



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

APPELLANT: Peter Cullota
DOCKET NO.: 10-01694.001-R-1
PARCEL NO.: 02-36-276-010

The parties of record before the Property Tax Appeal Board are Peter Cullota, the appellant, by attorney Laura Godek of Laura Moore Godek, PC, in McHenry, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$22,727
IMPR: \$90,697
TOTAL: \$113,424**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame and masonry construction containing 3,882 square feet of living area. The dwelling was constructed in 2003. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a 649 square foot garage. The property has an 18,642 square foot site and is located in Gilberts, Rutland Township, Kane County.

The appellant's appeal filed by counsel is based on overvaluation with both an appraisal of the subject property and six suggested comparable sales to support the argument. Three of the six sales were contained within the appraiser's sales comparison approach of the appraisal report.

First, the appellant submitted an appraisal estimating the subject property had a market value of \$340,000 as of January 1, 2010. The appraisal was prepared by Benjamin J. Winandy, a State of Illinois Certified Associate Real Estate Appraiser, and supervised by Dennis Gilbert, a State of Illinois Certified Residential Real Estate Appraiser. In estimating the market value of the subject property, the appraisers developed the sales comparison approach to value.

As to the subject, the appraisers noted external obsolescence "due to subject's location backing to a semi busy street."

In the sales comparison approach, the appraisers provided information on six comparable sales described as two-story dwellings of brick or frame construction that range in size from 3,017 to 3,868 square feet of living area. The dwellings range in age from new construction to 8 years old. Features of the comparables include a basement, central air conditioning and a two-car or a three-car garage. The comparables have sites ranging in size from 9,418 to 13,062 square feet of land area. The comparables sold from April to December 2009 for prices ranging from \$255,000 to \$410,000 or from \$69.67 to \$106.00 per square foot of living area, including land. The properties were located from .13 to 2.50-miles from the subject property. The appraisers noted that a one-mile radius was exceeded due to the lack of comparable data, but all comparables are within Rutland Township.

After making adjustments to the comparables for differences from the subject in location, site, quality of construction, age, gross living area, bathroom, garage and/or amenities, the appraisers estimated the comparables had adjusted prices ranging from \$251,620 to \$384,573 or from \$68.75 to \$106.03 per square foot of living area, including land. Based on this data the appraisers estimated the subject had an estimated value of \$340,000 or \$87.58 per square foot of living area, including land.

Second, the appellant's counsel provided a grid analysis in Section V of the Residential Appeal petition where comparables #4, #5 and #6 were the same properties presented by the appraisers as their comparables #1, #3 and #2, respectively. Due to the repetition of data, only appellant's comparables #1 through #3 will be considered in this discussion.

These three comparable sales are improved with two-story dwellings of frame or frame and masonry construction that range in size from 2,895 to 3,273 square feet of living area. The dwellings were each 7 years old. Features of the comparables include a full basement, one of which is a walkout style and one of which is partially finished. Each home has central air conditioning, a fireplace and a three-car garage. The comparables have sites ranging in size from 8,318 to 12,047 square feet of land area. The comparables are located either 1.8 or 1.9-miles from the subject property. The comparables sold from January to September 2009 for prices ranging from \$280,000 to \$320,000 or from \$87.91 to \$110.54 per square foot of living area, including land.

Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$88,760 which would reflect an estimated market value of \$266,280 or \$68.59 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$147,951 was

disclosed. The subject's assessment reflects a market value of \$443,498 or \$114.24 per square foot of living area, including land, when applying the 2010 three year average median level of assessment for Kane County of 33.36% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

In support of the subject's assessment the board of review submitted a two-page grid analysis of five comparable sales as prepared by the township assessor. The board of review also reiterated four of those sales on page 2 of the "Board of Review - Notes on Appeal." As depicted by the assessor, the five comparable sales are improved with two-story dwellings of frame and masonry construction that range in size from 2,963 to 4,034 square feet of living area. The dwellings were constructed in 2003 or 2004. Features of the comparables include a basement, one of which is a "lookout" style and one of which is both a walkout and partially finished. Each home has central air conditioning, a fireplace and a garage ranging in size from 482 to 740 square feet of building area. The subject and three of the comparables have sites that are described as "standard" and comparables #1 and #2 have sites that "back open space." Each comparable is in the Woodland Meadows subdivision, like the subject property. These five comparables sold from June 2007 to May 2008 for prices ranging from \$435,000 to \$520,000 or from \$117.09 to \$168.71 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 contended that the appellant's data of comparable sales are all closer in time to the assessment date of January 1, 2010 than the data presented by the board of review. Thus, counsel argued that the appellant's data should be given more weight than the assessor's proposed comparables. In addition, to the extent that the board of review's comparables are considered, counsel noted various superior qualities of these properties as compared to the subject based on data examined from Multiple Listing Service sheets and questions regarding the arm's-length nature of the sale based on examination of the PTAX-203 Illinois Real Estate Transfer Declarations. Specifically, counsel noted the superior walkout basement feature of comparable #1 along with a view of a pond, preserve and oak trees; comparable #2 was not advertised prior to sale; comparable #3 also sold in December 2011 for \$225,000; and comparable #5 has more bedrooms and bathrooms than the subject.

In conclusion, counsel for the appellant contended that the appraisal with an opinion of value of \$340,000 as of January 1, 2010 was the best evidence of value in the record.

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 a reduction in the subject's assessment is warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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); 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the appraisal of the subject property submitted by the appellant. The appellant's appraisers developed the sales comparison approach to value and utilized sales which were similar to the subject in location, size, style, exterior construction, features, age and land area. More importantly, these properties considered by the appraisers which sold between April and December 2009, sold most proximate in time to the assessment date at issue of January 1, 2010, particularly when compared to the sales data presented by the assessor on behalf of the board of review. Furthermore, the appraised value of \$340,000 is below the market value reflected by the assessment of \$443,498.

Less weight was given the comparable sales presented by the board of review since the dates of sale from June 2007 to May 2008 were not as proximate in time to the assessment date at issue of January 1, 2010. In addition, board of review comparables #1 and #2 had superior basement features of both lookout and walkout features along with one basement being finished as compared to the subject's unfinished basement. As to board of review comparables #3 through #5, the dates of sale in August 2007 and May 2008 are too distant in time to be valid indicators of the subject's estimated market value as of January 1, 2010.

The appraised value conclusion of \$340,000 is further supported by the three sales presented by the appellant in the Section V grid analysis. These sales occurred between January and September 2009 for prices ranging from \$280,000 to \$320,000.

Since market value has been determined the 2010 three year average median level of assessment for Kane County of 33.36% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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: October 18, 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.