



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

APPELLANT: Christopher Davis  
DOCKET NO.: 09-00712.001-R-1  
PARCEL NO.: 16-05-35-402-031-0000

The parties of record before the Property Tax Appeal Board are Christopher Davis, the appellant; and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 33,748  
**IMPR.:** \$ 268,477  
**TOTAL:** \$ 302,225

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a custom built two-story brick, frame and stone dwelling that contains 5,672 square feet of living area with a partial basement that is 100% finished. The dwelling was constructed in 2001. Features include three unit zoned central air conditioning, three fireplaces and an attached four car garage that contains 939 square feet. The subject property also has a in-ground swimming pool. The improvements are situated on 1.03 acres or approximately 44,800 square feet of land area. The subject property is located in Homer Township, Will County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property. The appraiser was not present at the hearing for direct or cross-examination regarding the appraisal methodology and final value conclusion. The appraisal report conveyed an estimated market value for the subject property of \$825,000 as of April 29, 2009, using two of the three traditional approaches to value.

Under the cost approach to value, the appraiser estimated the subject's land value of \$175,000 or \$3.91 per square foot of land area. There was no objective evidence or source to support the estimated land value contained within the report. The report indicates the land value was derived "from our knowledge of the market, comparables obtained from the Multiple Listing Service, and/or our appraisal files." The replacement cost new of the improvements was estimated to be \$862,225 based on "information obtained from periodic review of local building trends, material and labor costs, and/or Marshall Valuation System," none of which were detailed in the appraisal report. Physical depreciation was estimated to be \$28,712 using the age-life method of calculating depreciation. Therefore, the subject's improvements were estimated to have a depreciated replacement cost new of \$833,315. Adding the estimated value for site improvements of \$60,000 and the estimated land value of \$175,000, the appraiser concluded a final value under the cost approach of \$1,068,513.

Under the sales comparison approach to value, the appraiser utilized four suggested comparable sales and four active listings. The properties are reportedly located from .06 of a mile to 4.35 miles from the subject. The comparables were described as two-story brick dwellings that are new to 8 years old. Features have varying degrees of similarity when compared to the subject. The dwellings are reported to range in size from 3,515 to 6,400 square feet of living area. Lot sizes ranged from 8,844 to 71,438 square feet of land area. Comparables 1 through 4 sold from May 2008 to April 2009 for prices ranging from \$775,000 to \$965,000 or from \$134.41 to \$209.46 per square foot of living area including land. Comparables 4 through 8 were listed for sale on the open market for prices ranging from \$629,900 to \$1,299,000 or from \$168.24 to \$278.40 per square foot of living area including land.

The appraiser made various adjustments to the comparables for differences when compared to the subject for date of sale (time), land size, view, room count, living area, unfinished basements, garage size, and features such as fireplaces and swimming pools. Additionally, the appraiser adjusted comparables 4 through 8 for "list to sell." The appraiser also adjusted comparable 4 by - \$15,500 for "point's paid." The report did not contain any explanation regarding the source or calculations for the adjustment amounts. The adjustments resulted in adjusted sale or listing prices ranging from \$640,807 to \$1,129,500 or from \$138.11 to \$274.76 per square foot of living area including land. Based on the adjusted sale prices, the appraiser estimated the subject property had a fair market value of \$825,000 or \$145.45 per square foot of living area including land under the sales comparison approach.

The appellant argued the appraisal was performed by a professional valuation expert and is the best evidence of the subject's fair market value. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value.

During the hearing, the board of review objected to the appraisal report because the appraiser was not present at the hearing for cross-examination regarding the valuation methodology and final value conclusion. The board of review argued appraisal report has multiple flaws, which will be outlined in the board of review's evidence. In response, the appellant argued the appraisal was performed by a professional valuation expert. The Property Tax Appeal Board reserved ruling on the objection.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$302,225 was disclosed. The subject's assessment reflects an estimated market value of \$911,140 or \$160.63 per square foot of living area including land using Will County's 2009 three-year median level of assessments of 33.17%.

In support of the subject's assessment, the board of review submitted a letter from the township assessor; photographs, the subject's property record card and an aerial photograph depicting the location of the subject property (Exhibit A); a property information sheet for the appellant's appraiser's comparable 1 (Exhibit B); a Trustee's Deed and Real Estate Transfer Declaration for the appellant's appraiser's comparable 4 (Exhibit C); a Real Estate Transfer Declaration for the appellant's appraiser's comparable listing 5 (Exhibit D); a revised analysis of four of the eight comparables utilized by the appellant's appraiser (Exhibit F); an additional analysis detailing five suggested comparable sales, an aerial photograph depicting the location of the subject and the five additional comparables, photographs and property record cards (Exhibit G); and an assessment analysis listing 59 suggested comparable properties from the subject's subdivision of Hunt Club Woods (Exhibit H). Deputy Township Assessor, Dale Butalla, was present at the hearing and provided testimony in connection with the evidence prepared on behalf of the board of review.

The assessor first explained that in the fall of 2007, the appellant constructed 1,474 square foot addition to the subject dwelling and installed and in-ground swimming pool, which were first assessed in 2009.

The board of review next provided a critical review of the appraisal submitted by the appellant. The effective date of the appraisal was five months after the subject's January 1, 2009 assessment date; the site adjustment for view is low and should be around \$10,000; adjustments should have been made to all the comparables for heating ventilation and air conditioning (HVAC); adjustments should have been made for quality/building materials; the adjustment for "date of sale/time" is high because 5% is normal; the cost per square foot adjustment should be \$30.00 and not the \$20.00 per square foot amount utilized by the appraiser; the \$4,000 adjustment used for a half bathroom is higher and should have been \$3,000; the adjustment amount of \$20,000 for basement finish is high and should be approximately \$5,000 per room.

With respect to the comparables utilized by the appellant's appraiser, none of the comparable sales (1 through 4) are located in Homer Township. The board of review argued the dwelling size for comparable 1 was incorrectly described as containing 5,400 square feet of living area. Exhibit B submitted by the board of review depicts a dwelling size for appellant's appraiser's comparable 1 of 4,039 square feet of living area. The board of review argued comparable 2 was a foreclosure, but provided no evidence to support this claim. The board of review argued comparables 2 and 3 are located in Cook County and should not be considered due to their different market location. The board of review alleged the appraiser used an incorrect dwelling size for comparable 3, but provided no evidence to support this claim. Comparable 4 sold January 30, 2009, which is after the assessment date of January 1, 2009 and therefore should not be considered. (See Exhibit C). Exhibit D disclosed appellant's appraiser's comparable listing 5 subsequently sold in May 2010 for \$470,000, but was a "short sale." Exhibit E disclosed appellant's appraiser's comparable listing 8 subsequently sold in March 2010 for \$825,000. Comparable listings 6 and 7 were taken off the market.

The appellant's appraiser was not present at the hearing to address or refute the criticisms raised by the board of review.

Exhibit F was comprised of a revised analysis of the four properties contained within the appellant's appraisal report that actually sold, with some descriptive corrections and different adjustment amounts. For reference, the comparables sold from May 2008 to April 2009 for prices ranging from \$775,000 to \$965,000 or from \$134.41 to \$236.57 per square foot of living area including land. The assessor made various adjustments to the comparables for differences when compared to the subject for date of sale (time), land size, view, room count, living area, unfinished basements, garage size, and features such as fireplaces and swimming pools. With exception of his professional experience, the deputy township assessor could not explain the source or calculations of the adjustment amounts. The adjustments resulted in adjusted sale prices ranging from \$816,600 to \$1,037,900. Based on the adjusted sale prices, the assessor opined a fair market value for the subject property of \$915,000.

Exhibit G was comprised of five additional comparable sales that are located in the subject's subdivision. The assessor testified that in 2008 there were no arm's-length sales of two-story homes in the subject's subdivision. The assessor also testified the subject is the largest two-story dwelling in Hunt Club Woods subdivision. The comparables consist of two-story masonry or frame and masonry dwellings that were built from 2001 to 2006. The comparables have full or partial basements. Basement finish, if any, was not disclosed. Three comparables have walkout basements. The comparables have zoned heating and cooling systems, one, two or three fireplaces, and attached garages ranging in size from 749 to 1,331 square feet. Two comparables

have a swimming pool. The comparables' lot sizes were not disclosed. The dwellings range in size from 4,147 to 4,810 square feet of living area. The comparables sold from March 2006 to June 2007 for prices ranging from \$750,000 to \$1,400,000 or from \$180.85 to \$291.06 per square foot of living area including land.

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

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 no 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002). The Board finds the appellant has not overcome this burden of proof.

The appellant submitted an appraisal report estimating market value for the subject property of \$825,000 as of April 29, 2009. The board of review leveled criticism with respect to the appraisal report submitted by the appellant. In addition, the board of review submitted a revised market analysis of four of the suggested comparables that were used in the appellant's appraisal and five additional comparable sales.

The Property Tax Appeal Board gave no weight to the value conclusion contained in the appellant's appraisal. 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. For example, the appraiser was not present to answer questions regarding the similarity or lack thereof of the comparables selected for comparison to the subject, the location of the comparables, the source(s) and verification of the descriptive information for the subject and comparables and the source and calculation of the adjustment amounts applied to the comparable sales or lack thereof. As a result, the Board hereby sustains the objection raised by the board of review at hearing regarding the appraisal report.

Without the testimony of the appellant's 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 (1<sup>st</sup> 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, however, will further examine the raw sales data contained in this record, including the sales in the appellant's appraisal report. The Board finds many of the comparable sales contained in the appellant's appraisal report and the comparables sales presented by the board of review are not particularly good indicators of the subject's fair market value. Nevertheless, the Property Tax Appeal Board is statutorily bound to find the correct assessment of a property under appeal, regardless of the poor quality of evidence. For example, appellant's appraiser's comparables 4, 5 and 7 are considerably smaller dwellings when compared to the subject. Appellant's appraiser's comparable 2 and 3 are located a considerable distance from the subject in Cook County, unlike the subject's location in Will County. The appellant's appraiser submitted no evidence that demonstrated these properties are located in the same geographic market area. Thus, these comparables received little weight in the Board's final analysis. The Board also gave no weight to the five comparable sales submitted by the board of review. The board of review failed to disclose the land sizes of the properties for comparison to the subject, which detracts from the weight of the evidence. Most importantly, these suggested comparables sold in 2006 or 2007, which are dated and not reliable indicators of market value as of the subject's January 1, 2009 assessment date.

Based on this record, the Board finds comparable sale 1 and comparable listings 6 and 8 contained within the appellant's appraisal report are most similar to the subject in location, age style, size and many features. These two-story masonry dwellings are new construction to five years old. One comparable property is located in the subject's subdivision. Two comparables have unfinished basements, inferior to the subject, while one comparable has a finished basement like the subject. One comparable has a swimming pool like the subject. The dwellings range in size from 4,039 to 6,400 square feet of living area that are situated on lots smaller than the subject, which range in size from 15,755 to 45,000 square feet of land area. The most similar comparables sold or were listed for sale for prices ranging from \$875,000 to \$1,299,000 or from \$195.31 to \$278.40 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$911,140 or \$160.63 per square foot of living area including land, which falls within the range established by the most similar comparable sale and listing prices and below the range on a per square foot

basis. After considering possible adjustments to the comparables for differences when compared to the subject, such as location, land area, dwelling size and features, the Board finds the subject's assessed valuation is well supported.

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 in this record. 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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

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 22, 2012

*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.