FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: James Yeh
DOCKET NO.: 09-03166.001-R-3
PARCEL NO.: 09-12-409-045

The parties of record before the Property Tax Appeal Board are James Yeh, the appellants, by attorney Michael Elliott of Elliott & Associates, P.C., in Des Plaines; 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:	$521,950
IMPR.:	$1,473,650
TOTAL:	$1,995,600

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of masonry construction containing approximately 10,564 square feet of living area. The dwelling was built in 2004 and features a partial basement, which is partially finished. Other features include central air conditioning, central vacuum, six fireplaces, a three-car attached garage, a one-car detached garage and an inground pool. The home is situated on approximately 55,321 square feet of land located in Downers Grove Township, DuPage County, Illinois.

The appellant appeared, through counsel, 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 prepared by a state licensed appraiser which was marked "Appellant Exhibit A". The appellant's appraiser, Edward Pavlica, was present and testified at the hearing. The appraisal report conveys an estimated market value for the subject property of $4,800,000 as of January 1, 2009, using the sales comparison approach to value.

Under the sales comparison approach to value, the appraiser utilized six comparable sales located from "the same street" to 0.48 of a mile from the subject property. The comparables have lot sizes ranging from 20,000 to 30,000 square feet of land area. The comparables consist of two-story frame, masonry or frame and masonry dwellings that contain from 5,920 to 7,077 square feet of living area. The dwellings were built from 1991 to 2009 and have full finished basements. Other features include central air conditioning, between four to seven fireplaces and either three or four-car garages. The comparables sold from August 2007 to July 2008 for prices ranging from $2,500,000 to $5,200,000 or from $422.30 to $814.41 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject in date of sale/time, site, actual age, room count, gross living area, garage/carport, fireplace and pool. The adjustments resulted in adjusted sale prices ranging from $3,697,100 to $5,608,900, land included. Based on these adjusted comparable sales, the appraiser concluded the subject had a fair market value under the sales comparison approach of $4,800,000 as of January 1, 2009.

The appellant's appraiser, Edward Pavlica, testified that he inspected the home from the interior and exterior, but only measured the second floor from the inside. He also used the dwelling's blueprints for comparison. He used a 4.2% time adjustment taken from the average sale prices of $1,000,000 and up homes from 2007 and 2009. He used a $300,000 lot adjustment which he felt was reasonable. His age adjustment was derived from taking the comparables sale price minus the market value of the land assessment, then multiplying the remainder by the age difference between the subject and the comparable, then multiplying this figure by 1.25%. The 1.25% was calculated from dividing 1 by 80, which is the typical life expectancy for a home obtained from Marshall & Swift. The comparables improvement sizes were adjusted by $150 per square foot of difference obtained from Marshall & Swift. The comparables garage adjustment and the swimming pool cost were obtained from Marshall & Swift. The appraiser then stated that he would not have made a size adjustment to comparable #5, if it was a 9,000 square foot home. He made the adjustment based on the dwelling size obtained from the assessor's website, which both sides argued was incorrect.

Under cross-examination, the board of review's representative asked why the appellant's attorney did not address the size discrepancy for their comparable #5, if indeed they had information to the contrary in rebuttal. Counsel stated that they did not ask anybody to come out and remeasure the property and that they would stand on their evidence. The appraiser stated that he did not obtain property record cards for the subject or his comparables, but he did compare the gross living area of the properties with data from the Multiple Listing

Service with that from the assessor's data. The appraiser stated, "I don't recall" when asked if he knew how many ovens or stoves were in the subject's kitchen. The appraiser stated, "I don't recall if there is a kitchen", when asked if the subject's basement had a kitchen. The appraiser was asked if the kitchen in the basement would cost as much as a kitchen on the main floor. The appraiser stated, "Probably not". When asked if there is a lap pool in the basement, the appraiser stated, "I didn't see one". The appraiser was then asked why the free standing garage was valued as if it were an attached garage. The appraiser stated, "I just didn't appraise it differently. I counted it as a one-car garage". When asked if he saw 4 fireplaces as opposed to 6 reported on the subject's property record card, the appraiser stated, "No". The appraiser acknowledged that he wasn't sure if his diagram of the pool was of the pool's footprint or the pool only. The appraiser further testified that no comparables were adjusted for central vacuum systems, lawn sprinklers or elevators.

Based on this evidence, the appellant requested a reduction in the subject's assessed value to $1,599,840 to reflect the appraised value of $4,800,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $2,331,540 was disclosed. The subject's assessment reflects an estimated market value of $7,010,042 or $663.58 per square foot of living area, using 10,564 square feet for the subject, including land using DuPage County's 2009 three-year median level of assessments of 33.26%.

In response to the appellant's claim, the board of review argued that the appellant's comparable #5 had a new home built and that the old property record card was submitted in error. The board of review offered the correct property record card, to which the appellant's attorney objected. The Board finds it cannot consider this new evidence. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states:

> Rebuttal evidence shall not consist of new evidence such as an appraisal or **newly discovered comparable properties.** A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. (86 Ill.Adm.Code §1910.66(c)).

In support of the subject's assessment, the board of review submitted an analysis with property record cards of five suggested comparable sales. The board of review's comparable #2 is the same property as the appellant's comparable #4 and the board of review's comparable #3 is the same property as the appellant's comparable #5. The comparable sales are located in Hinsdale and have lots with 108 to 180 front feet. The total lot sizes were not disclosed. The comparables consist of two-story dwellings of frame or masonry construction containing from 6,385

to 7,551 square feet of living area. The dwellings were built from 2003 to 2007 and have full basements all of which have finished area. Other features include central air conditioning, from 4 to 7 fireplaces and garages ranging in size from 782 to 867 square feet. The comparables sold from March 2006 to June 2009 for prices ranging from $4,200,000 to $5,350,000 or from $652 to $814 per square foot of living area including land. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

The Downers Grove Township Deputy Assessor, Chris White, testified regarding the differences between the subject's features from the property record card and that reported in the appellant's appraisal. The assessor also stated that the subject dwelling was measured by their field department based on outside measurements.

Under cross-examination, the assessor acknowledged that the subject's assessment was based on the cost approach and there were no adjustments for improvement depreciation, physical obsolescence and economic obsolescence.

In redirect examination, the assessor acknowledged that the sales ratio study does include market conditions and that a factor is applied to assessments based on this analysis.

In rebuttal, the appellant's attorney asserted the subject dwelling contains 10,167 square feet of living area, not 10,564 square feet as reported by the board of review. In addition, the board of review's comparable #1 sold in June 2009 and should be disregarded for a January 1, 2009 analysis. Also, comparable #2 and #3 are newer improvements and no adjustments were applied to any of the board of review's comparables.

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 that a reduction in the subject'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, Ill.App.3d 1038 (3rd Dist.2002). The Board finds the appellant met this burden of proof.

The parties disputed the dwelling size of the subject. The appellant reported a dwelling size of 10,167 square feet of living area; however, the appraiser acknowledged that a complete measurement was not performed. The board of review reported a dwelling size of 10,564 square feet based on exterior measurements taken by the field department. The sketch offered by the board of review is more detailed than that offered by the appellant, which lends more to its credibility. The Property Tax

Appeal Board finds the best evidence in this record of the subject's size is the property record card. Therefore, for the purpose of this analysis, the subject has 10,564 square feet of living area based on the record.

The appellant submitted an appraisal report estimating the subject property had a fair market value of $4,800,000 as of January 1, 2009. The board of review offered five comparable properties for consideration, two of which were used by the appellant. The Board finds the appraiser's testimony lacked credibility as to the features of the subject dwelling, which would be necessary when making accurate adjustments to the comparable properties. For this reason, the Board gave less weight to the value conclusion in the appellant's appraisal. The Board will therefore examine the raw sales data within the record.

The Board finds both parties submitted a total of nine sales for the Board's consideration. The Board gave less weight to the appellant's comparable #5, due to the contradictory evidence in the record of the dwelling size, age and features. The Board gave less weight to the appellant's comparables #1, #2 and #3 due to their sale dates occurring greater than 13 months prior to the subject's January 1, 2009 assessment date. Likewise, the Board gave less weight to the board of review's comparables #4 and #5 due to their sale dates occurring greater than 26 months prior to the subject's January 1, 2009 assessment date.

The Board finds the remaining three sales offered by both parties were most similar to the subject in style, exterior construction and features. The Board takes notice that the comparables offered by both sides are considerably smaller in size when compared to the subject. The sales occurred from March 2008 to June 2009 for prices ranging from $4,088,448 to $5,350,000 or from $578 to $709 per square foot of living area including land. The subject's assessment reflects an estimated market value of $7,010,042 or $663.58 per square foot of living area including land, using 10,564 square feet of living area. The subject's assessment is within the market value range of the best comparables in the record on a square foot basis, however, after considering adjustments to the comparables for differences when compared to the subject such as lot size, dwelling size and amenities such as elevators and swimming pool, the Board finds the subject's estimated market value as reflected by its assessment is excessive and a reduction in the subject's assessment 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: October 19, 2012

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.