FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Robert Balke
DOCKET NO.: 09-04843.001-R-1
PARCEL NO.: 03-14-301-014

The parties of record before the Property Tax Appeal Board are Robert Balke, the appellant; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$51,670
IMPR.:	$78,330
TOTAL:	$130,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame and brick construction containing approximately 2,420 square feet of living area.[1] The dwelling was built in 1986 and features a full partially finished basement.[2] Other features include central air conditioning, a fireplace and a two-car attached garage. The home is situated on approximately 9,293 square feet of land located in Addison Township, DuPage County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a grid analysis of three suggested comparable sales, an appraisal of the subject property

[1] The appellant reports the subject improvement as having 2,202 square feet of living area in Section III of Residential Appeal Form; however, the board of review and the appellant's appraisers indicate the subject property has 2,420 square feet of living area and 2,418 square feet of living area, respectively. These estimates were supported by schematic diagrams of the home.
[2] The board of review reports the subject improvement's basement as having no finished area.

and a list of 109 home sales from Bensenville in 2009. The appraisal was prepared by two state licensed appraisers, who were not present at the hearing. The appraisal report conveys an estimated market value for the subject property of $350,000 as of January 21, 2009, using the cost and sales comparison approaches to value.

Under the cost approach, the appraisers utilized Marshall & Swift Cost Data to estimate a replacement cost new of the subject dwelling of $293,183. The appraisers deducted $34,418 for depreciation to arrive at a depreciated value of $258,865. To this the appraisers added $15,000 for site improvements and $80,000 for the site value to arrive at an estimate of value under the cost approach of $353,865.

Under the sales comparison approach to value, the appraisers utilized five comparable sales and one listing located from 0.1 of a mile to 1.77 miles from the subject property. The comparables have lot sizes ranging in size from 8,250 to 20,600 square feet of land area. The comparables consist of three ranch style dwellings and three, two-story brick or frame and brick dwellings that contain from 1,852 to 3,732 square feet of living area. The dwellings were built from 1947 to 2005. Two comparables have full basements, one of which has finished area and four have partial basements, three of which have finished area. Other features include central air conditioning and two-car or three-car garages. Four comparables have one fireplace and one has two fireplaces. The comparable sales sold from August to December 2008 for prices ranging from $298,700 to $422,000 or from $113.08 to $173.27 per square foot of living area including land. The listing had a price of $385,000 or $197.94 per square feet of living area including land.

The appraisers adjusted the comparables for differences when compared to the subject in sales or financing concessions, location, site, quality of construction, actual age, room count, gross living area, basement & finished, rooms below grade, garage/carport, porch/patio/deck, fireplaces, fenced yard and upgrades. The adjustments resulted in adjusted sale prices ranging from $320,500 to $364,800. The appraisers estimated the subject had a market value under the sales comparison approach of $350,000.

Under reconciliation, the appraisers placed more weight on the sales comparison approach and opined an estimated value of the subject property of $350,000 as of January 21, 2009.

In addition, the appellant submitted a grid analysis of three suggested comparable properties located from "next door" to one block from the subject. The comparables are described as two-story frame and brick or frame and stone dwellings containing from 2,873 to 3,804 square feet of living area. The comparables are reported to have basements, one of which has finished area. Other features include central air conditioning and two-car garages. One comparable has one fireplace and another has four

fireplaces. The comparables sold from March 2007 to April 2009 for prices ranging from $275,000 to $450,000 or from $72.29 to $156.63 per square feet of living area, including land.

The appellant's evidence also included a list of 109 home sales from Bensenville in 2009, which indicates the assessments on these homes averaged 62% higher than their sale prices.

Based on this evidence, the appellant requested the subject's total assessment be reduced to $116,667.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $146,680 was disclosed. The subject's assessment reflects an estimated market value of $441,010 or $182.24 per square foot of living area, including land using DuPage County's 2009 three-year average median level of assessments of 33.26%.

In support of the subject's assessment, the board of review submitted an analysis with property record cards of two comparable sales and one equity comparable that were identified by the Addison Township Assessor. Comparable #2's proximate location to the subject was disclosed as being "2 Blks South". The comparables are described as two-story frame, brick or frame and brick dwellings containing from 2,266 to 2,437 square feet of living area. The dwellings were built from 1984 to 1998. Two comparables have basements, one of which has finished area. Other features include central air conditioning, one fireplace and garages ranging in size from 424 to 563 square feet of building area. The two sales occurred in June and July 2006 for prices of $407,000 and $456,300 or for $169.30 and $201.37 per square foot of living area including land, respectively. The comparables had land assessments of $41,880 or $51,670 and improvement assessments ranging from $90,190 to $102,780 or from $37.91 to $42.17 per square foot of living area. The subject had a land assessment of $51,670 and an improvement assessment of $95,010 or $39.26 per square foot of living area.

The board of review also submitted a grid analysis of the appraisal comparable sales and a grid analysis of the appellant's comparable #3.

During the hearing, the board of review's representative, Charles Van Slyke, objected to the use of the appellant's appraisal because the appraisers were not present to answer questions as to the choice of comparables and methodology used to adjust the comparables.

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

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 appellant argued the subject property was overvalued. 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, Ill.App.3d 1038 (3rd Dist.2002). The Board finds the appellant has met this burden of proof.

The appellant submitted a grid analysis of three suggested comparable sales, an appraisal of the subject property and a list of 109 home sales from Bensenville in 2009. The board of review submitted information on three comparables of which two sold.

The Board gave no weight to the appellant's list of 109 sales from Bensenville due to the lack of date of sale and descriptions necessary when comparing these properties to the subject.

The appellant's appraisal report estimated the subject property had a fair market value of $350,000 as of January 21, 2009.

The board of review's representative objected to the use of the appellant's appraisal because the appraisers were not present to answer questions as to the choice of comparables and methodology used to adjust the comparables. The Property Tax Appeal Board hereby sustains the objection by the board of review with respect to giving no weight to the conclusion of value contained in the appraisal.

In the absence of the appraisers for the hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis. The Board finds the appraisal report without supporting testimony from the preparers is tantamount to hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. 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 (1st 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 preparers were not present to provide testimony and be cross-examined.

The Board finds both parties submitted a total of ten sales and one listing for the Board's consideration. The Board gave less weight to the appellant's appraisal comparables #1, #3 and #5 due to their dissimilar one-story style when compared to the subject's two-story style. In addition, these comparables were significantly older when compared to the subject. The Board also gave less weight to the appellant's grid comparable #3 due to its considerably larger size when compared to the subject. The Board gave less weight to the appellant's grid comparable #1 and #2 due to their sale dates occurring in 2007 some 15 months prior to the subject's January 1, 2009 assessment date. Likewise, the Board gave less weight to the board of review's comparable sales due to their sales occurring in 2006 some 29 months prior to the subject's January 1, 2009 assessment date. The Board gave no weight to the board of review's equity evidence as it does not address the appellant's overvaluation argument.

The Board finds the remaining two sales and one listing offered by the appellant were most similar to the subject in location, size, style, exterior construction and features. The sales occurred in August and December 2008 for prices of $360,000 and $422,000 or $121.29 and $113.08 per square foot of living area including land, respectively. The listing was offered for $385,000 or $197.94 per square foot of living area including land. The Board finds the comparable listing would need to be adjusted downward for being an active listing and the price per square foot would be greater due to this dwelling being approximately 20% smaller than the subject dwelling. The Board also finds appraisal comparable #2 to be superior to the subject in age and 23% larger than the subject dwelling. Furthermore, appraisal comparable sale #4 is significantly newer than the subject property and 64% larger than the subject dwelling. The subject's assessment reflects an estimated market value of $441,010 which is above the range of the sales and list price of $360,000 to $422,000. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is excessive and a reduction in the subject's assessment 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.

Chairman

Member

Member

Member

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

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.