



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

APPELLANT: Greg Feige
DOCKET NO.: 10-01256.001-R-1
PARCEL NO.: 05-09-182-011

The parties of record before the Property Tax Appeal Board are Greg Feige, the appellant, and the Kendall 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 Kendall County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$17,007
IMPR.: \$56,297
TOTAL: \$73,304

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel is improved with a two-story brick and frame exterior constructed single-family dwelling built in 2005. The dwelling features a full unfinished basement, central air conditioning, a fireplace and a 690 square foot garage. The subject property is located in Yorkville, Kendall Township, Kendall County.

The initial issue on this record concerns the dwelling size of the home. There are three varying dwelling sizes in the submissions of the parties. The appellant in the appeal petition reported 3,276 square feet which is identical to the dwelling size reported by his "second" appraiser Mary Anne Omelka. The Omelka report includes a detailed schematic drawing. The appellant's other appraiser, Kenneth Embry, reported a dwelling size of 3,586 square feet supported by a detailed schematic drawing. The board of review initially reported a dwelling size of 3,800 square feet with a less-detailed miniature schematic drawing on a property record card. However, in a memorandum, the board of review acknowledged that an open foyer area had been included by the assessor and stated "[i]t was determined that the square footage should be 3,276 SF." The Property Tax Appeal

Board finds the subject dwelling contains 3,276 square feet of above-grade living area.

The appellant's appeal before the Property Tax Appeal Board contends the market value of the subject property is not accurately reflected in its assessed valuation. In support of this overvaluation contention, the appellant reported a recent sale of the subject and submitted two separate appraisals.

In Section IV - Recent Sale Data of the Residential Appeal form, the appellant reported the subject property was purchased on February 10, 2009 for a price of \$219,900. The appellant stated the property was sold by Island Source I, LLC, through Homelite Real Estate, by agent Jeremy McCalmont and was advertised for sale for 31 days in the Multiple Listing Service. In the appeal petition, the appellant stated the parties to the transaction were not related. The appellant also submitted a copy of the "Final [Settlement] Statement" associated with the sale transaction depicting a sale price of \$219,900.

In further support of the overvaluation argument, the appellant submitted an appraisal prepared by real estate appraiser Kenneth Embry of AAA Appraisal Service estimating the subject property had a market value of \$250,000 as of January 17, 2009. The stated purpose of the appraisal was for a "purchase transaction" and the appraisal was performed for the client, the Department of Veterans Affairs, with the intended user being "any VA approved lender." The property rights appraised were fee simple. The appraiser also reported the subject's January 2009 contract price of \$219,900 in the report.

In the addendum discussing the market, the appraiser reported that values were stable and "no definable change was noted for the past 18 months."

Under the cost approach, the appraiser estimated the subject's land value at \$39,000 and reported the land value was that "as determined by the Kendall County Assessor."¹ Using the Marshall & Swift Cost Handbook along with knowledge of construction costs of similar homes in the subject's marketing area, Embry determined a replacement cost new for the subject of \$213,935. Physical depreciation of \$2,845 was calculated using the age/life method resulting in a depreciated value of improvements of \$211,090. No value for site improvements was estimated. Thus adding back the land value, under the cost approach, the appraiser estimated a market value of \$250,090 for the subject.

Under the sales comparison approach, the appraiser used sales of three comparable homes and one listing. The proximity of these properties to the subject was not disclosed in the report, although each is located in Yorkville. The parcels are improved with two-story dwellings of frame or brick and frame exterior

¹ The Property Tax Appeal Board notes that the subject's 2010 land assessment of \$17,007 would reflect an estimated market value of approximately \$51,000.

construction. The dwellings range in age from 2 to 5 years old. The homes contain either 2,229 or 2,646 square feet of living area. Each comparable has a full unfinished basement, central air conditioning and a two-car or three-car garage. The comparables were on the market for 50 to 112 days. Three comparables sold between March 2008 and November 2008² for prices ranging from \$229,900 to \$252,000 or from \$86.89 to \$113.06 per square foot of living area including land. Comparable listing #4 had an asking price of \$239,000 or \$107.22 per square foot of living area including land.

In comparing the properties to the subject, the appraiser made adjustments for differences in site size, view, exterior construction, room count, dwelling size, number of garage stalls and other amenities. Embry further reported that the subject is in a stable market area which has experienced a lack of recent sales of homes similar to the subject in terms of lot size, design, dwelling size, upgrades, etc. Thus, to stay within the immediate area, Embry utilized "2 slightly dated and 1 active sales [*sic*]." He further noted no adjustment for date of sale was merited as "real estate values have remained stable in the subject's market area over the past year." The appraiser's analysis resulted in adjusted sales prices for the comparables ranging from \$248,800 to \$257,260 or from \$94.03 to \$115.41 per square foot of living area land included. From this process, the appraiser estimated a value for the subject by the sales comparison approach of \$250,000.

In reconciliation, Embry gave most weight to the sales comparison approach as it best reflects the actions of typical buyers and sellers in arriving at an estimated market value of \$250,000.

In further support of the overvaluation argument, the appellant submitted an appraisal prepared by real estate appraiser Mary Anne Omelka of Platinum Properties of Illinois estimating the subject property had a market value of \$220,000 as of February 20, 2010. The stated purpose of the appraisal was for a "refinance transaction" and the appraisal was performed for a lender, ABS Home Mortgage in Naperville.

Omelka noted that the subject property is located in a Special Services Area (SSA) and therefore, in 2008, the property tax included \$1,810.70 as an SSA payment for which fees will continue until 2032. She further reported that the SSA will increase 1.5% per year. In the report, the appraiser acknowledged that the subject property was sold on March 1, 2009 for \$219,900.

In the addendum discussing market conditions, Omelka reported that no sales or financing concessions were necessary to sell properties in the area and marketing time was estimated at 6 to 8 months "based on statistical data from the local Multiple Listing Service and assuming competitive pricing." Additionally, Omelka

² The date of sale for comparable #1 is incomplete having been reported as "11/13/200," but is also reported in sales history as "11/13/2008."

prepared a Market Conditions Addendum to the Appraisal Report wherein she reported there was added flexibility in sellers to achieve sales including closing cost credits and an increase in the number of single family rentals in order to postpone a sale until values increase. Upon analyzing area sales, she reported an overall -13% change in median residential property values in the neighborhood for the prior year. Of 28 area sales, 8 were foreclosures and 3 were identified by listing agents as short sales. Thus, Omelka asserted that 39% of the market was "a distressed sale." Based on this analysis, the appraiser stated, "median home value for the subjects [sic] zip code has declined 13% over the past year" as provided by MRED LLC MLS.

Under the cost approach, Omelka estimated the subject's land value at \$25,000 with no evidence of how this figure was determined. Using Marshall & Swift, the appraiser estimated a replacement cost new for the subject of \$324,399. Physical depreciation of \$6,488 was calculated using the age/life method resulting in a depreciated value of improvements of \$317,911. Next, a value for site improvements of \$15,000 was estimated. Thus adding back the land value, under the cost approach, Omelka estimated a market value of \$357,911 for the subject.

Under the sales comparison approach, Omelka used sales of six comparable homes and two listings of properties located from less than 0.1 to .37 of a mile from the subject. The parcels are improved with a one-story and seven, two-story dwellings of frame or brick and frame exterior construction. The dwellings range in age from 3 to 5 years old. The comparables range in size from 2,400 to 3,200 square feet of living area. Each comparable has a full or partial basement, two of which are walkout-style and one of which is an English style; two of the basements have finished area. Each home has central air conditioning and a two-car or three-car garage. Four of the comparables have one or two fireplaces. Six comparables have an "active" SSA, one has a "paid" SSA and one is not in a Special Services Area. The comparables were on the market from 9 to 82 days. Six comparables sold between September 2009 and November 2009 for prices ranging from \$202,400 to \$260,000 or from \$63.25 to \$96.23 per square foot of living area including land. Listings #7 and #8 had asking prices of \$219,000 and \$309,900 or \$75.52 and \$127.53 per square foot of living area including land.

In comparing the comparable properties to the subject, Omelka made adjustments for financing concessions and/or active listings along with adjusting for differences in view, exterior construction, bathrooms, dwelling size, basement size, basement style, basement finish, fireplaces, number of garage stalls, SSA status and/or other amenities. Comparable #2 which is not in an SSA had a downward adjustment of \$20,000 and comparable #4 that has a "paid SSA" had a downward adjustment of \$22,000. The appraiser also noted that comparable #1 was a foreclosure and Omelka was unable to discuss the transaction with the listing agent prior to completing this report so this property was given reduced weight in arriving at a value conclusion. The appraiser

noted that comparable #5 had superior upgrades which were adjusted downward \$20,000. The analysis resulted in adjusted sales prices for the comparables ranging from \$198,800 to \$306,280 or from \$62.13 to \$126.04 per square foot of living area land included. Omelka placed most weight on sales #2 through #6 with additional support from listings #7 and #8. From this process, the appraiser estimated a value for the subject by the sales comparison approach of \$220,000 or \$67.16 per square foot of living area including land.

The reconciliation section of the report fails to address the varying conclusions in the cost and sales comparison approaches to value.

Based on the foregoing evidence, the appellant requested a reduction in the subject's total assessment to \$73,333 which would reflect an estimated market value of approximately \$220,000 at the statutory level of assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$109,706 was disclosed. The subject's final assessment reflects a market value of \$329,250 or \$100.50 per square foot of living area including land using the 2010 three-year median level of assessments for Kendall County of 33.32%.

The board of review submitted a memorandum along with a copy of the PTAX-203 Illinois Real Estate Transfer Declaration related to the subject's February 2009 sale, a similar document related to the January 2008 sale reported by Embry as comparable #3, copies of property record cards related to the Embry appraisal comparables, and property record cards for two properties which the board of review contends support the subject's estimated market value based on its assessment.

As to the subject's sale, the board of review contends the sale should not be considered because it transferred via Quit Claim Deed. The copy of the PTAX-203 further reveals that the subject property was advertised prior to its sale and that the "seller/buyer is a financial institution or government agency." The seller is depicted as Island Source I, LLC. It is also noted that the subject's property record card reveals a dwelling size of 3,800 square feet despite the memorandum previously discussed in this decision wherein the board of review concedes the dwelling actually contains 3,276 square feet.

As to the two appraisals presented by the appellant, the board of review outlined several criticisms: the Embry appraisal reports erroneous dwelling sizes for the comparables (see the attached property record cards);³ Embry's comparable #3 actually sold for \$258,000 per the PTAX-203, not \$252,000 as reported; in the Omelka appraisal, both comparables #4 and #6 are one-story

³ The reported differences in dwelling size are understated from 230 to 1,176 square feet of living area.

dwellings and the dwelling sizes are erroneous for the sales comparables (see attached property record cards);⁴ Omelka's comparables #2 and #3 are "located in different subdivisions than the subject"; and "comp #1 was FNMA owned."

In support of the subject's estimated market value based on its assessment, the board of review submitted two property record cards for two comparable sales. The comparables are two-story frame and masonry dwellings that were 4 and 5 years old, respectively. They contain 2,755 and 3,423 square feet of living area and each has a basement, one of which is a walkout-style. Features include a fireplace, central air conditioning and a garage of either 693 or 749 square feet of building area. The sales occurred in May 2009 and April 2010 for prices of \$275,000 and \$299,000 or for \$99.82 and \$87.35 per square foot of living area including land, respectively.

Having reviewed the appellant's evidence and considering the corrected dwelling size, the board of review proposed to reduce the subject's total 2010 assessment to \$96,906 which would reflect an estimated market value of approximately \$290,834 or \$88.78 per square foot of living area, including land, when applying the 2010 three-year median level of assessments for Kendall County of 33.32%.

In written rebuttal, the appellant rejected the proposed assessment reduction suggested by the board of review. Furthermore, the appellant contends the sale of the subject was via quit claim deed "due to the previous owners [sic] title issues." The appellant also asserts that the subject was purchased four months earlier, in October 2008, for \$148,500. As to the board of review's suggested sales, comparable #1 reportedly was sold as the builders model home with full upgrades, professional decoration, furnishings, paint, pictures and top-end appliances. The appellant also asserted that board of review comparable #2 has a fully fenced back yard.

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 Board further finds that a reduction in the subject's assessment is warranted.

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

⁴ Three of the six comparables were reported larger than their property record cards from 82 to 228 square feet and three comparables were reported to be smaller than stated on the property record cards from 240 to 581 square feet.

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 appellant submitted the February 2009 purchase price of the subject property for \$219,900 and two appraisals of the subject property with final value conclusions as of January 2009 of \$250,000 and as of February 2010 of \$220,000. Other than contesting the sale of subject because a Quit Claim Deed was the method of transfer, the board of review otherwise was silent as to why the sale of the subject property was not reflective of market value.

The Property Tax Appeal Board further finds the subject's recent purchase price is well supported by the Omelka appraisal with a value conclusion in February 2010 by analyzing sales from late 2009 along with listings. In the process of analyzing the data, Omelka specifically adjusted for the Special Services Area where the SSA was "paid" or did not exist making the suggested comparables more similar to the subject property.

As to the board of review's criticisms of the appraisal reports that none of the dwelling sizes in either report are correct, the Property Tax Appeal Board finds that this criticism cannot be given much weight. While the board of review acknowledged that the subject actually has a dwelling size of 3,276 square feet, the subject's property record card submitted herein by the board of review continues to reflect an incorrect dwelling size for the subject. Thus, the Property Tax Appeal Board finds the property record cards on this record lack credibility and/or reliability as depicting correct dwelling sizes and cannot be relied upon to criticize the dwelling sizes reported by the appraisers. Since the subject's property record card is in error, the Board finds that no weight can be given to the property record cards submitted by the board of review to refute the reported dwelling sizes of the comparables in the two appraisal reports.

The Property Tax Appeal Board finds the sale of the subject along with the Omelka appraisal present the best evidence of the subject's estimated market value as of January 1, 2010. Based on this analysis the Property Tax Appeal Board finds the subject property had a market value of \$220,000 on January 1, 2010. The subject's assessment reflects an estimated market value of approximately \$329,250, which is higher than its recent arm's-length sale price and the appraised value. Therefore a reduction is warranted. Since the fair market value of the subject has been established, the Board finds that the 2010 three-year median level of assessment for Kendall County of 33.32% shall apply.

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: April 19, 2013

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.