



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

APPELLANT: James Habdas  
DOCKET NO.: 09-05998.001-R-1  
PARCEL NO.: 09-04-408-006

The parties of record before the Property Tax Appeal Board are James Habdas, 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:** \$68,430  
**IMPR:** \$58,570  
**TOTAL:** \$127,000

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a one-story dwelling of frame construction containing 1,094 square feet of living area. The dwelling was built in 1951 and features a full basement which is partially finished. Other features include central air conditioning and a 667 square foot detached garage with a second story apartment. The home is situated on approximately 41,880 square feet of land located in Downers Grove Township, DuPage County, Illinois.

The appellant appeared before the Property Tax Appeal Board claiming both inequity and overvaluation as the bases of the appeal. In support of these arguments, the appellant submitted an appraisal of the subject property, a grid analysis of five suggested comparable properties, a Case-Shiller index, 18 property information sheets and a two page brief. 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 \$285,000; however, the effective date of the appraisal was not disclosed.

The appraisers utilized the cost and sales comparison approaches to value in the appraisal.

Under the cost approach, the appraisers utilized the Marshall & Swift Cost Handbook to estimate a replacement cost new of the subject property of \$369,000 or \$337.29 per square foot of living area including land.

Under the sales comparison approach to value, the appraisers' utilized four comparable sales and two listings located from 0.09 to 0.76 of a mile from the subject property. The comparables have lot sizes ranging from 7,500 to 41,880 square feet of land area. The comparables were described as one-story or split-level dwellings of frame or frame and masonry exterior construction containing from 900 to 1,649 square feet of living area. The dwellings were built from 1922 to 1989. Two comparables have full unfinished basements and four comparables have partial basements, two of which have finished area. Four comparables have central air conditioning and all the comparables have a two-car garage. The comparables sold from June to September 2009 for prices ranging from \$232,000 to \$407,000 or from \$186 to \$261 per square foot of living area including land. The two listings had offerings of \$590,000 and \$259,000 or \$655.56 and \$238.49 per square feet of living area including land.

The appraisers adjusted the comparables for differences when compared to the subject in date of sale/time, site, quality of construction, actual age, condition, room count, gross living area, rooms below grade, heating/cooling, porch/patio/deck and removal of home. The adjustments resulted in adjusted sale prices ranging from \$276,500 to \$352,375, land included.

Under reconciliation, the appraisers placed more weight on the sales comparison approach and opined an indicated value of the subject property of \$285,000.

The appellant also supplied a grid analysis of five comparable properties located within 2½ blocks from the subject. The comparables have lot sizes ranging from 7,900 to 20,640 square feet of land area. The comparables are described as one-story frame or frame and masonry dwellings containing from 1,092 to 3,086 square feet of building area. Three comparables have basements, two of which have finished area. Basement finish on the third was not disclosed. The remaining two comparables did not have basement size or finish disclosed. Four comparables have central air conditioning. The comparables have garages ranging in size from 420 to 616 square feet of building area. The comparables have land assessments ranging from \$22,380 to \$39,250 or from \$1.56 to \$3.50 per square foot of land area. The subject's land assessment is \$68,430 or \$1.63 per square foot of land area. The comparables have improvement assessments ranging from \$44,990 to \$66,610 or from \$29.24 to \$70.00 per square feet of living area. The improvement assessment of comparable #5 was not disclosed. The subject's improvement assessment is \$76,580 or \$70.00 per square foot of living area.

The five comparables sold from October 2009 to December 2010 for prices ranging from \$183,500 to \$357,000 or from \$115.68 to \$215.20 per square feet of living area including land.

The appellant's evidence also included a Case-Shiller index of home sales from 1988 to July 2009 documenting a decline in home prices of 12.8% from a 10-city composite and 13.3% from a 20-city composite.

The appellant's evidence included 18 property information sheets, however, the appellant failed to provide an analysis of comparability to the subject property.

The appellant also included a two page brief describing a history of the subject property and his dealings with the county from 1994 to 2009.

The appellant argued that the comparables he offered have larger homes and are newer, but the price per square foot is less.

Based on this evidence, the appellant requested the subject's land assessment be reduced to \$61,587 or \$1.47 per square foot of land area and the subject's improvement assessment be reduced to \$53,014 or \$48.46 per square foot of living area.

During the hearing the board of review 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 board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$145,010 was disclosed. The subject's assessment reflects an estimated market value of \$435,989 or \$398.53 per square foot of living area, including land using DuPage County's 2009 three-year 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 six comparable properties. The comparables proximate locations in relation to the subject were not disclosed. The comparables have adjusted front foot sizes ranging from 39 to 79 front feet. The comparables total lot sizes were not disclosed. The comparables are described as one-story frame or masonry dwellings containing from 752 to 1,220 square feet of building area. The dwellings were built from 1951 to 1970. Five comparables have full basements, two of which have finished area. One comparable has a partial unfinished basement. The comparables have garages ranging in size from 400 to 576 square feet of building area. Other pertinent features, such as central air conditioning and number of fireplaces, were not disclosed. The comparables have improvement assessments ranging from \$39,060 to \$80,220 or from \$49.64 to \$68.62 per square feet of living area.

Three of the comparables sold from April 2008 to February 2009 for prices ranging from \$256,000 to \$340,000 or from \$279 to \$340 per square foot of living area including land.

The Chief Deputy Assessor, Joni Gaddis, testified that the subject's 2009 assessment increase was partially due to the removal of a 1995 board of review reduction, which was removed when the subject's neighborhood was re-evaluated.

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 (3<sup>rd</sup> Dist.2002). The Board finds the appellant has met this burden of proof.

The appellant submitted a grid of five sales, a Case-Shiller chart, 18 property record sheets and an appraisal report estimating the subject property had a fair market value of \$285,000; however, the effective date of the appraisal was not disclosed. The board of review offered six comparable properties for consideration.

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 be cross-examined 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. The absence of the appraisers at the hearing to be cross-examined 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 finds the appraisal report 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 (1<sup>st</sup> 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 preparer is not present to provide testimony and be cross-examined.

The Board gave no weight to the appellant's Case-Shiller index. The Board finds this evidence does not show the subject's estimated market value as reflected by its assessment is incorrect.

The Board gave no weight to the appellant's 18 property information sheets. The appellant failed to provide a comparable analysis of the data for an accurate review.

The Board finds both parties submitted a total of twelve sales and two listings for the Board's consideration. The Board gave less weight to the appellant's comparables #1 through #4 due to their sale dates occurring greater than 17 months after the subject's January 1, 2009 assessment date. The Board gave less weight to the appellant's comparable #5 and the appellant's appraisal comparable #4 due to their considerably larger dwelling sizes when compared to the subject.

The Board finds the remaining six sales and two offerings submitted by both parties were most similar to the subject in location, size, style, exterior construction and features. These sales occurred from April 2008 to August 2009 for prices ranging from \$232,000 to \$340,000 or from \$185.59 to \$340.43 per square foot of living area including land. The two listings had offerings of \$590,000 and \$259,000 or \$655.56 and \$238.49 per square feet of living area including land.

The subject's assessment reflects an estimated market value of \$435,989 or \$398.53 per square foot of living area including land. The subject's assessment is above the market value range of seven of the eight best comparables in the record. However, the Board finds the subject's lot size is significantly larger than the comparables and the subject enjoys an additional 484 square feet of living area above the garage. 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.

The appellant also argued unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the

assessment evidence, the Board finds the appellant has not met this burden.

The appellant submitted five equity comparables for the Board's consideration. The board of review submitted six equity comparables for the Board's consideration. Since the board of review failed to disclose their comparables lot sizes, the Board will only analyze the appellant's land comparables to determine a comparable land square foot value. The appellant's land comparables range in size from 7,900 to 20,640 square feet of land area. The Board takes note that the lot sizes which were disclosed in the record are significantly smaller than the subject's lot. The appellant's comparables have land assessments ranging from \$22,380 to \$39,250 or from \$1.56 to \$3.50 per square foot of land area. The subject's land assessment is \$68,430 or \$1.63 per square foot of land area. The subject's land assessment is within the assessment range of the comparables in the record. Therefore, the Board finds the subject's land assessment is supported and a reduction in the subject's land assessment based on inequity is not warranted.

As to the subject's improvement assessment, the Board gave less weight to the appellant's comparables #2 and #5 due to their considerably larger improvement sizes when compared to the subject. The Board finds the remaining nine comparables offered by both sides are most similar to the subject in location, size, exterior construction and features. They have improvement assessments ranging from \$39,060 to \$80,220 or from \$37.55 to \$70.00 per square foot of living area. The subject has an improvement assessment of \$76,580 or \$70.00 per square foot of living area, which falls within the range established by the most similar comparables in the record. The Board therefore finds the subject's improvement assessment is not excessive and no reduction based on inequity is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclosed that the properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist on the basis of the evidence.

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: November 30, 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.