



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

APPELLANT: Denis Owens
DOCKET NO.: 09-21844.001-R-1 through 09-21844.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Denis Owens, the appellant(s), by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines; and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
09-21844.001-R-1	09-26-202-034-0000	9,223	77,553	\$86,796
09-21844.002-R-1	09-26-202-032-0000	2,204	0	\$2,204

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property has 16,325 square feet of land, which is improved with a 50 year old, multi-level, frame, single-family dwelling. The dwelling contains three and one-half baths, a full finished basement, air conditioning, a two-car garage, and an indoor pool. The appellant's evidence and the board of review's evidence differs regarding the subject's improvement size.

The subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board (the "Board") in a prior year under docket number 07-25199.001-R-1. In that appeal the Board rendered a decision lowering the assessment of the subject property to \$135,540 based on the evidence submitted by the parties.

In the current appeal, the appellant, via counsel, argued that the fair market value of the subject was not accurately reflected in its assessed value. In support of the market value argument, the appellant submitted an appraisal undertaken by Pamela Sonshine of Pamela Sonshine Residential Appraisals, Inc. The report states that Sonshine is licensed as a State of Illinois certified residential real estate appraiser. The appraiser stated that the subject has an estimated market value of \$750,000 as of January 1, 2010. The appraisal report utilized the sales

comparison approach to value to estimate the market value for the subject property. The appraisal states that Sonshine personally inspected the property, and that the subject's highest and best use as improved is its present use. Additionally, the appraisal states that the subject's improvement size is 3,235 square feet of living area, and the appraiser included drawings with measurements of the subject.

Under the sales comparison approach, the appraiser analyzed the sales of three sales comparables, and one property listed for sale. These four properties are described as two-story, masonry, single-family dwellings that range in age from 10 to 81 years old, and in size from 2,583 to 3,827 square feet of living area. The sales comparables sold from May 2009 to October 2009 for prices ranging from \$730,000 to \$760,000, or from \$210.18 to \$282.62 per square foot of living area. The property for sale is listed for \$960,000, or \$250.85 per square foot of living area. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$750,000.

The cost approach to value and the income approach to value were not developed for the appraisal. The appraiser stated that the sales comparison approach to value is considered the most reliable, and therefore, is given the most weight when appraising a single-family dwelling. The appraiser also charged external obsolescence to the subject because it views and is located next to the country club maintenance yard. Thus, the appraiser concluded that the subject's appraised value was \$750,000 as of January 1, 2010. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject property totaling \$126,438 was disclosed. In support of the subject's assessment, the board of review submitted descriptions and assessment information on four suggested comparables to demonstrate the subject was being assessed uniformly. These properties are described as two-story, masonry or frame and masonry, single-family dwellings that range in age from 4 to 50 years old, and in size from 3,872 to 5,282 square feet of living area. The dwellings have from three and one-half to five and one-half baths, from one to three fireplaces, either a two-car or a three-car garage, and either a full basement with a formal recreation room, a partial unfinished basement, or a partial basement with a formal recreation room. Additionally, all of the properties have air conditioning. These suggested comparables have improvement assessments ranging from \$20.00 to \$28.23 per square foot of living area. The board of review's evidence lists the subject as having 4,151 square feet of living area.

The board of review also submitted a list of sales of properties located within the subject's neighborhood. This list included

the PIN, deed number, the date of the sale, and the sale price for four properties. No further information was provided regarding these properties. Based on this evidence, the board requested confirmation of the subject's assessment.

In rebuttal, the appellant asked that the board of review's evidence be given no weight because it did not address the appellant's market value argument. The appellant also re-affirmed the evidence previously submitted.

At hearing, the appellant's counsel, Joanne Elliott, raised a square footage argument during the opening statement that was not previously raised. Next, Ms. Elliott and the Cook County Board of Review Analyst, Michael Terebo, stipulated as to Ms. Sonshine's qualifications as an appraiser, and Ms. Sonshine was accepted by the Board as an expert in real estate appraisals.

Ms. Sonshine then testified that there were two main factors in determining the value of the subject. The first was the location of the subject. Ms. Sonshine testified that the subject was on a quiet residential street, but was also next to the maintenance yard for the golf course. The second factor was the subject's improvement size. Ms. Sonshine testified that the survey she received from the appellant, and her own measurements of the home were inconsistent. Ms. Sonshine testified that this discrepancy was likely because the subject's indoor pool, screened-in porch, and garage were included in the measurements on the survey.

Ms. Sonshine then testified that she took a photograph of the view of the maintenance yard from the front door of the subject, and pointed out that photograph in the appraisal. The appraiser also testified that she included drawings and measurements in the appraisal to show the subject's improvement size.

With regard to the comparables selected, the appraiser testified that she did not use properties that had a golf course view, because she did not believe the subject had a golf course view. Ms. Sonshine then testified as to the various adjustments she made to the comparable properties. The appraiser did testify that she made no adjustment for the subject's indoor pool because she could not find any properties in the area that sold recently which had an indoor pool. Thus, the appraiser asserted that a value for the pool could not be extracted.

Mr. Terebo then asked Ms. Sonshine to state the effective date of the appraisal, which she answered was January 1, 2010. Mr. Terebo then asked Ms. Sonshine if she knew about the triennial reassessment system used in Cook County, and she responded that she did not. Next, Mr. Terebo asked whether Ms. Sonshine knew whether the indoor pool was built prior to the purchase of the subject. Ms. Sonshine responded that she did not know.

Mr. Terebo then testified that the Cook County Board of Review would give no weight to the appellant's appraisal because the effective date is January 1, 2010, which is outside the triennial

period for the year at issue in this appeal (2007 to 2009). During closing arguments, Mr. Terebo stated that the board of review would have no qualms with accepting a lower improvement size for the subject if there is competent evidence in the record prepared by a professional.

After reviewing the record 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 record in this appeal disclosed the subject property had a final total assessment for the 2009 tax year of \$126,438, which equates to a market value of \$1,420,652 after application of the 2009 Illinois Department of Revenue three-year median level of assessment for Class 2 property of 8.9%. This market value is greater than the market value in the appraisal submitted by the appellant. The Board also takes notice of its 2007 decision in docket number 07-25199.001-R-1, wherein the subject's assessment was reduced to \$135,540 based on the evidence submitted by the parties.

The Board also recognizes that Section 16-185 of the Property Tax Code states that a prior year's decision lowering the assessment should be carried forward to the 2009 tax year, subject only to equalization, when the property is an owner occupied residence and the tax years are within the same general assessment period. 35 ILCS 200/16-185. However, in this case, the Board finds that doing so would result in an inequitable assessment in contravention of the Board's authority to base each decision upon equity and the weight of the evidence. 35 ILCS 200/16-185.

The Board takes notice that the Cook County Board of Commissioners passed Ordinance No. 08-0-51 (the "10/25 Ordinance"), which amended Chapter 74, Article II, Division 2, Section 74-64 of the Cook County Code of Ordinances, and is effective for tax year 2009. See 86 Ill. Admin. Code § 1910.90(i). The 10/25 Ordinance changed the statutory assessment classification level of assessments for class 2 property throughout Cook County from 16% to 10%. The Board finds that carrying forward the assessment from the 2007 tax year to the 2009 tax year without recognizing the fact that assessment levels were reduced in Cook County for tax year 2009 is inequitable since the previous year's decision was founded on a substantially higher level of assessment. The Uniformity Clause of the Illinois Constitution states that, "Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill. Const. 1970, art. IX, § 4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 401 (1960). Taxation must be in proportion to the value of the property being taxed. It is unconstitutional for one kind of property within a taxing district to be taxed as a certain proportion of its market value while the same kind of property in the same taxing district is taxed as a substantially higher or

lower proportion of its market value. Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1, 20 (1989); Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998). The Board finds that carrying forward the decision from tax year 2007 to tax year 2009 would violate this directive.

Initially, the Board finds that the subject's improvement size is 3,235 square feet of living area. The appraiser testified that she personally measured the subject property, minus the indoor pool, garage, and screened-in porch. She then documented those measurements, and included them and a drawing of the subject in the appraisal report. This issue was not raised by the appellant until the hearing. However, Mr. Terebo stated at the hearing that the board of review would not object to the appellant's square footage argument if there was competent evidence in the record prepared by a professional. The Board finds that this is the case in this appeal. Ms. Sonshine is an expert in appraising property, which inherently includes measuring the improvements upon a property. Mr. Terebo even stipulated to Ms. Sonshine's expertise in appraising at the beginning of the hearing. Therefore, the Board finds that, for the 2009 tax year, the subject's improvement size is 3,235 square feet of living area.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is warranted.

In determining the fair market value of the subject property, the Board finds the best evidence to be the appellant's appraisal. The appellant's appraiser utilized the sales comparison approach to value in determining the subject's market value. The Board finds this appraisal to be persuasive because the appraiser has experience in appraising, personally inspected the subject property and reviewed the property's history, and used similar properties in the sales comparison approach while providing adjustments that were necessary. The Board gives little weight to the board of review's comparables as the information provided did not address the appellant's market value argument.

However, while the properties used in the sales comparison approach were similar to the subject, the Board finds that their location and view were not similar. The appellant argued that

the subject should be compared to properties that are not located on a golf course, and the appraiser used such comparables. The Board finds this argument unpersuasive. The maintenance yard is part of the golf course, and is no different than if the subject was located next to the first tee box, the 18th green, the clubhouse, the parking lot, etc. Therefore, the Board finds this adjustment is unsupported in this case.

The Board finds the subject had a market value of \$1,000,000 for the 2009 assessment year. Since the market value of this parcel has been established, the 2009 Illinois Department of Revenue three-year median level of assessment for Class 2 property of 8.9% will apply. In applying this level of assessment to the subject, the total assessed value is \$89,000 while the subject's current total assessed value is above this amount. Therefore, the Board finds that a reduction 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Marko M. Louie

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: October 19, 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.