



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

APPELLANT: Oliver Valente
DOCKET NO.: 10-02625.001-R-1
PARCEL NO.: 05-19-401-023

The parties of record before the Property Tax Appeal Board are Oliver Valente, the appellant, by attorney Mitchell L. Klein, of Schiller Klein, PC, in Chicago; and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$120,980
IMPR.: \$329,020
TOTAL: \$450,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of approximately 39,747 square feet of land area is improved with a two-story single-family dwelling of dryvit and stone exterior construction. The home was built in 1998 and contains approximately 5,556 square feet of living area. Features of the home include a partial basement which is partially finished, central air conditioning, two fireplaces and an attached three-car garage. The property is located in Wheaton, Milton Township, DuPage County.

The appellant through legal counsel contends that the market value of the subject property is not accurately reflected in its assessed valuation. In support of this overvaluation argument, the appellant submitted an appraisal of the subject property.

The appraisal was prepared for purposes of a refinance transaction for Charles Schwab Bank of Jacksonville, Florida, using both the sales comparison and cost approaches to value. The appraiser Robert Meixner, a State Certified Real Estate Appraiser, employed by McMahon, Baldwin & Associates in Lombard, estimated the subject property to have a market value of

\$1,350,000 as of November 14, 2009. The appraiser also reported that the subject sold in September 2008 for \$1,475,000 after being on the market for one day with an asking price of \$1,650,000. For neighborhood market conditions, the appraiser reported that for the prior twelve months for Wheaton single-family homes over \$1,000,000, there were 14 sales with a median price of \$1,212,500 and an average price of \$1,356,300 and an average marketing time of 328 days. In addition, there were 87 active listings with a median list price of \$1,265,000 and an average list price of \$1,493,700 with an average list time of 358 days.¹

In the sales comparison approach, the appraiser considered four sales and two listings located in either Wheaton or Lisle and which were located within 3.61-miles of the subject. The sales occurred between June and September 2009 for prices ranging from \$1,050,000 to \$1,562,500; the listings were for \$1,650,000 and \$1,690,000, respectively.

Under the cost approach, the appraiser estimated the subject's land value at \$400,000 using the allocation method. Next, using Building-Cost.net and local builder data, the appraiser determined a replacement cost new for the subject dwelling including the basement and garage of \$1,145,564. Physical depreciation of \$114,556 was calculated using the age/life method resulting in a depreciated value of improvements of \$1,031,008. Next, a value for site improvements of \$35,000 was added. Thus, under the cost approach when adding back the land value the appraiser estimated a market value of \$1,466,000 for the subject.

In reconciling the two conclusions of value, the appraiser gave most weight to the sales comparison approach as it indicates the actions of sellers and buyers in the market place and opined a value of \$1,350,000 for the subject as of November 14, 2009.

The appellant also submitted a copy of the board of review final decision wherein the subject's final assessment of \$490,320 was disclosed. The total assessment of the subject property reflects a market value of approximately \$1,473,317 including land using the 2010 three-year median level of assessments in DuPage County of 33.28%. (86 Ill.Admin.Code §1910.50(c)(1)).

Based on the evidence, the appellant asserted that the subject's assessment should be reduced to \$450,000 using the statutory level of assessment of 33.33%.

The board of review did not timely submit its "Board of Review Notes on Appeal" along with its evidence in support of its assessed valuation of the subject property.² (86 Ill.Admin.Code

¹ The report also included a separate Market Conditions Addendum to the Appraisal Report.

² The board of review was notified of this appeal by correspondence issued on November 2, 2011 and setting January 31, 2012 as the deadline for submission of evidence by the board of review. The board of review's "Notes on Appeals" and evidence was received on April 2, 2012.

§1910.40(a)). As a result, the board of review was found to be in default by letter dated September 14, 2012.

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 the evidence in the record supports a reduction in the subject's assessment.

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). Proof of the market value of the subject property may consist of an appraisal of the subject property as of the assessment date at issue. (86 Ill.Admin.Code §1910.65(c)(1)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970).

The appellant in this appeal submitted the only evidence of market value in the record. The appellant submitted an appraisal estimating the subject property had a market value of \$1,350,000 as of November 14, 2009, about six weeks prior to the assessment date of January 1, 2010. The board of review did not submit any timely evidence in support of its assessment of the subject property or to refute the appellant's argument as required by Section 1910.40(a) of the Official Rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a)). The Board has examined the information submitted by the appellant and finds that the subject property is overvalued and a reduction in accordance with the appellant's request 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.

Ronald 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: December 21, 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.