



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

APPELLANT: Daniel & Lori Eallanardo  
DOCKET NO.: 09-03991.001-R-1  
PARCEL NO.: 03-44-104-008

The parties of record before the Property Tax Appeal Board are Daniel & Lori Eallanardo, the appellants, by attorney Kelly A. Helland, of the Law Offices of Daniel J. Kramer in Yorkville; and the Kendall 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 Kendall County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$34,049  
**IMPR:** \$120,683  
**TOTAL:** \$154,732

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a 1.26-acre parcel improved with a nine year-old, one-story style brick dwelling that contains 2,793 square feet of living area. Features of the home include central air conditioning, a fireplace, a 728 square foot garage and a full, finished basement. The subject is located in Yorkville, Oswego Township, Kendall County.

Through an attorney, the appellants appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellants submitted an appraisal of the subject property, wherein the appraiser used the sales comparison approach to estimate the subject's market value as of the report's effective date as of January 1, 2009 at \$400,000. The appraiser was not present at the hearing to provide testimony or be cross-examined regarding his selection of comparables, adjustments to their sales prices or other matters related to his market value conclusion.

In the sales comparison approach, the appraiser analyzed five comparable properties located 0.57 mile to 2.96 miles from the subject. The comparables consist of one-story or two-story homes of brick, brick and frame or frame exterior construction that range from new to 19 years old and range in size from 2,200 to 3,550 square feet of living area. The homes are situated on lots ranging in size from 8,970 to 60,983 square feet of land area and have features that include central air conditioning, one or two fireplaces, two-car or three-car garages and full basements, three of which have finished areas. The comparables were reported to have sold between February and December 2008 for prices ranging from \$300,000 to \$475,000 or from \$111.24 to \$158.33 per square foot of living area including land. The appraiser adjusted the comparables for differences when compared to the subject, such as lot size, view, construction quality, age, room count, living area, basement finish, garage size, number of fireplaces, utility access, etc. After adjustments, the comparables had adjusted sales prices ranging from \$368,517 to \$409,000 or from \$107.72 to \$167.51 per square foot of living area including land. Based on this evidence the appellants requested the subject's total assessment be reduced to \$130,000, reflecting a market value of approximately \$390,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$156,241 was disclosed. The subject has an estimated market value of approximately \$467,647 or \$167.44 per square foot of living area including land, as reflected by its assessment and the Kendall County 2009 three-year median level of assessments of 33.41%.

In support of the subject's assessment, the board of review submitted property record cards with photographs and a grid analysis of four comparable properties located ¼ mile to 7 miles from the subject. The comparables consist of one-story style frame or brick and frame dwellings that range in age from 3 to 8 years and range in size from 2,670 to 3,701 square feet of living area. The comparables are situated on lots that range in size from 1.03 to 2.07 acres and have features that include central air conditioning, a fireplace, garages that contain from 764 to 852 square feet of building area and full or partial unfinished basements. The comparables sold between January 2007 and September 2008 for prices ranging from \$455,000 to \$619,000 or from \$165.76 to \$170.41 per square foot of living area including land. Based on this evidence, the board of review requested the subject's assessment be confirmed.

During the hearing, the board of review objected to the value conclusion in the appellants' appraisal because the appraiser was not present to provide testimony or be cross-examined. The Property Tax Appeal Board sustained the board of review's objection. The board of review then called the chief county assessment officer as a witness. The witness testified the appellants' appraisal comparable #3 is a two-story home unlike the subject. The witness further testified the appellants' appraiser made a \$40,000 adjustment to appraisal comparables #4

and #5 for superior upgrades, but gave no explanation as to how such a sizeable adjustment was determined.

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 a reduction in the subject property's assessment is warranted.

The appellants contend overvaluation as the basis of the appeal. 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). After analyzing the market evidence submitted, the Board finds the appellants have met this burden.

The Board finds the appellants submitted an appraisal of the subject property with a market value estimate of \$400,000 as of January 1, 2009. The appraiser was not present at the hearing to provide testimony or be cross-examined regarding his selection of comparables, adjustments to their sales prices or other matters related to his market value conclusion. Therefore, the Property Tax Appeal Board gave no weight to the appraisal's market value estimate for the subject property. The Property Tax Appeal Board gave little weight to the appraisal and final value conclusion submitted by the appellant. Without the testimony of the 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 will, however, consider the raw sales data in the appraisal, along with the board of review's comparables.

The Board gave less weight to the appellants' appraisal comparable #3 because its two-story design differed from the subject and it was significantly larger in living area. The Board also gave less weight to the board of review's comparable #2 because it too, was significantly larger in living area.

Finally, the Board gave less weight to the board of review's comparables #3 and #4 because their sale dates in February and March 2007 occurred nearly two years prior to the subject's January 1, 2009 assessment date at issue in this appeal. The Board finds the remaining comparables were generally similar to the subject in design, size and most features and sold for prices ranging from \$300,000 to \$475,000 or from \$136.36 to \$166.20 per square foot of living area including land. The subject has an estimated market value of approximately \$467,647 or \$167.44 per square foot of living area including land, as reflected by its assessment, which falls just above this range.

After considering adjustments for the differences in both parties' suggested comparables when compared to the subject property, the Board finds the subject's per square foot improvement assessment is not supported by the most comparable properties contained in the record and a reduction 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.

*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: 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.