, two-car or three-car garages and full basements, two of which have recreation rooms and other features. The comparables sold in July or December 2008 for prices ranging from \$665,000 to \$865,000 or from \$166.03 to \$226.20 per square foot of living area including land. The appraiser adjusted the comparables for differences when compared to the subject, such as room count, living area, basement finish, garage size and lot size. After adjustments, the comparables had adjusted sales prices ranging from \$671,260 to \$828,600. Based on this analysis, the appraiser estimated a value for the subject by the sales comparison approach of \$738,000.

In his reconciliation, the appraiser relied most heavily on the sales comparison approach, as it "most accurately reflects the actions of independent buyers and sellers in this market place."

In support of the improvement inequity argument, the appellants submitted township assessor description sheets and a list of eighteen comparables located in the subject's subdivision. The list depicted these properties' street addresses, parcel numbers, living area and improvement assessments. The comparables range in size from 3,144 to 6,078 square feet of living area and have total assessments ranging from \$209,700 to \$434,800 or from \$63.10 to \$83.30 per square foot of living area. The appellants isolated what they felt were the five comparables most similar in size to the subject. These comparables had an average total assessment of \$72.00 per square foot, compared to the subject's total assessment of \$80.80 per square foot. Based on this evidence the appellants requested the subject's improvement assessment be reduced to \$250,000 or \$60.03 per square foot of living area.

During the hearing, appellant Thomas Homer acknowledged the appraiser was not present at the hearing, but asserted the appraisal indicated the subject's market value had declined

significantly in the year between the subject's assessment date and the appraisal's effective date. He testified the average decline in home values in Naperville had been 7.6%, but supplied no evidence to support this claim. Homer also testified the subject's assessment was reduced for the 2010 assessment year.

In cross-examination, the board of review's representative first objected to the absence of the appellants' appraiser at the hearing and requested the Property Tax Appeal Board give no weight to the value conclusion in the appraisal.¹ The Hearing Officer acknowledged the objection and stated the Board typically will consider raw sales data in an appraisal but will give no weight to a value conclusion where an appraiser is not present to support his report with testimony and be subject to cross-examination. Appellant Thomas Homer, who is an attorney, then informed the Hearing Officer that Property Tax Appeal Board hearings are informal, that normal rules of evidence are relaxed and that the Board could give weight to the opinion of value.

The board of review's representative then questioned the appellant regarding features of the subject dwelling. Homer agreed the subject is all brick veneer and that the appraisal comparables were brick and frame construction. He was not sure if any of the comparables in the subject's subdivision were all brick, nor was he certain if any had a cedar shake shingle roof like the subject. Homer also acknowledged the subject has a four-car garage and thought some of the comparables might have four-car garages as well, but he could not say for sure.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$336,600 was disclosed. The subject has an estimated market value of approximately \$1,012,635 or \$243.13 per square foot of living area including land, as reflected by its assessment and the Will County 2008 three-year median level of assessments of 33.24%.

The board of review submitted no appraisal, comparable sales, or other market evidence in support of the subject's estimated market value as reflected by its assessment or to refute the appellants' appraisal, but claimed the Property Tax Appeal Board should give no weight to the appraisal because its effective date was one year after the assessment date at issue in this appeal.

In support of the subject's improvement assessment, the board of review submitted a letter, photographs and property record cards, and a rearranged list of the comparables in the subject's subdivision supported, by several graphs. The letter stated the reason the subject's assessment is near the upper end of the range of assessments in the subdivision is because the subject is all brick, has a shake shingle roof and a four-car garage, features not enjoyed by the comparables relied on by the

¹ The appellants submitted additional argument in rebuttal to this issue subsequent to the hearing. This additional argument will not be considered by the Board.

appellants. Based on this evidence, the board of review requested the subject's assessment be confirmed.

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 Board further finds a reduction in the subject property's assessment is warranted.

The appellants first argued the market value of the subject property is not accurately reflected in its assessed valuation. 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). The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellants submitted an appraisal report of the subject property with an effective date of January 1, 2009 and which estimated the subject's market value at \$738,000. The board of review submitted no appraisal, comparable sales, or other market data in defense of the subject's estimated market value as reflected by its assessment, or to refute the appellants' appraisal. The appellants' appraiser was not present at the hearing to provide testimony regarding his selection of comparables, adjustments or other valuation techniques employed, or to be cross-examined by the board of review. At the hearing, the board of review objected to the absence of the appraiser and urged the Property Tax Appeal Board to give no weight to the value conclusion in the appellants' appraisal.

The Property Tax Appeal Board finds that 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." Similarly, in Grand Liquor Company, Inc. v. Dept. of Revenue, 67 Ill.2d 195, 367 N.E.2d 1238, 10 Ill.Dec.472 (1977), the Supreme Court of Illinois, following Novicki, again asserted that the rule against hearsay evidence is founded on the necessity of an opportunity for cross-examination, and is a basic and not a technical rule of evidence.

Based on this case law, the Property Tax Appeal Board hereby sustains the objection of the board of review and will give no weight to the estimate of value for the subject property contained in the appellants' appraisal. However, the Board will consider the raw sales data in the appraisal in its decision on this appeal. The Board finds the appellants' appraiser considered three comparable properties in his sales comparison approach. The comparables were generally similar to the subject in size, age and many features, although none had all brick

veneer construction or four-car garages like the subject. The comparables sold for prices ranging from \$665,000 to \$865,000 or from \$166.03 to \$226.20 per square foot of living area including land. The subject's estimated market value as reflected by its 2008 assessment of \$1,012,635 or \$243.13 per square foot of living area including land is not supported by the only comparable sales in this record. Therefore, a reduction in the subject's assessment is warranted on this basis.

The appellants also argued assessment inequity as a basis of the appeal. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellants have not met this burden.

After the reduction in the subject's assessment granted pursuant to the appellants' successful overvaluation argument, the Board finds the subject's total assessment of \$72.08 per square foot of living area including land is well within the range of the appellants' comparables.

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: August 19, 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.