



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

APPELLANT: John Dimas
DOCKET NO.: 09-04319.001-R-1
PARCEL NO.: 05-16-329-018

The parties of record before the Property Tax Appeal Board are John Dimas, the appellant, by attorney Terrence J. Benshoof, of Glen Ellyn, Illinois and the DuPage County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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: \$23,050
IMPR: \$80,580
TOTAL: \$103,630

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one and one-half story single family dwelling of frame exterior construction that contains 1,608 square feet of living area and was built in 1921. Features of the home include central air conditioning, a full unfinished basement and a 324 square foot detached garage. The subject has a 9,567 square foot site which is entirely in FEMA Zone A flood plain. The subject property is located in Wheaton, Milton Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel, claiming overvaluation as the basis of the appeal. The first witness called by the appellant was Edward V. Kling. Kling is a Certified General Appraiser licensed in Illinois.

Kling testified that he prepared an appraisal of the subject property. The purpose of the appraisal was to estimate the market value of the subject property as of January 1, 2009. Kling provided direct testimony regarding the appraisal methodology and final value conclusion. Kling testified that the subject property is in a poor location and is challenged from a residential standpoint. He also stated that adjacent to the

subject property is an automotive repair shop with the side yard being littered with parked cars and automotive debris. In regards to the flooding issue, Kling testified that he has personally seen the subject property's yard flooded and the basement having four to six inches of water as it was being pumped out. He also stated that he suspects the basement to have mold issues. The appraiser relied on the sales comparison approach to value and indicated the subject property has an estimated fair market value of \$135,000 as of January 1, 2009.

Under the sales comparison approach to value, the appraiser utilized three suggested comparable sales with varying degrees of similarity when compared to the subject. Kling reported that his three comparables were not in the flood plain. They sold from February 2008 to September 2009 for prices ranging from \$168,000 to \$205,000 or from \$73.94 to \$158.18 per square foot of living area, including land. The appraiser adjusted the comparables for differences when compared to the subject in location, size including land to building ratios, rooms including bathrooms, construction, quality, age, condition, utility and various amenities, resulting in adjusted sales prices ranging from \$142,800 to \$162,450. Based on the adjusted sale prices, the appraiser estimated the subject property had an estimated fair market value of \$135,000 as of January 1, 2009. Based on this evidence, the appellant requested a reduction in the subject's assessment.

Under cross-examination Kling testified that the property was located in the flood plain but possibly in the flood way. Kling also stated that he did not have any documentation showing that the property was in the flood way. Kling was also questioned about mold in the home and that no documentation was submitted to support the statement of possible mold.

The appellant called as its second witness Todd R. Barron. Barron is a tax consultant with Barron Corporate Tax Solutions. Barron submitted a letter and other documentation from the DuPage County Economic Development and Planning Department about the subject property being located in the FEMA Zone A floodplain. This documentation had been submitted to the board of review for the board of review hearing and it had no objection to its submission to the Property Tax Appeal Board. Barron testified that the property would have to meet certain requirements if it were to be improved.

Under cross-examination, Barron did not have any of the costs associated with improvements to the property, based on its location in the flood plain.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$103,630 was disclosed. The subject's total assessment reflects an estimated market value of \$311,575 or \$193.77 per square foot of living area when applying the 2009 three year average median level of assessments for DuPage County of 33.26%. The board of review

submitted an Addendum to Board of Review Notes on Appeal. The board of review also submitted a grid analysis marked as Exhibit #1, which was prepared by the Milton Township Assessor's Office. The assessor detailed the appellants' comparables and provided six additional comparables. Also included were copies of the property record cards for all the comparables used by the parties and a map showing the location of both parties' comparables in relation to the subject property.

The board of review called as its witness Chris Fernald, Deputy Assessor of Milton Township. Fernald testified that the appraiser's comparables are not located in the subject's neighborhood assessment code as defined by the local assessor. The assessor's office submitted information on six comparable properties to demonstrate the subject's assessment was reflective of market value. Five of the six comparables are located in the subject's neighborhood assessment code. The comparables were improved with one and one-half story or two-story single family dwellings that ranged in size from 1,104 to 1,850 square feet of living area. The comparables were of frame or brick construction that were constructed from 1887 to 1948. All of the comparables have full unfinished basements and detached garages ranging from 308 to 506 square feet of building area. Comparable 3 has central air conditioning and comparable 2 has a fireplace. The comparables are situated on lots that range in size from 4,200 to 16,100 square feet of land area. These properties sold from May 2007 to November 2008 for prices ranging from \$250,000 to \$406,000 or from \$208.33 to \$261.36 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination Fernald testified that adjustments were not made for size, age or flood plain. Fernald testified that she did not know if any of the comparables submitted were adjacent to any commercial businesses. Fernald testified that they accepted the sales price without any type of adjustments. Fernald also testified that she was not sure if any of the six comparables were located in the flood plain.

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 the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends overvaluation as the basis of the appeal. 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 of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant did

not meet this burden of proof and a reduction in the subject's assessment is not warranted.

In this appeal, the appellant submitted an appraisal estimating the subject property had a market value of \$135,000 as of January 1, 2009. The appellant's appraisal witness relied on three suggested sales in estimating the market value of the subject property. The board of review provided six comparable sales in support of the subject's assessment. After reviewing the data and considering the testimony, the Board finds the testimony of the valuation witness was not persuasive. The main argument in this appeal was the location of the subject property. The first argument was that adjacent to this parcel was an automotive repair shop. The appraisal contained no adjustments for this purported external obsolescence and photographs were not submitted to depict the littering of parked cars and automotive debris. The second argument was the negative impact caused by the property being located in a flood plain. However, there was no documentation showing how the flood adjustments were calculated in the appraisal or pictures of the basement that has had frequent flooding according to the testimony of the appraiser. These two unsupported important arguments undermined the value conclusion. However, the Board will further examine the raw sales data contained in this record, including the sales in the appellant's appraisal.

The Board finds nine comparables were submitted by both parties in support of their respective positions. The Board gave less weight to comparables 1, 2 and 3 submitted by the appellant and comparable 6 submitted by the board of review for being outside of the subject's neighborhood. The Board gave less weight to comparables 3 and 4 submitted by the board of review. These sales occurred in 2007 which is less indicative of fair market value as of the subject's January 1, 2009 assessment date. The Board also gave less weight to the board of review's comparable 2 which is dissimilar in size when compared to the subject. The Board finds the remaining two comparables are more similar to the subject in location, design, size, age and features. Due to these similarities the Board gave the two comparable sales more weight. These most similar properties sold June 2008 and September 2008 for prices of \$361,250 and \$406,000 or \$219.46 and \$226.49 per square foot of living area including land. The subject's assessment reflects a market value of \$311,575 or \$193.77 per square foot of living area including land, which falls below the two most similar comparable sales in the record after considering adjustments.

Based on the evidence submitted, the Board finds the appellant failed to establish overvaluation by a preponderance of the evidence. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no 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: October 19, 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.