



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

APPELLANT: Jan Bevilacqua
DOCKET NO.: 09-03644.001-R-1
PARCEL NO.: 14-07-301-066

The parties of record before the Property Tax Appeal Board are Jan Bevilacqua, the appellant, 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: \$66,057
IMPR: \$137,675
TOTAL: \$203,732**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a 9-year-old, two-story stone and cedar exterior constructed single-family dwelling. The home contains approximately 3,533 square feet of living area and features a full basement of which 40% is finished,¹ central air conditioning, a fireplace and an attached three-car garage of 689 square feet of building area. Additional amenities include a patio and a screened porch. The subject site of 12,197 square feet of land area provides a view of the driving range and is located in the gated golf course development of Wynstone in North Barrington, Ela Township, Lake County.

There is an initial issue regarding dwelling size in this proceeding. The appellant's appraiser included a detailed schematic drawing and testified that he personally measured the dwelling to arrive at his conclusion of 3,533 square feet of living area. The board of review presented a copy of the property record card with a schematic drawing reflecting a dwelling size of 3,700 square feet of living area. In comparing the two drawings, the Property Tax Appeal Board finds that all of

¹ The assessing officials report the basement is unfinished.

the measurements on the property record card are in whole digits whereas the appraiser's measurements were not rounded. Additionally, there are some angles shown in the appraiser's sketch of the second floor which are not depicted on the property record card. The township assessor was present at hearing, but was not the individual who measured the subject dwelling. Based on the foregoing evidence, the Property Tax Appeal Board finds that the appellant through the appraiser presented the best and most substantially supported dwelling size measurements in this record.

The appellant appeared through legal counsel before the Property Tax Appeal Board contending overvaluation of the subject property. In support of this market value argument, the appellant submitted an appraisal prepared by Grant M. Stewart of Grant M. Stewart & Associates, Inc. in Oak Park, a State Certified Residential Appraiser. The property rights appraised were fee simple and the assignment was "estimate of market value as of 1/1/2009." Using the sales comparison approach to value, the appraiser estimated the subject's market value as \$620,000 as of January 1, 2009.

Stewart was called by the appellant as a witness to discuss the appraisal report. The witness testified that he has performed well over 1,000 appraisals in the subject's subdivision in the past.

As set forth in the report, the appraiser analyzed three sales of comparable homes located on the same street as the subject property with each having a "driving range" view to the back. The appraiser also testified that the subject and comparables face the golf course offices. The comparable parcels range in size from 11,326 to 16,652 square feet of land area. Each was improved with a two-story dwelling of stone and cedar exterior construction. The dwellings were each 9 or 10 years old and range in size from 2,993 to 3,676 square feet of living area. Each comparable has a full basement, two of which are finished and one of which also is a walkout style. Additional features include one or two fireplaces, three-car garages, a screened porch and a patio or a deck. The sales occurred between May 2008 and November 2009 for prices ranging from \$525,000 to \$677,671 or from \$142.82 to \$226.42 per square foot of living area including land.

The appraisal report also depicts prior sales for comparables #1 and #2 where #1 sold in August 2005 for \$800,000 and #2 sold in January 2007 for \$750,000. These two properties depict a declining market according to the appraiser with #1 selling in May 2008 for \$677,671 and #2 selling in September 2009 for \$525,000.

In comparing the comparable properties to the subject, the appraiser made adjustments for date of sale/time, site size, dwelling size, basement style, basement finish and number of fireplaces. At hearing, the appraiser articulated further the

adjustments made for differences and noted that comparable #1 also should have had a +\$10,000 adjustment for a full bath raising the total adjusted sales price for this property to \$638,571 or \$213.35 per square foot of living area including land. Comparable #3 was noted as a "short sale" indicating according to the witness that the owner had negative equity in the property at the time of sale. The appraiser's analysis resulted in adjusted sales prices for comparables #2 and #3 of \$553,875 and \$623,125 or \$150.67 and \$204.04 per square foot of living area including land, respectively. From this process, the appraiser estimated a value for the subject by the sales comparison approach of \$620,000 or \$175.49 per square foot of living area including land based on the appraiser's size determination of 3,533 square feet of living area.

Based on the foregoing, the appellant requested a reduction in the subject's total assessment to \$200,000 which would reflect a market value of approximately \$600,000.

On cross-examination, the appraiser was asked to explain the selection of these comparables. Stewart noted that this area of the subdivision is a sub-set known as the Villas and differs from other phases of the subdivision which involved different builders, lots of varying sizes and/or views including the golf course within the development.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$223,311 was disclosed. The final assessment of the subject property reflects a market value of \$679,583 or \$192.35 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 letter prepared by the clerk of the board of review criticizing certain aspects of the appraisal. The criticisms included use of "both a 'short sale' and a corporate relocation sale, along with the appraiser's use of substantial time adjustments for sales which occurred within 7 to 11 months of the assessment date." The board of review asserted that the appraisal does not provide a reasonable estimate of the subject's January 1, 2009 market value.

In support of the subject's estimated market value as reflected by its assessment, the board of review presented three sales and two listings.² One of the sales was also presented as appellant's comparable #1. Four of the five comparables have the same neighborhood code assigned by the assessor as the subject.

² The documentation included Multiple Listing Sheets for these listings revealing the properties were listed for sale in September 2011 and August 2011, respectively, with original list prices of \$750,000 and \$869,000, respectively.

The parcels range in size from 11,291 to 26,153 square feet of land area. The parcels are improved with two-story brick or frame dwellings that were 10 to 20 years old. The dwellings range in size from 2,986 to 3,995 square feet of living area. Each comparable has a basement, one of which includes finished area, central air conditioning, one or three fireplaces and garages ranging in size from 681 to 910 square feet of building area. Three of the comparables sold between December 2007 and July 2009 for prices ranging of \$675,000 or \$677,671 or from \$193.52 to \$226.42 per square foot of living area including land. Board of review comparables #4 and #5 had asking prices of \$725,000 and \$845,000 or \$181.48 and \$233.94 per square foot of living area including land.

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

In rebuttal, the appellant recalled Stewart for further testimony regarding various properties presented by the board of review. Stewart testified that he did not select board of review comparables #1 and #3 for the appraisal report because these properties were not within the same neighborhood as the subject as these were in the Grove.

On cross-examination, Stewart further articulated that board of review comparables #1 and #3 were in a more desirable area of the subdivision where properties may be located on ponds and/or the golf course as compared to the subject's view amenity. Moreover, the Grove area homes are primarily brick exterior construction and a little bit larger than the subject's Villa area homes which are frame, back the driving range and face office buildings. In addition, there are different maintenance fees between the Grove and the Villa areas. Stewart finally noted that in the absence of sales data in the subject's immediate area, he would have considered the sales presented by the board of review.

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 appellant 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. (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 appellant submitted an appraisal of the subject property with a final value conclusion of \$620,000 as of January 1, 2009 for the subject property. The board of review criticized various aspects of the appellant's appraisal and submitted three suggested comparable sales and two listings to support its assessment where one of the sales was presented by the appellant's appraiser. 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 those criticisms. The criticisms of the selection of the appraiser's comparable sales which were a 'short sale' and a 'corporate relocation sale' were not supported with documentation and/or facts that support the inference that these were not suitable arm's length sales transactions. Furthermore, the board of review generally criticized the appraisal adjustments for time, 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. In summary, the board of review presented no contrary time adjustments information either.

While the board of review raised criticisms and/or shortcomings it perceived in the appellant's appraisal, the Property Tax Appeal Board finds that as outlined above and despite those criticisms, the appraisal submitted by the appellant estimating the subject's market value of \$620,000 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. Comparable #4 had a substantially larger lot, was of brick exterior construction, had a substantial finished basement area and had more amenities than the subject. With the exception of board of review comparable #2, each of the homes presented by the board of review was more distant from the subject than the comparables presented in the appraisal.

Based upon the market value as stated above, the Property Tax Appeal Board finds that a reduction is warranted. Since market

Docket No: 09-03644.001-R-1

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: November 30, 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.