



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

APPELLANT: Peter Baugher
DOCKET NO.: 09-31713.001-R-1
PARCEL NO.: 05-27-404-001-0000

The parties of record before the Property Tax Appeal Board are Peter Baugher, the appellant(s); and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 49,159
IMPR.: \$142,837
TOTAL: \$191,996

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 23,980 square foot parcel of land, that is improved with a 58 year old, two story, frame, single-family dwelling containing 2,494 square feet of living area. The dwelling contains two baths, a fireplace, a crawl, and a two-car garage. The appellant argued that the market value of the subject property is not accurately reflected in its assessed value.

In support of this overvaluation argument, the appellant submitted an Escrow Trust Disbursement Statement from Chicago Title and Trust Company, a Residential Real Estate Contract, a Warranty Deed affixed with \$3,465.00 worth of Real Estate Transfer Tax Stamps from the Village of Wilmette, Illinois, a State of Illinois Real Estate Transfer Declaration, and a Cook County Real Estate Transfer Declaration. All of these documents indicate that the subject sold in August 2009 for \$1,155,000, or \$463.11 per square foot of living area. The appellant's pleadings further state that the sale was not between related parties, that the sale was not pursuant to a short sale or a foreclosure, and that the seller's mortgage was not assumed. In response to the question, "Was the property advertised for sale?" the appellant marked "Yes." The appellant then stated in the pleadings that the subject was advertised through communications by the seller for "about six months." On the Illinois Real

Estate Transfer Declaration, the appellant marked that the subject was *not* advertised for sale. The Residential Real Estate Contract does not list any real estate agents that may have been a part of the sale. The appellant also stated, in the pleadings, that the improvement upon the subject was demolished in late 2009, and the subject has been vacant land since that time. 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 subject's total assessment of \$191,996 was disclosed. This assessment yields a market value of \$2,157,258 for the subject, using the 2009 Illinois Department of Revenue three-year median level of assessment for class 2 property of 8.90%. This market value equates to \$864.98 per square foot of living area for the subject.

In support of the subject's assessment, the board of review submitted descriptions and assessment information for four properties located within the subject's subarea. These properties are described as two-story, masonry or frame and masonry dwellings, which are from 32 to 56 years old, and contain from 2,999 to 3,663 square feet of living area. The dwellings have from three and one-half to four and one-half baths, and from one to three fireplaces. All of the dwellings contain air conditioning, a basement area, and a two-car garage. These properties have improvement assessments ranging from \$73.32 to \$81.58 per square foot of living area. The board of review also stated that the subject received an occupancy factor of 89.9% for tax year 2009. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant stated that the Wilmette Park District offered to buy the subject a month after the appellant purchased it. The Park District agreed to purchase the property for \$1,155,000. The appellant also asserted that the board of review's comparable properties were not similar to the subject because the subject's improvement was demolished in late 2009.

At hearing, the appellant testified that the subject is adjacent to his primary residence. Next, the appellant testified, after being questioned by the Cook County Board of Review Analyst, Gabrielle Nicolau, that the sale of the property was done through an "auction," and that neighbors around the subject and the Wilmette Park District were the "bidders." The appellant alleged that another neighbor bid \$1,150,000, and that the appellant subsequently bid \$5,000 higher. The seller then accepted his bid of \$1,155,000. Upon further questioning from Ms. Nicolau about the nature of the auction, the appellant testified that the auction was an "auction negotiation," whereby, over time, bidders stated their bids to the seller. The appellant testified that the auction was not advertised to the general public, but was the topic of much discussion in the neighborhood. The appellant also testified that the auction was not a judicial auction or an estate auction, and that a realtor was not used during the sale.

The appellant went on to testify that sometime in 2008 there was a contract for the sale of the subject for a total consideration of \$1,100,000, but that the sale pursuant to the contract did not occur.

Ms. Nicolau testified that the Cook County Board of Review applies occupancy factors based on the habitability of the improvement; but that if an improvement is demolished, another Section of the Illinois Property Tax Code applies. The appellant testified that the subject improvement was uninhabited since the purchase date. When asked by the Administrative Law Judge (the "ALJ"), whether the improvement was *habitable*, the appellant testified that the windows did not work properly, there were rodents living in the dwelling, there was a lot of miscellaneous items within the dwelling, and the plumbing was only partially working. The appellant testified that the seller remained living in the home until sometime in the summer of 2009, and that no one would want to live in the dwelling except the seller. The appellant further testified that the dwelling did not change in any substantial way after the seller moved out until it was demolished. For these reasons, the appellant testified that the dwelling was uninhabitable from the time the seller moved out in the summer of 2009.

The appellant then testified that the Wilmette Park District offered to buy the subject from him for \$1,155,000 in September of 2009. At this time, the appellant offered an appraisal into evidence, and Ms. Nicolau objected under 86 Ill.Admin.Code § 1910.67(1) which states that "[a]ppraisal testimony offered to prove the valuation asserted by any party shall not be accepted at the hearing unless a documented appraisal has been timely submitted by that party pursuant to this Part." The Board sustained the objection. The appellant also stated, that, after the Wilmette Park District offered to purchase the property, it threatened to use its eminent domain powers to acquire the property.

After reviewing the record, 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. When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3d Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2d Dist. 2000). 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. 86 Ill. Admin. Code 1910.65(c). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is not warranted.

The Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued.

The appellant's appeal is based on the recent sale of the subject for \$1,155,000. The Board gives the sale of the property no evidentiary weight because the property was not advertised for sale on the open market, the "auction" was not advertised to the public, and there were no real estate agents used for the sale.

While the appellant's pleadings state that the property was offered for sale for about six months through verbal communication, the Board is not persuaded that these actions constitute "advertisement on the open market." Instead, the Board finds, this was *limited* advertisement in a *defined* market. The appellant testified as to what the defined market constituted at hearing when he testified that the sale was done through an "auction," and the "bidders" were the neighbors in the immediate area around the subject, plus the Wilmette Park District. Furthermore, the Illinois Real Estate Transfer Declaration submitted by the appellant indicates that the property was not advertised for sale on the open market.

The appellant also submitted evidence to show that the Wilmette Park District offered to purchase the subject for \$1,155,000 in September 2009. The appellant testified that, since the Wilmette Park District is one of the taxing districts that imposes a tax levy upon the subject, and receives property tax dollars based on the market value of the subject, its offer to purchase the subject for \$1,155,000 stands for the fact that it is a fair price. In essence, if this market value is good enough for one of the taxing districts, it should be good enough for the Cook County Assessor, the Cook County Board of Review, any other applicable taxing districts, and this Board.

However, this Board is not persuaded by this argument. It is the Wilmette Park District's directive to establish parks within the Village of Wilmette, and regulate the use of those parks. It may impose a property tax levy to achieve those goals. However, it has no power to determine the fair price of a parcel of real estate. That task is left to the Cook County Assessor, and to the Cook County Board of Review and this Board on appeal. The fact that the Wilmette Park District offered to purchase the subject at a certain price does not mean it was a fair price. Indeed, the appellant chose not to accept the Wilmette Park District's offer. Nor does the Wilmette Park District's threat to acquire the property through eminent domain mean that it offered a fair price. The purchase prices of property being acquired through eminent domain are routinely challenged and modified in state and federal courts across the country.

The appellant did not provide any further evidence to support the market value argument, except for the untimely submission of an appraisal at hearing, which was not accepted into evidence. Therefore, the Board finds that the subject is not overvalued, and that a reduction is not 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

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: June 22, 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.