



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

APPELLANT: Dennis P. Sears
DOCKET NO.: 08-26433.001-C-1
PARCEL NO.: 27-29-202-014-0000

The parties of record before the Property Tax Appeal Board are Dennis P. Sears, the appellant(s), by attorney John P. Fitzgerald, of Fitzgerald Law Group, P.C. in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds reduction in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$63,263
IMPR: \$107,737
TOTAL: \$175,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 47,567 square foot parcel of land improved with a 27-year old, one-story, commercial building. The appellant argued that the market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted a summary appraisal report of the subject property with an effective date of January 1, 2008. The appraiser estimated a market value for the subject of \$450,000 based upon the sales comparison approach to value. The appraisal indicated the subject was inspected one December 7, 2008 and listed the

subject's improvement size as 7,700 square feet of building area.

Under the sales comparison approach, the appraiser analyzed the sales of five properties suggested as comparable and located within the subject's market. The properties are one-story, commercial buildings that range in age from 11 to 30 years and in size from 7,480 to 24,000 square feet of building area. The comparables sold from January 2005 to February 2008 for prices ranging from \$490,000 to \$1,425,000, or from \$53.26 to \$66.84 per square foot of building area. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$58.50 per square foot of building area using 7,700 square feet or \$450,000, rounded. Based on this evidence, the appellant requested a reduction in the assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$198,967 was disclosed. This assessment reflects a fair market value of \$523,597 when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5a property is applied. The board of review included the property record card for the subject which lists the subject's improvement size at 6,228 square feet of building area with a second page listing it at 5,467 square feet of building area. The property record card indicates the subject had an addition built in 1998.

In support of the subject's assessment, the board of review presented descriptions and sales information on a total of eight properties. These properties are described as one-story, commercial buildings. They range in age from 3 to 52 years with one age unknown and in size from 8,140 to 9,158 square feet of building area. They sold from November 1999 to January 2008 for prices ranging from \$575,000 to \$2,800,000 or \$63.89 to \$321.51 per square foot of building area. Several of the comparables were not on the open market at the time of sale or involved a lease as part of the sale. Base on this evidence, the board of review requested confirmation of the assessment.

At hearing, the appellant's attorney argued that the appraisal supports a reduction in the assessment. The appellant also objected the board of review's evidence because the preparer of the documents was not present to testify.

The board of review's representative, Roland Lara, argued that the appraiser was not present at the hearing to testify or be cross-examined and, therefore, the appraisal is hearsay. He also argued that the appraiser has incorrectly listed the subject's square footage and that the correct square footage should be 11,695 square feet of building area.

The record was left open for the parties to submit evidence to establish the correct improvement size for the subject. The appellant timely submitted a copy of the plat of survey from 1991, prior to the addition, which establishes the subject's size at 6,220 square feet of building area.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

As to the subject's size, the Board finds both parties failed to present testimony to support the evidence submitted. The Board finds the appraiser inspected and measured the subject in December 2008 which is within the lien year in question. Therefore, the Board finds this to be the best evidence and further finds the subject contains 7,700 square feet of building area. This size reflects a market value of \$68.00 per square foot of building area.

When overvaluation is claimed the appellant has the burden of proving the value of the property 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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c).

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the Board. 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 appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appraisal as hearsay. Therefore, the PTAB finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. In addition, the board of review did not present any witness to testify as to their evidence. However, the Board will consider the raw sales data submitted by both parties.

The parties presented sales data on 13 properties. The Board finds the appellant's comparables #1, #2, and #5 and the board of review's comparable #2 most similar to the subject with fee simple sale dates closest to the lien date in question. These sales occurred from January 2005 to February 2008 for prices ranging from \$490,000 to \$700,000 or from \$53.26 to \$66.84 per square foot of building area. In comparison, the appellant's assessment reflects a market value of \$68.00 per square foot of building area which is above the range established by the sales comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's assessment is not supported 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: February 21, 2014



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.