



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

APPELLANT: Thomas & Kathleen Smat
DOCKET NO.: 09-05097.001-R-1
PARCEL NO.: 07-14-411-021

The parties of record before the Property Tax Appeal Board are Thomas & Kathleen Smat, the appellants, by attorney Patrick J. Smith, of The Law Office of Patrick J. Smith, Downers Grove; 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: \$49,920
IMPR: \$107,570
TOTAL: \$157,490**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single family dwelling of frame exterior construction that contains 2,526 square feet of living area and was built in 1984. Features of the home include central air conditioning, one fireplace, a 1,078 square foot unfinished basement and a two-car attached garage. The subject has a 10,455 square foot site and is located in Naperville, Naperville Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel, contending overvaluation as the basis of the appeal. In support of this argument, the appellant called as his witness Michael Zawislak. Zawislak testified he is and has been a Real Estate Broker in Illinois and Florida.¹ The witness testified that he owns and manages rental properties in the Cook County and DuPage County areas. The witness further testified

¹ Section 5-5(c) of the Real Estate Appraiser Licensing Act of 2002 provides in part that:

Nothing in this Act shall prohibit a person who holds a valid license under the Real Estate Licensing Act of 2000 from performing a comparative market analysis or broker price opinion for compensation, provided that the person does not hold himself out as being a licensed real estate appraiser. 225 ILCS 458/5-5(c).

that he has built several homes during the last ten years as a general contractor and developer in the Westmont and Downers Grove areas. Zawislak has a Bachelor of Science degree in accounting. The witness testified he had previously testified in court, before the board of review and the Property Tax Appeal Board.

Zawislak testified that he prepared a market value analysis on a Uniform Residential Appraisal Report (Freddie Mac Form 70 & Fannie Mae Form 1004, March 2005) using three comparable sales located in Naperville from .5 miles to .8 miles from the subject property. The report was marked as Appellant's Exhibit #1. The exhibit also included photographs of the subject and the comparables. The analysis described two of the comparables as being improved with two-story dwellings and one comparable as a "story" dwelling. During testimony, Zawislak stated that comparable 2 was a split-level dwelling and it was bank owned. It was also stated that comparable 3 is a two-story dwelling. The comparables range in size from 2,016 to 3,192 square feet of living area and are from 20 to 33 years old. Two comparables had full or partial finished basements. Each comparable had central air conditioning and a two-car garage. These properties sold from June 2008 to July 2008 for prices ranging from \$380,000 to \$401,000 or from \$125.63 to \$188.49 per square foot of living area including land. Zawislak made adjustments to the comparables to account for differences from the subject in location, living area and basement area or finish. Based on these adjustments the witness calculated the comparables had adjusted sales prices ranging from \$348,000 to \$410,000. Based on these adjusted sales, Zawislak estimated the subject had a market value of \$390,000 as of January 31, 2009.

Under cross examination Zawislak testified the comparables may not be in the subject's neighborhood, but they are within one mile from the subject property. The witness testified that he did not adjust for age or quality of construction. He testified the size adjustment for the comparables was \$100 per square foot of living area. However, calculations showed the comparables size adjustments were \$100.00, \$49.55 and \$109.49 respectively. He further indicated that the size adjustment for comparable 2 was \$50 per square foot of living area based on the condition of the property and foreclosure sale. The witness testified he did not inspect the interior of the subject property or the comparables. The witness further testified that the date he used on the appraisal, was the day that he thought was appropriate. Under redirect, Zawislak testified that his opinion of value for the subject property would not have changed if the date of the market value analysis would have been January 1, 2009.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject property totaling \$157,490 was disclosed. The subject's assessment reflects a market value of \$473,512 or \$187.46 per square foot of living area including land, when applying the 2009 three year average median level of assessments for DuPage County of 33.26%.

In support of the assessment the board of review called as its witness Bob Longacre, Deputy Assessor of Naperville Township. Longacre testified that he is also a licensed certified residential appraiser by the State of Illinois and the license is current.

Longacre testified that the comparables submitted by the appellant were not located in the same neighborhood code as the subject property.

Longacre testified that he prepared a market analysis, Exhibit 1, using the appellant's comparables as well as three comparable sales identified by the assessor's office. The witness explained that the three comparable sales selected by the assessor are all located in the subject's neighborhood code as defined by the local assessor. The comparables are improved with two-story single family dwellings that were built in 1984. The comparables range in size from 2,542 to 2,670 square feet of living area. The dwellings were of frame or frame and brick construction. Other features include central air conditioning, one or two fireplaces, a two-car attached garage and basements ranging in size from 1,116 to 1,216 square feet. One basement was partially finished. The comparables sold from February 2008 to October 2008 for prices ranging from \$489,500 to \$518,000 or from \$183.33 to \$202.59 per square foot of living area including land.

Under cross-examination Longacre testified that photographs of the comparables submitted by the assessor's office were not included in their evidence. Longacre testified that the photographs are located on the assessor's web site.

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 a market value analysis estimating the subject property had a market value of \$390,000 as of January 31, 2009. The analysis was prepared by a real estate broker. The appellants' valuation witness relied on three suggested sales in estimating the market value of the subject

property. The board of review provided three comparable sales in support of the subject's assessment. After reviewing the data and considering the testimony, the Board finds the sales provided by the board of review were most similar to the subject in location, design, size, age and features. Due to these similarities the Board gave the comparable sales provided by the board of review are given the more weight. These most similar properties sold from February 2008 to October 2008 for prices ranging from \$489,500 to \$518,000 or from \$183.33 to \$202.59 per square foot of living area including land. The subject's assessment reflects a market value of \$473,512 or \$187.46 per square foot of living area including land which falls within the range established by the best comparable sales in the record.

The Board gave little weight to the market value analysis submitted by the appellant based on the credibility of the value conclusion. The Board finds comparables 1 and 3 contained in the analysis are dissimilar in age, size and/or land area when compared to the subject. Comparable 2 is dissimilar in design, size and foreclosure sale. The adjustment for gross living area is not consistent with the range being from \$49.55 to \$109.49 per square foot of living area. Adjustments were not made for land area, design, age, and functional utility. Furthermore, all of the comparables contained in the appraisal are located outside the subject's subdivision.

Based on this evidence, and considering the subject's location as well as the dates of sale, the Board finds the subject's assessment is reflective of the property's market value and a reduction in the assessment is not justified.

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: August 28, 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.