FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Frank Biela
DOCKET NO.: 10-00178.001-R-1
PARCEL NO.: 16-05-18-102-014-0000

The parties of record before the Property Tax Appeal Board are Frank Biela, the appellant, by attorney Scott Shudnow of Shudnow & Shudnow, Ltd., in Chicago, and the Will 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 **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$29,150
IMPR.:	$77,517
TOTAL:	$106,667

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story single family dwelling of masonry exterior construction built in 2006. The home contains approximately 2,336 square feet of above-grade living area. The dwelling features a full unfinished basement, central air conditioning, a fireplace and an attached garage of 627 square feet of building area. The property is located in Lockport, Homer Township, Will County.

In support of this overvaluation complaint, the appellant filed a summary appraisal report[1] with the Property Tax Appeal Board prepared by Gary Nusinow, a Certified General Appraiser. The appraisal states that it was intended for a property tax assessment appeal. The rights appraised were fee simple. The appraisal provides an estimated market value of $320,000 or $136.99 per square foot of living area including land as of January 1, 2010.

[1] The Supplemental Addendum indicated this was a summary report despite the fact that the report was identified as a Restricted Use report on page 2 and the intended user was identified as appellant's attorney on page 3.

As part of the subject's sale history, the appraiser reported the February 2007 sale of the subject for $481,000.

Using the cost approach to value, the appraiser first estimated the subject property had a land value of $55,000.[2] Nusinow used the Marshall and Swift Valuation Service "plus an entrepreneurial incentive" to estimate the subject improvement had a replacement cost new of $325,095. The appraiser estimated physical depreciation to be $19,993 or 6.15% using the age-life method. He also determined the subject dwelling suffered from external obsolescence of 10% or $32,510 "due to the decline in the neighborhood of residential property values and the vacant home sites still unimproved with no construction activity in the subject's development over 5 years after development began." Deducting depreciation resulted in a depreciated cost of the improvements of $272,592. To this the appraiser added $5,000 for the site improvements and the site value to arrive at an estimated value under the cost approach of $332,592.

Utilizing the sales comparison approach to value, the appraiser set forth five suggested comparables located from 1.74 to 2.47-miles from the subject. The appraiser reported he searched the Multiple Listing Service (MLS) for closed sales of all three-bedroom, two bath, ranch style single family residences in Homer Township between January 1, 2008 and December 31, 2009; from this data set, the appraiser determined the five sales presented were the most similar in size, style, design, age, location, condition, etc. to the subject. The comparables consist of one-story masonry or brick and frame dwellings that were from 4 to 11 years old. The comparables range in size from 2,064 to 2,308 square feet of living area. The comparables have basements, three of which are finished area and one of which is a walkout style. Each comparable has central air conditioning and a two-car or three-car garage. Four comparables have one or two fireplaces. The comparables sold from February 2008 to July 2009 for purchase prices ranging from $289,000 to $360,000 or from $127.38 to $174.42 per square foot of living area including land.

The appraiser made adjustments to the comparables for date of sale/time, for financing concessions/foreclosure as to sales #4 and #5 along with adjustments for differences in view, quality of construction, age, condition, room count, living area square footage, basement style, basement finish, number of garage stalls and/or other amenities from the subject. The appraiser discussed in the report the basis for various adjustments including that for bank-owned properties (sales #4 and #5) the upward adjustment was because "the seller is more motivated than a typical seller." In addition, based on analysis of the market area, the appraiser made 10% downward adjustments for sales #3, #4 and #5 to reflect declining property values that reportedly had declined by 14.7%. After this analysis, the appraiser concluded adjusted sale prices

[2] In support for the opinion of site value the appraiser set forth five identification numbers for Multiple Listing Service properties. No further discussion of the site value was provided.

for the comparables ranging from $284,000 to $321,500 or from $123.05 to $152.37 per square foot of living area including land. The appraiser then concluded an estimated fair market value of the subject under the sales comparison approach of $320,000.

Based on this evidence, the appellant requested a reduction in the assessment of the subject property so as to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $142,906 was disclosed. The final assessment of the subject property reflects a market value of approximately $429,922 or $184.04 per square foot of living area including land using the 2010 three-year median level of assessments for Will County of 33.24% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review submitted a two-page letter prepared by Karen Szynkowski, Homer Township Assessor, along with a grid analysis of six comparable sales with applicable property record cards and photographs and other supporting documentation. The assessor contends the appellant's appraiser presented "inferior" comparables which were outside the subject's subdivision, each of which "should have had positive quality adjustments." Sale #2 "sold after only 13 days on the market." As to the cost approach, the assessor contended the land value was "very low" and "depreciation" of over $52,000 on a 4-year-old home was "excessive." Lastly, the assessor remarked that sales #4 and #5 were foreclosures.

In addition, the assessor reported that the appellant purchased the subject property in February 2007 for $480,525 whereas its 2010 assessment reflects a market value less than this recent purchase price. Given the appraiser's value conclusion, the assessor wrote, "[t]his would be over $160,000 less than they paid to purchase the property three (3) years ago." The assessor also included an aerial photograph depicting the subject's street with twenty improved parcels and thirteen vacant parcels.

In support of the subject's estimated market value based on its assessment, the assessor presented six sales of comparables located in the subject's subdivision of Creekside South, three of which are located on the same street as the subject. Each comparable is a one-story dwelling of masonry or frame and masonry exterior construction that is 1 to 3 years old. The homes range in size from 2,137 to 2,404 square feet of living area. Each comparable has a full basement with comparable #1 being an English style based on the photograph. The homes feature central air conditioning and a garage with four comparables also having a fireplace. The comparables sold between February 2008 and March 2010 for prices ranging from $394,675 to $557,713 or from $171.37 to $231.99 per square foot of living area including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant contends that the sales data presented by the board of review represents "the height of the real estate market and prior to the mortgage foreclosure crisis and market crash." Counsel further argued that the appraiser's report included two sales from 2009 which is more proximate in time to the assessment date at issue along with having made adjustments for time to the sales data. The appellant also contends that board of review sale #4 which occurred in 2010 sold for $186.99 per square foot, even though the dwelling was only 1 year old. Overall, the appellant contends that the unadjusted sales presented by the board of review fail to reflect market values as of the assessment date and this same argument applies to the 2007 purchase price of the subject property.

After reviewing the record and considering the evidence submitted by the parties, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant argued that the subject's assessment was not reflective of market value. 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, 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)). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted.

The Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of $320,000 which was supported by sales that occurred in 2008 and 2009. The appraiser made adjustments for various differences between the subject and comparables to arrive at a well-reasoned value conclusion. Based on the dwelling size of the subject as 2,336 square feet, the Board notes that the value conclusion of $136.99 per square foot of living area, including land, falls at the lower end of the range of the adjusted comparable sales presented.

The board of review presented six sales of dwellings, five of which predate the assessment date, having sold in 2008, and one newly built home sold in March 2010. The Property Tax Appeal Board also finds little merit in the assessor's criticisms of the appraiser's comparable sales where there is no substantive evidence to support the assertions and implications made. For instance, the appraiser adjusted sales #4 and #5 both for time and for having sold due to foreclosure such that the assessor's notation that the properties were "foreclosures" was addressed in the report. Likewise, the appraiser's cost approach included not only physical depreciation but also external obsolescence due to the lack of development of the subdivision which was supported by the aerial photograph of the area submitted by the board of review.

The Property Tax Appeal Board finds that the best evidence of the subject's market value on this record is the appraisal conclusion of $320,000 which appears to be supported by the board of review's sale #4 which is a newer and slightly smaller dwelling than the subject. The Board finds that giving due consideration to appropriate adjustments to board of review comparable sale #4 for differences from the subject, this sale further supports the appraiser's value conclusion of the subject dwelling.

Based upon the best market value evidence in the record, the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted and a reduction commensurate with the appellant's request is appropriate.

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: March 22, 2013

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.