



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

APPELLANT: John Summerfield
DOCKET NO.: 10-02682.001-R-1
PARCEL NO.: 14-34-101-014

The parties of record before the Property Tax Appeal Board are John Summerfield, the appellant, by attorney Glenn S. Guttman, of Rieff Schramm Kanter & Guttman in Chicago; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$18,687
IMPR: \$139,314
TOTAL: \$158,001

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story townhouse of masonry and frame construction containing 2,686 square feet of living area¹. The dwelling was constructed in 2005. Features of the home include a full partially finished basement², central air conditioning, a fireplace and a two-car garage. The property has a 2,745 square foot site and is located in Deer Park, Ela Township, Lake County.

The appellant, through counsel, appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted a Uniform Residential Appraisal Report for a refinance transaction of the subject property prepared by Daniel J. Gura, a State of Illinois Certified Residential Real Estate Appraiser. Gura was not present at the hearing to provide testimony and be cross examined

¹ Subsequent to the hearing, the parties agreed to allow the township assessor's office to re-measure the subject dwelling and stipulated to a dwelling size of 2,686 per square foot of living area.

² The appraisal lists the subject property has a 75% finished basement, which includes a recreation room and a bath. The assessor's property record card does not include any finish in the basement, but includes an additional half bath.

regarding the appraisal methodology and the final value conclusion. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$420,000 as of October 1, 2010.

Under the sales comparison approach the appraiser utilized four comparable sales and two sale listings located in Deer Park, approximately .02 to .13-miles from the subject property. The comparables are described as being improved with two-story townhouses that ranged in size from 2,040 to 3,056 square feet of living area. Exterior construction was not provided for the comparables in the appraisal. The dwellings were constructed from 2005 to new construction. Features of the comparables include a full basement, central air conditioning, one or two fireplaces and a two-car garage. Two of the comparables have finish in the basement. The comparables have sites ranging in size from 1,638 to 3,056 square feet of land area. Four comparables sold in April 2010 or June 2010 for prices ranging from \$364,000 to \$423,285 or from \$173.19 to \$190.84 per square foot of living area, including land. Comparable #5 was listed for \$589,000 or \$227.41 per square foot of living area, including land. Comparable #6 was listed for \$675,000 or \$220.88 per square foot of living area, including land. After making adjustments to the comparables for differences from the subject, the appraiser estimated the comparables had adjusted prices ranging from \$398,000 to \$620,500 or from \$185.53 to \$214.09 per square foot of living area, including land. Using this data the appraiser estimated the subject had a fair market value under the sales comparison approach of \$420,000 or \$157.37 per square foot of living area, including land.

The appellant's appraisal indicated that comparable #1 was a foreclosure and comparables #2 and #3 were market sales.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$174,601 was disclosed. The subject's assessment reflects a market value of \$534,275 or \$198.91 per square foot of living area, including land, when applying the 2010 three-year median level of assessment for Lake County of 32.68% as determined by the Illinois Department of Revenue. The board of review submitted a response addressing the appeal.

In support of the subject's assessment, the board of review submitted multiple listing sheets, a location map, photographs, property record cards and a grid analysis containing four suggested comparable sales. The board of review's comparable #1 is the same as the appellant's comparable #3. The board of review's comparable #4 is the same as the appellant's comparable #5 (listing).

The comparable sales are located from .05 to .13-miles from the subject property. The comparables are improved with two-story townhouses of frame construction that contain 2,218 or 2,590 square feet of living area. The dwellings were constructed in 2006 or 2009. Features include a full basement³, central air conditioning, a fireplace and a two-car garage. The comparables have sites ranging in size from 1,638 to 2,204 square feet of land area. The comparables sold from September 2009 to February 2011 for prices ranging from \$423,285 to \$590,372 or from \$190.84 to \$227.94 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$420,000 as of October 1, 2010. The Board gives the conclusion of value contained in the appraisal little weight. Most importantly, the appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value. Novicki v. Dept. of Finance, 373 Ill. 342 (1940); Grand Liquor Co., Inc. v. Dept. of Revenue, 67 Ill. 2d 195 (1977); Jackson v. Board of Review of the Dept. of Labor, 105 Ill. 2d 501 (1985). The Board finds the appraisal submitted by the appellant is tantamount to hearsay. Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill. App. 3d 887 (1st Dist. 1983). Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2nd Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1st Dist. 1971). In the absence of Gura being available and subject

³ The board of review's comparable #4 is the appellant's comparable #5. Based on the appraisal and Multiple Listing Sheet, the comparable has a full finished basement with two recreation rooms, a bath, upgraded kitchen, baths and lighting. The board of review is showing no finish in the basement.

to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence has been significantly diminished and cannot be deemed conclusive. However, the Board will examine the raw sales data contained in this record, including the sales in the appellant's appraisal.

The Board finds the record contains eight comparable sales/listings submitted by the parties in support of their respective positions. The Board gave less weight to the appellant's comparable #1 based on a notation in the appraisal that this was a foreclosure and there was no testimony to verify the condition of the property or terms of the sale. The Board gave less weight to the appellant's comparable #4 which is dissimilar in size when compared to the subject. The Board gave less weight to the appellant's comparable #5 and the board of review's comparable #4. This sale occurred in February 2011, which is less indicative of fair market value as of the subject's January 1, 2010 assessment date. Also, the property had been upgraded and a newly full finished basement prior to the sale, unlike the subject property. The Board gave less weight to the appellant's comparable #6. This property had been on the market 64 days as of the date of the appraisal. This property is listed for \$675,000, above the range of the townhomes that have sold. The property is superior in size and has a finished basement, which includes a recreation room and kitchen. The Board gave less weight to board of review's comparable #2, based on it being an outlier. This property listed September 2009 for \$549,900 and sold December 2009 for \$590,371. The property has two master bedrooms, two laundry rooms and was a finished customized townhouse according to the Multiple Listing Sheet.

The Board finds the remaining three comparables submitted by both parties are more similar to the subject in location, design, size, age and features. Due to these similarities the Board gave the three comparable sales more weight. These most similar properties sold from September 2009 to June 2010 for prices ranging from \$420,000 to \$424,061 or from \$189.35 to \$191.19 per square foot of living area including land. The subject's assessment reflects a market value of \$534,275 or \$198.91 per square foot of living area including land. The market value reflected by the subject's assessment is above the range established by the best comparable sales in the record. Based on this record, the Board finds the subject was overvalued and a reduction in the subject's assessment is justified.

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: November 22, 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.