



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

APPELLANT: Mark & Caren Hunter  
DOCKET NO.: 09-03053.001-R-1  
PARCEL NO.: 13-16-408-020

The parties of record before the Property Tax Appeal Board are Mark & Caren Hunter, the appellants, by attorney Minard E. Hulse in Chicago, and the Lake 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 Lake County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$94,351  
**IMPR:** \$204,675  
**TOTAL:** \$299,026

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a 6-year-old, two-story brick exterior constructed single-family dwelling. The dwelling features a full walkout-style basement of which 2,286 square feet is finished, central air conditioning, two fireplaces, and a three-car garage. The subject site of 62,726 square feet of land area backs to a small conservation area and is located in Lake Barrington, Cuba Township, Lake County.

The parties dispute the dwelling size of the home. One of the appellants' appraisers reported a dwelling size of 4,416 square feet of living area based upon his own measurements which were later 'confirmed' by copies of building plans.<sup>1</sup> The appraiser testified that he personally measured the subject dwelling and included a schematic of the dwelling in the appraisal report reflecting his size determination of 4,416 square feet. The board of review called Dina Binder, Chief Deputy Assessor of Cuba Township, to testify regarding the subject's recorded dwelling size of 4,601 square feet as reported by "her field people."

<sup>1</sup> The building plans were submitted at hearing in the form of an offer of proof. Examining the plans, the dwelling square footage of the two floors totals 4,450 square feet.

Binder acknowledged that she had no personal knowledge of the dwelling size having not visited and/or measured the dwelling herself. The board of review presented a copy of the property record card for the subject with a schematic of the dwelling and a reported dwelling size of 4,601 square feet.

With regard to the dwelling size issue, the Property Tax Appeal Board finds that in the absence of the "field people" present at hearing to address questions as to the dwelling measurements taken, the Board will consider only the appraisers' dwelling size determination and give no weight to the board of review's purported dwelling size evidence. Novicki v. Dept. of Finance, 373 Ill. 342 (1940); Grand Liquor Co., Inc. v. Dept. of Revenue, 67 Ill. 2d 195 (1977); Jackson v. Board of Review of the Dept. of Labor, 105 Ill. 2d 501 (1985). The Board finds the board of review's dwelling size evidence is tantamount to hearsay. Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill. App. 3d 887 (1<sup>st</sup> Dist. 1983). Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2<sup>nd</sup> Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1<sup>st</sup> Dist. 1971). In the absence of the "field people" being available and subject to cross-examination regarding the dwelling size determination by the board of review, the Property Tax Appeal Board finds that the weight and credibility of the board of review's dwelling size evidence has been significantly diminished and cannot be deemed conclusive as to the dwelling size of the subject property. Furthermore, the board of review did not invoke the provisions of the Official Rules of the Property Tax Appeal Board to inspect the dwelling and attempt to re-confirm the assessor's measurements. (86 Ill.Admin.Code §1910.94(a)). The Board finds on this record the best evidence of the subject's dwelling size was presented by the appellants' appraisers as 4,416 square feet of living area.

The appellants appeared through legal counsel before the Property Tax Appeal Board contending overvaluation of the subject property. In support of this market value argument, the appellants submitted an appraisal prepared by John Arnold and William A. Falkanger, State Certified Residential Appraisers, employed by A-Appraisals. The intended use of the appraisal was "to establish market value of the subject property to support a real estate tax assessment level." Using the sales comparison approach to value, the appraiser estimated the subject's market value as \$910,000 as of January 1, 2009.

Arnold was called by the appellants as a witness to discuss the appraisal report. In describing the subject dwelling the appraiser noted additional features of central humidifier, fire sprinklers, intercom, radiant heat in basement, built in ovens, skylight, and "high level" finished basement with wet bar and full bathroom.

As set forth in the report, the appraisers analyzed three sales of comparable homes located between 0.39 and 1.01-miles from the subject property with each being "wooded" or having a "forest preserve." The properties were said to be on the market from 67 days to 544 days. The parcels range in size from 42,253 to 59,043 square feet of land area. Each was improved with a two-story brick dwelling of either 8 or 18 years old. The comparables ranged in size from 4,100 to 4,875 square feet of living area. Each comparable has a full basement, one of which is finished with a "recreation room/media room." Additional features include central air conditioning, two fireplaces and three-car or four-car garages plus one comparable has an in-ground pool. The sales occurred between February and September 2008 for prices ranging from \$755,000 to \$927,500 or from \$157.65 to \$193.90 per square foot of living area including land.

In comparing the comparable properties to the subject, the appraisers made adjustments for site size, age, condition, bathroom count, dwelling size, basement style, basement finish, garage size and other amenities. The appraisers' analysis resulted in adjusted sales prices for the comparables ranging from \$854,580 to \$989,550 or from \$178.50 to \$214.59 per square foot of living area including land. From this process, the appraisers estimated a value for the subject by the sales comparison approach of \$910,000 or \$206.07 per square foot of living area including land.

Based on this evidence, the appellants requested a reduction in the subject's total assessment to \$303,000 in order to reflect the appraised value.

On cross-examination, the appraiser was asked to articulate the reason for differing age adjustments for sales #1 and #3. Arnold testified a typographical error occurred in the adjustment of sale #3 as the basis for the adjustment was \$500 per year of age difference to the subject due to a market based analysis. The dwelling size of sale #2 was determined from both the listing sheet and a calculation of the room sizes on the listing sheet despite the assessor's reported dwelling size of 4,450 square feet for sale #2. In addition, Arnold found given the difference in number of rooms to the subject, he felt his size for sale #2 was accurate. Arnold was asked about the adjustment for the swimming pool in sale #3.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$328,300 was disclosed. The final assessment of the subject property reflects a market value of \$999,087 or \$226.24 per square foot of living area including land using the 2009 three-year median level of assessments for Lake County of 32.86% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

In response to the appellants' appraisal, the board of review submitted a memorandum prepared by the clerk of the board of

review criticizing certain aspects of the appraisal. The criticisms included the subject's dwelling size according to the appraisers, the stated dwelling size of appraisal sale comparable #2 along with noted differences in age, basement size and finish of the comparables when compared to the subject. Other criticisms included adjustments made for site size and a swimming pool. The clerk of the board of review wrote that a \$30,000 pool adjustment "can be considered excessive as pools are not deemed desirable [sic] in the Northern Illinois market area."

In support of the subject's estimated market value as reflected by its assessment, the board of review presented three sales. One sale was an admittedly "older" sale, one sale was "from a nearby similar area of custom 2 story" homes, and one sale was appraisal sale #2, identified in the submission as board of review comparable #1. The board of review reported the comparables were from .0153 to 1.59-miles from the subject. The parcels range in size from 41,243 to 55,103 square feet of land area. The improvements consist of two-story frame and masonry dwellings that were 2 to 9 years old. The dwellings range in size from 4,006 to 5,217 square feet of living area. Each comparable has a basement, two of which include recreation rooms of 900 and 1,890 square feet of building area, respectively. The homes also have central air conditioning, one to three fireplaces, and garages. These comparables sold between July 2007 and March 2008 for prices ranging from \$927,500 to \$1,299,000 or from \$210.08 to \$262.11 per square foot of living area including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In conclusion, the board of review contends that these three sales "provide a better reflection" of the subject's estimated market value and requests confirmation of the subject's assessment.

On cross-examination, with regard to consideration of sales #1 and #2 from February and March 2008, the board of review's representative acknowledged that there was a decline in the housing markets after October/November 2008, but he further asserted that for the "majority of the year" the markets were healthy. The representative further stated that the subject's market area does not have a great many sales regardless of the state of the market due to the value of the properties. The witness further opined that sales in the subject's market area generally take from 12 to 18 months of exposure time prior to sale.

In rebuttal, Arnold was recalled for testimony and stated that board of review comparable #2 was in a different market area than the subject property.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds that a reduction in the subject's assessment is warranted.

The appellants argued that the subject's assessment was not reflective of market value. 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, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 86 Ill.Admin.Code §1910.65(c). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill.App.3d at 418, 635 N.E.2d at 1353; see also 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 Illinois Supreme Court has defined fair cash value as 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).

The Board finds the appellants submitted an appraisal of the subject property with a final value conclusion of \$910,000 as of January 1, 2009 for the subject property, while the board of review criticized various aspects of the appellants' appraisal and submitted three suggested comparable sales. The Property Tax Appeal Board finds the criticisms presented by the board of review are either ill-founded or were simply criticisms of comparables selected and/or adjustments made without the presentation of sufficient factual evidence to support any of those criticisms. The dwelling size of the subject was previously determined by the Board based on the best evidence presented by the appellants' appraisers. The board of review generally criticized the appraisal, but presented no market-based data at hearing to support those criticisms set forth in the letter of the clerk of the board of review such as inappropriate adjustments for lot size or an inappropriate adjustment for a pool amenity.

As to the purported size dispute concerning appraisal sale #2, the property record card submitted by the board of review depicts 4,415 square feet of living area, but the board of review presented no witness to testify regarding that size determination. In contrast, the appellants' appraiser Arnold testified that he analyzed the listing sheet, the individual room

sizes and the total number of rooms in his determination that this dwelling contains 4,875 square feet. Furthermore, despite the size dispute, the parties agree this dwelling sold in February 2008 for a price of \$927,500 and both parties deemed this property to be an appropriate comparable to the subject.

While the board of review raised criticisms and/or shortcomings it perceived in the appellants' appraisal, in the end the Property Tax Appeal Board finds that as outlined above and despite those criticisms, the appraisal submitted by the appellants estimating the subject's market value of \$910,000 is the best evidence of the subject's estimated market value in the record. Moreover, the appraisal's opinion of value was not substantively challenged with the board of review's submissions of comparables #2 and #3. Comparable #3 was an admittedly "older" sale from July 2007 not directly relevant to the market value of the subject property as of January 1, 2009 and sale #2 was located in a different neighborhood code assigned by the township assessor suggesting that this property was in a different market area than the subject. Moreover, a review of the schematic drawing of comparable #2 as part of the property record card reveals a complex dwelling with many intricate architectural features and multiple roof pitches along with a pond view according to the attached Multiple Listing Service sheet.

Based upon the market value as stated above, the Property Tax Appeal Board finds that a reduction is warranted. Since market value has been established, the three-year median level of assessments for Lake County for 2009 of 32.86% shall be applied. (86 Ill.Admin.Code §1910.50(c)(1)).

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

*J. R.*

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: April 20, 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.