



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

APPELLANT: Holly Ruggles  
DOCKET NO.: 09-04683.001-R-1  
PARCEL NO.: 05-30-207-005

The parties of record before the Property Tax Appeal Board are Holly Ruggles, the appellant, by attorney Mitchell L. Klein of Schiller Klein PC, Chicago, Illinois; and the DuPage County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds an increase 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:** \$33,260  
**IMPR:** \$633,450  
**TOTAL:** \$666,710

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a two-story single family dwelling with 6,897 square feet of living area. The dwelling was constructed in 2008. Features of the home include a basement with 3,673 square feet, central air conditioning, one fireplace and an attached garage with 1,232 square feet of building area. The subject dwelling also has a 686 square foot sub-basement under the garage with a 22 foot ceiling height which is used as a basketball/sports court. The property has a 27,341 square foot site and is located in Wheaton, Milton Township, DuPage County.

Appearing before the Property Tax Appeal Board on behalf of the appellant was her attorney. The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Daniel J. Gura a State of Illinois Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing. The report stated it was prepared for Citizens Bank for a refinance transaction. The appraiser estimated the subject property had a market value of \$1,600,000 as of October 8, 2008.

In estimating the market value the appraiser developed the cost approach in which he estimated the subject property had an indicated value of \$2,212,600.

The appraiser also developed the sales comparison approach using three comparable sales and two listings improved with four two-story dwellings and one three-story dwelling that ranged in size from 4,087 to 5,508 square feet of living area. The dwellings ranged in age from new construction to 42 years old. Each comparable had full basement with finished area, central air conditioning, two to four fireplaces and a two-car or a three-car garage. The comparables had sites that ranged in size from 11,790 to 73,520 square feet of land area. These properties were located in Wheaton from .25 miles to .66 miles from the subject. The three sales occurred from July 2008 to August 2008 for prices ranging from \$1,100,000 to \$2,150,000 or from \$262.03 to \$390.34 per square foot of living area, including land. The two listings had prices of \$1,399,000 and \$1,385,000 or \$254.87 and \$338.88 per square foot of living area, land included, respectively. After making adjustments for the date of sale/time and other differences from the subject, the appraiser indicated these properties had adjusted prices ranging from \$1,437,000 to \$1,944,000. Using these sales the appraiser estimated the subject property had an indicated value under the sales comparison approach of \$1,600,000.

In reconciling the two approaches the appraiser gave most credence to the sales comparison approach and estimated the subject property had a market value of \$1,600,000 as of October 3, 2008. Based on this evidence the appellant requested the subject's assessment be reduced to \$533,280 to reflect the appraised value and the application of the statutory level of assessments.

At the hearing the board of review objected to the appraisal because the appraiser was not present to be cross-examined. The Board sustains the objection with respect to the conclusion of value contained in the report. The appraiser was not present at the hearing to provide testimony with respect to his opinion of value and be cross-examined, which undermines the credibility of the evidence. As a result the Board gives the appraised value no weight but will consider the comparable sales data in the report due fact the assessor's office also analyzed these sales. (See Board of Review Exhibit #1, page 10.)

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$617,500 was disclosed. The subject's assessment reflects a market value of \$1,856,585 or \$269.19 per square foot of living area, including land, using the 2009 three year average median level of assessments for DuPage County of 33.26%. In support of its contention of the correct assessment the board of review submitted an Addendum to Board of Review Notes on Appeal and Exhibit #1, a report from the Milton Township Assessor's Office.

At the hearing the board of review called as its witness Cathy Zinga, Milton Township Deputy Assessor.

In rebuttal, the deputy assessor asserted that the appellant's appraisal understated the size of the subject dwelling. She explained that the three-season room at the subject property is considered living area as long as it is heated and cooled. She also testified there was a ½-story finished area above one garage and a second story area over another garage not considered even though this was not finished. She also explained that appraiser did not include the sub-basement under the garage. She corrected the living area for the subject to 6,897 square feet, which did not include the 273 unfinished area over the garage. The deputy assessor's report indicated the subject dwelling is the largest home in the neighborhood in terms of living area and ground floor area.

In reviewing the sales used in the appraisal the deputy assessor questioned the adjustments used by the appraiser and testified she had never seen as low an adjustment for gross living area of \$20.00 per square foot as made by the appellant's appraiser. She explained that in her office they reviewed other appraisals that had been submitted for properties in the subject's neighborhood and these other appraisals had adjustments for gross living area ranging from \$35.00 to \$98.00 per square foot. (See Board of Review Exhibit #1, page 9). Zinga testified the assessor's office uses \$50.00 per square foot as an adjustment for gross living area because that is the average they see in the office. Using the chart on page 9 of Exhibit #1 Zinga stated the adjustments used by the assessor's office were highlighted in yellow. Zinga also was of the opinion there should have been an adjustment to the appraiser's comparables for the sports court in the subject's sub-basement. She also contends the size of the subject's garage was not taken into consideration. She further noted the subject has a fireplace in the basement. Using these adjustments she concluded the appraiser's sales had adjusted prices per square foot ranging from \$259.84 to \$406.40 per square foot of living area. The deputy assessor concluded that sales used by the appraiser, except for sale #4 which was excluded from the sales ratio study because it was not an advertised, show the subject property is assessed below market value. Using the median of the adjusted sales prices of \$358.56 per square foot resulted in an estimate of value of \$2,473,000.

The deputy assessor also identified five comparable sales improved with two-story dwellings that ranged in size from 4,962 to 6,084 square feet of living area. Assessor's comparable A was the same property as appraisal comparable sale #1. The dwellings were constructed from 1978 to 2009. Each comparable had a basement with four being partially finished. Each of the comparables had central air conditioning, 2 to 5 fireplaces and attached garages ranging in size from 564 to 1,135 square feet of building area. The comparables were located in Wheaton and Glen Ellyn and had sites ranging in size from 17,494 to 91,464 square feet of land area. The sales occurred from July 2008 to June

2009 for prices ranging from \$1,562,500 to \$2,150,000 or from \$305.39 to \$390.34 per square foot of living area, including land. Using data maintained by the assessor's office to make adjustments to the comparables for differences from the subject, Zinga testified the adjusted sales prices ranged from \$319.72 to \$400.04 per square foot of living area, including land.

The deputy assessor also questioned the value under cost approach developed by the appraiser due to local factors not being applied in the cost approach and the fact that the 22 foot high sub-basement was not accounted for. The deputy assessor developed a cost approach using the Marshall & Swift Summary Cost Report and estimated the subject property had an indicated market value of \$2,433,967.

Considering this analysis the deputy assessor requested the subject's assessment be increased to \$666,710 to reflect a market value of approximately \$2,000,000 or \$290.00 per square foot of living area, including land, rounded. She testified the subject was under assessed due to the sub-basement and the living area they discovered during the course of the appeal. She was of the opinion that the \$290.00 per square foot of living area was very fair considering the comparable sales submitted in the record.

Under cross-examination Ms. Zinga testified she went to the property and assisted in re-measuring the dwelling. She recognized that the appraiser mentioned the sports court in the report and stated it added no value. She disagreed with this statement but noted this was an atypical feature. With respect to Assessor's Comparable A, appellant's counsel submitted a listing noting this property had four fireplaces, not three as described by the deputy assessor. The deputy assessor was also questioned about the land sizes for Assessor's Comparables B and C and the adjustments made. She explained the land adjustments amounts are set forth of page 9 of the Board of Review Exhibit #1 and they range from \$2.01 to \$2.08 per square foot of land area.

With respect to the size discrepancy with the appraiser, Zinga explained that the appraiser did not include as living area the three season room with 273 square feet and the 686 square of living area above the garage.

During the hearing, the chairman of the DuPage County Board of Review testified that it is the policy of the board of review that any area of a three season room that has heated area is treated as living area. The chairman of the board of review further requested the subject's assessment be increased based on the evidence and testimony presented during the hearing.

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 and testimony in this record supports an increase in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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 (3<sup>rd</sup> 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 board of review met this burden of proof and an increase in the subject's assessment is warranted.

The Board finds that there was only one witness present at this hearing, Cathy Zinga, who provided direct testimony with respect to the valuation of the subject property and was subjected to cross-examination. She provided a critique of the appellant's appraisal concluding that the appraiser undervalued the home. This testimony was not refuted by the appellant with any testimony. Zinga provided credible testimony with respect to establishing the size of the subject dwelling of 6,897 square feet of gross living area. Zinga also provided a cost approach to value for the subject property and presented information on five comparable sales with supporting descriptive information on their respective property record cards. Of these five sales, the Board finds Assessor's A, B, D and E to be most similar to the subject in age. The Board further finds that Assessor's comparable A is the same property as the appellant's appraiser's comparable sale #1. These four sales were relatively similar to the subject in size and features. The sales occurred from July 2008 to June 2009 for unadjusted prices ranging from \$1,562,500 to \$2,150,000 or for \$305.39 to \$390.34 per square foot of living area, including land. The subject's assessment reflects a market value of \$1,856,585 or \$269.19 per square foot of living area, including land, which is significantly below the best sales in this record.

Beside the fact that the appellant's appraiser was not present at the hearing to provide testimony and be cross-examined, the Board gave no weight to the appraiser's comparable sales #2 through #5 due to their age and the fact that comparables #4 and #5 were listings.

After considering the testimony and evidence provided during this hearing, the Board finds the request of the board of review to increase the subject's assessment to \$666,710 so as to reflect a market value of approximately \$290.00 per square foot of living area, including land, is appropriate.

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.