FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Thomas & Kathleen Smat
DOCKET NO.: 09-05143.001-R-1
PARCEL NO.: 07-09-206-027

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, 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:	$33,840
IMPR.:	$51,050
TOTAL:	$84,890

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a tri-level single family dwelling of frame exterior construction that contains 1,125 square feet of above grade living area and was built in 1968. Features of the home include central air conditioning, one fireplace, a 575 square foot finished lower level and a two-car attached garage. The subject has a 10,125 square foot site and is located in Naperville, Naperville Township, DuPage County.

The appellants appeared before the Property Tax Appeal Board through counsel, contending overvaluation as the basis of the appeal. In support of this argument, the attorney called as his witness Michael Zawislak. Zawislak testified he is and has been a Real Estate Broker in Illinois and Florida.[1] The witness

[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).

testified that he owns and manages rental properties in the Cook County and DuPage County areas. The witness further testified 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 is marked as Appellant's Exhibit #1. The exhibit also included photographs of the subject and the comparables. The analysis described the comparables as being improved with a one-story dwelling, a two-story dwelling and a "story" dwelling. During testimony, Zawislak stated that comparables 1 and 2 are ranch style dwellings and comparable 3 is a tri-level dwelling. The comparables range in size from 1,014 to 1,180 square feet of living area and are from 20 to 49 years old. Comparable 1 does not have a basement. Comparable 2 has a full finished basement. Comparable 3 has a partial finish lower level. Each comparable had central air conditioning and a two-car garage. The comparables are situated on lots that range in size from 11,500 to 14,000 square feet of land area. These properties sold from June 2008 to January 2009 for prices ranging from $172,500 to $248,000 or from $146.19 to $244.57 per square foot of living area including land. Zawislak made adjustments to the comparables to account for differences from the subject in financing concession, land area, basement area or finish and functional utility. Based on these adjustments the witness calculated the comparables had adjusted sales prices ranging from $192,500 to $228,000. Based on these adjusted sales, Zawislak estimated the subject had a market value of $210,000 as of January 31, 2009.

Under cross examination Zawislak testified that two of the comparables are in the subject's neighborhood, and the other comparable is closer in location to the subject than the comparables in the same neighborhood. The witness testified that he did not adjust comparable one for being a short sale. The witness also testified he did not adjust for type of sale, age, quality of construction, design and baths.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject property totaling $84,890 was disclosed. The subject's assessment reflects a market value of $255,232 or $226.87 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 reiterated that comparable 1 submitted by the appellant was 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 assessor's comparable 2 is the same as comparable 3 in the market analysis submitted by the appellant. The comparables are improved with tri-level style single family dwellings that were built from 1960 to 1978. The comparables range in size from 1,014 to 1,420 square feet of above grade living area. The dwellings were of frame or frame and brick construction. Other features include central air conditioning, one-car or two-car attached garage and finished lower levels ranging in size from 520 to 624 square feet. Two of the comparables have one fireplace. The comparables sold from May 2008 to September 2008 for prices ranging from $248,000 to $285,000 or from $200.70 to $265.74 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 Longacre testified that two of the comparables submitted had brick facades and photographs of the comparables submitted by the assessor's office were not included in their evidence.

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

In this appeal, the appellants submitted a market value analysis estimating the subject property had a market value of $210,000 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 testimony of the valuation witness was not persuasive. Adjustments were not made for age, quality of construction and baths which undermined the value conclusion. Furthermore, two of the comparables are dissimilar in design and were given no weight. However, the Board will further examine the raw sales data contained in this record, including the sales in the appellant's market value analysis.

The Board finds this record contains sales information for five suggested comparable sales. The Board gave less weight to comparables 1 and 2 submitted by the appellants due to their being one-story ranch style homes when compared to the subject property. The Board finds the remaining three comparables are more similar to the subject in location, design, size, age and features. Due to these similarities the Board gave the three comparable sales more weight. These most similar properties sold from May 2008 to September 2008 for prices ranging from $248,000 to $285,000 or from $200.70 to $265.74 per square foot of above grade living area including land. The subject's assessment reflects a market value of $255,232 or $226.87 per square foot of above grade living area including land, which falls within the range established by the best comparable sales in the record after considering adjustments.

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.

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: September 21, 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.