



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

APPELLANT: Michael Smoron
DOCKET NO.: 09-03825.001-R-1
PARCEL NO.: 18-11-128-010

The parties of record before the Property Tax Appeal Board are Michael Smoron, the appellant, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$53,257
IMPR.: \$106,439
TOTAL: \$159,696

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of approximately 31,715 square feet of land area is located on a golf course in Turnberry Subdivision. The property is improved with a 1.5-story Cape Code frame and brick exterior constructed home built in 1978. The dwelling contains approximately 3,484 square feet of living area with a partial unfinished basement, central air conditioning, a fireplace, a sunroom and a two-car garage. The subject property is located in Lakewood, Grafton Township, McHenry County.

The appellant's appeal is based on overvaluation of the subject property. In support of this market value argument, the appellant submitted both an appraisal and three additional comparable sales.

The appraisal was prepared by Lisa M. Woo of Illinois Elite Appraisals for purposes of a refinance transaction wherein the client was ABI Mortgage, Inc. To estimate the fee simple rights of the property, the appraiser used two of the three traditional approaches to value and concluded an estimated market value of \$480,000 for the subject property as of March 23, 2009.

Under the cost approach, the appraiser estimated the subject's land value at \$100,000 based on recent area land sales. Using the Marshall & Swift Cost Handbook, the appraiser determined a replacement cost new for the subject dwelling including the basement and garage of \$436,992. Physical depreciation of \$4,370 was calculated resulting in a depreciated value of improvements of \$432,622. Next, a value for site improvements of \$3,000 was added. Thus, under the cost approach, the appraiser estimated a market value of \$535,622 for the subject.

Under the sales comparison approach, the appraiser used three sales and one listing of comparable homes located between 0.73 and 1.04-miles from the subject property. The parcels range in size from 20,034 to 27,294 square feet of land area. The appraiser also noted the subject backs to the golf course and as such has a golf course "view." One comparable also has a "golf course" view. The comparable parcels are improved with "custom" dwellings of stucco or brick and cedar exterior construction which range in age from 3 to 10 years old. Although the subject's actual age was 31 years old, the appraiser opined it had an effective age of 1 year old. The comparable dwellings range in size from 3,150 to 3,549 square feet of living area. Each of the comparables has a full basement, two of which have finished area. The homes have central air conditioning, one or two fireplaces and a three-car garage. The three sales occurred between June 2008 and January 2009 for prices ranging from \$475,000 to \$515,000 or from \$133.84 to \$163.49 per square foot of living area including land. The listing occurred in November 2008 and had a reported asking price of \$600,000 or \$177.41 per square foot of living area including land.

In comparing the properties to the subject, the appraiser made adjustments for time to the listing and for differences such as view, dwelling size, bathroom count, basement finish, garage stalls and number of fireplaces. This resulted in adjusted sales prices for the comparables ranging from \$474,000 to \$570,360 or from \$133.56 to \$168.65 per square foot of living area, land included. From this process, the appraiser estimated a value for the subject by the sales comparison approach of \$480,000 or \$137.77 per square foot of living area including land.

In the final reconciliation, the appraiser concluded an estimate of value of \$480,000 since the sales comparison approach best reflects the actions of buyers and sellers.

In a grid analysis, the appellant also submitted information on three sales comparables located in close proximity to the subject property. The parcels range in size from 29,823 to 34,928 square feet of land area and are improved with a Cape Cod and two, two-story dwellings of brick or frame exterior construction. The homes range in age from 31 to 36 years old and range in size from 2,400 to 3,037 square feet of living area. Each home has a full basement, two of which are finished. Features include central air conditioning, one or two fireplaces and a garage ranging in size from 200 to 300 square feet of building area. The sales

occurred from May to July 2009 for prices ranging from \$330,000 to \$365,000 or from \$120.18 to \$135.64 per square foot of living area, including land. The relationship of these properties to the golf course, if any, was not disclosed in the submission.

Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$140,000 which would reflect a market value of approximately \$420,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$171,650 was disclosed. The final assessment of the subject property reflects a market value of \$515,930 or \$148.09 per square foot of living area including land using the 2009 three-year median level of assessments for McHenry County of 33.27%.

In response to the appellant's appraisal, the board of review submitted a letter prepared by the Grafton Township Assessor and contended that there were substantial value differences between homes like the subject which were located on the golf course and those that were not on the golf course. To support this proposition, the board of review included two separate analyses. In addition, the assessor criticized the purpose of the appraisal as for a refinance transaction, the dwelling size adjustment amount of \$35 per square foot, the lack of adjustment for lot size differences and adjustment amounts for parcels not on the golf course as not reflecting actual market differences in the area. In addition, the assessor contended that the appraisal without testimony at hearing was hearsay.

In a spreadsheet of "non-golf course" properties, there were six parcels that range in size from 16,926 to 27,294 square feet of land area. The parcels are improved with one-story or two-story dwellings of frame and masonry exterior construction. The homes range in age from 3 to 11 years old and range in size from 3,150 to 3,785 square feet of living area. Four comparables have a basement and each has central air conditioning, one or two fireplaces and a garage ranging in size from 681 to 1,085 square feet of building area. One comparable has a pool and one has a pergola. These properties sold between June 2008 and February 2009 for prices ranging from \$475,000 to \$572,500 or from \$133.84 to \$163.49 per square foot of living area, including land.

In a grid analysis of "golf course" properties, there were three parcels that range in size from 9,315 to 18,500 square feet of land area; each of these comparables was located in the Boulder Ridge subdivision. The parcels were improved with a two-story and two, one-story dwellings of brick or frame and brick exterior construction. The homes range in age from 6 to 19 years old and range in size from 2,533 to 3,613 square feet of living area. The comparables feature full or partial basements, one of which is English style and one of which is walkout style. Each has central air conditioning, one or two fireplaces and a garage ranging in size from 686 to 860 square feet of building area. These properties sold between April 2008 and August 2009 for

prices ranging from \$420,000 to \$699,000 or from \$165.81 to \$193.47 per square foot of living area including land.

Based on the foregoing evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

In written rebuttal, the appellant first addressed the criticisms of the assessor regarding the appraisal report with regard to a hearsay argument, asserted there was a waiver of objections to the report at the board of review level and noted that no questions were raised regarding the accuracy of the data or comparability of the properties set forth in the report.

Next, the appellant argued that three of the six "non-golf course" comparables were located in different municipalities than the subject and two of these six properties were within Lakewood, but not in the subject's subdivision and differed from the subject in age.¹ As to the three "golf course" comparables, the appellant argued that these have more plumbing fixtures than the subject and none is in the subject's village or subdivision. Instead, the appellant contends that these "golf course" properties are "in a private gated community with private security" which the subject does not enjoy. As to the subject's golf course, the appellant wrote:

Evidence was provided at the subject hearing [before the McHenry County Board of Review] that one of the differences with the golf course proximate to appellant's property is that it became defunct and a deed in lieu of foreclosure was tendered by the golf course owner to the relevant lender. The golf course which is cited by the Assessor is Boulder Ridge, a private country club which is viable and maintains the Boulder Ridge Golf Course.

Lastly, appellant submitted an appraisal prepared by Gerald Mason for a refinance transaction with an opinion of the subject's estimated market value as of April 13, 2011 of \$375,000.

Pursuant to the rules of the Property Tax Appeal Board, rebuttal evidence is restricted to that evidence to explain, repel, counteract or disprove facts given in evidence by an adverse party. (86 Ill.Admin.Code §1910.66(a)). Moreover, rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. (86 Ill.Admin.Code §1910.66(c)). In light of these Rules, the Property Tax Appeal Board has not considered the new appraisal prepared by Gerald

¹ The appellant specifically criticized a property known as 9575 Player Court as being in "a different development and entirely separate subdivision platted in 1997 . . . [and] was built in 1999." The Property Tax Appeal Board takes notice that this property was sale #3 in the appellant's appraisal. Similarly, the appellant criticized the assessor's presentation of the property at 6180 Stansbury which was sale #2 in the appellant's appraisal.

Mason submitted by appellant in conjunction with his rebuttal argument.

As an initial matter, the arguments made by both parties regarding the appellant's appraisal in terms of hearsay and "objections"/waiver of objections will be addressed. The question of hearsay with regard to the appellant's appraisal could have arisen if either party to this proceeding before the Property Tax Appeal Board had requested a hearing on this matter. At the time of such hearing, if the author of the appraisal was not present for testimony and/or cross-examination, an appropriate objection to the report would be hearsay. However, in this proceeding neither party requested a hearing and thus, the appraisal report stands as part of the appellant's evidence before the Property Tax Appeal Board. In addition, as set forth in the Property Tax Code, "[a]ll appeals [before the Property Tax Appeal Board] shall be considered de novo." (35 ILCS 200/16-180) As such, the assessing officials are entitled to submit responsive evidence to the appellant's appraisal report before the Property Tax Appeal Board and the appellant likewise can then file rebuttal as was done in this proceeding. Thus, there is no issue of "waiver" of any objection to the appraisal report as was argued by the appellant in his rebuttal submission. Instead, there is submission by the parties of competing market value evidence and respective criticisms of such evidence by each of the parties to this proceeding.

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. 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.

The Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of \$480,000 along with three additional comparable sales selected by the appellant. Based on this evidence, the appellant requested a total assessment reflective of a market value of \$420,000 for the subject property. In response, the board of review criticized adjustments and lack of adjustments for location of the appraisal comparables since the subject is located on a golf course. Furthermore, to support the subject's estimated market value based on its assessment, the board of review presented three

sales located on a golf course which occurred proximate to the assessment date at issue. The appellant in rebuttal pointed out that those three sales were of dissimilar properties to the subject in location (village, subdivision, gated community with private security) and the golf course was private.

The Property Tax Appeal Board finds that, despite some of the differences between the subject property and the comparables utilized in terms of "golf course" location, the appellant's appraiser adjusted the comparables for differences such as view, size and other amenities in order to arrive at a value conclusion. After examining the entire record, the Property Tax Appeal Board finds that the appraisal submitted by the appellant estimating the subject's market value of \$480,000 is the best evidence of the subject's market value in the record. In contrast, the three "golf course" sales presented by the board of review lacked adjustments for differences and were shown to be dissimilar to the subject in location, age and amenities, including, but not limited to, being in a gated community with private security.

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 McHenry County for 2009 of 33.27% shall be applied.

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: January 31, 2013

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.