



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

APPELLANT: David K. & Gail H. Smith
DOCKET NO.: 10-02693.001-R-1 through 10-02693.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are David K. & Gail H. Smith, the appellants; 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
10-02693.001-R-1	13-23-100-002	88,147	72,991	\$161,138
10-02693.002-R-1	13-14-300-010	31,951	0	\$31,951

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame construction containing 3,466 square feet of living area. The home was built in 1977 and features a full finished basement. Other features include central air conditioning, two fireplaces and an attached 858 square foot three-car garage. The dwelling is situated on one of two parcels totaling approximately 6.2 acres located in Cuba Township, Lake County, Illinois.¹

The appellants appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellants submitted 3-page brief and an appraisal of the subject property prepared by Alan Zielinski, a state licensed appraiser. The appraiser was not present at the hearing. The intended use of the appraisal report was for property tax appeal purposes. The appraisal report conveys an estimated market value for the subject property of \$565,000 as of January 1, 2010, using the sales comparison approach to value.

¹ The appellants' appraiser reports the subject as having 3,514 square feet of living area and a total of 250,470 square feet of land area.

Under the sales comparison approach to value, the appraiser utilized three comparable sales located from 1.93 to 2.31 miles from the subject property. The comparables have lot sizes ranging from 45,351 to 70,204 square feet of land area. The comparables consist of two-story dwellings of frame or frame and masonry construction that contain from 3,285 to 3,940 square feet of living area. The dwellings were built from 1988 to 1991. The comparables feature full finished basements, central air conditioning, one or three fireplaces and attached three-car garages. The sales occurred from November 2008 to September 2009 for prices ranging from \$481,000 to \$640,000 or from \$144.23 to \$170.47 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject in site, view, quality of construction, actual age, condition, above grade rooms, room count, gross living area, functional utility, heating/cooling, porch/patio/deck, fireplace(s) and basement bath(s). The adjustments resulted in adjusted sale prices ranging from \$519,000 to \$599,000. Based on the adjusted sale prices, the appraiser concluded the subject had an estimated market value under the sales comparison approach of \$565,000.

The 3-page brief outlined arguments that transpired during the appellants' previous hearing with the Lake County Board of Review.

The Board finds it will not give any weight to the prior action by the local board of review. Section 1910.50 (a) of the rules of the Property Tax Appeal Board states:

All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review or to any submissions not timely filed or not specifically made a part of the record. The Board shall not be limited to the evidence presented to the board of review of the county. A party participating in the hearing before the Property Tax Appeal Board is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the board of review of the county. Each appeal shall be limited to the grounds listed in the petition filed with the Board. (Section 16-180 of the Code) 1910.50 (a)

Based on this evidence the appellants requested the subject's assessment be reduced to \$188,333.

At the hearing, the board of review objected to consideration of the appraisal since the appraiser was not present to provide

testimony and/or be cross-examined with regard to the report. The objection was taken under advisement by the Board's Administrative Law Judge.

The Property Tax Appeal Board hereby sustains the objection of the board of review to the appellants' appraisal report with respect to the value conclusion. The Board finds that in the absence of the appraiser at hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appraiser. 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 report 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 an appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusion of \$565,000 as of January 2010 has been significantly diminished and cannot be deemed conclusive as to the value of the subject property.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$222,262 was disclosed. The subject's assessment reflects an estimated market value of \$680,116 or \$196.23 per square foot of living area including land using Lake County's 2010 three-year median level of assessments of 32.68%.

In support of the subject's assessment, the board of review submitted a grid analysis, property record cards, Multiple Listing Service (MLS) sheets, photographs and a location map of five suggested comparables. The comparables are located from .06 of a mile to 1.56 miles from the subject. The comparables consist of one or two-story frame, masonry or frame and masonry dwellings that range in size from 2,746 to 4,222 square feet of living area. The dwellings were built from 1941 to 1989 and feature full or partial basements with finished area. Other features include central air conditioning, one, two, four or five fireplaces. Four comparables have attached garages ranging in size from 572 to 1,411 and one comparable has a detached 840 square foot garage. The sales occurred from November 2007 to April 2010 for prices ranging from \$645,000 to \$875,000 or from \$175.61 to \$277.15 per square foot of living area including land.

Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

Under rebuttal, the appellants argued that the board of review comparables #3 and #4 were old sales that should not be considered. Comparable #2 is a superior custom built home and comparables #1 and #5 are dissimilar one-story dwellings.

The appellants' rebuttal also included historical articles concerning market values.

The Board finds it cannot consider this new evidence. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. (86 Ill.Adm.Code §1910.66(c)).

After hearing the testimony 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 Property Tax Appeal Board further finds a reduction in the subject property's assessment is warranted.

The appellants argued the subject property was overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, Ill.App.3d 1038 (3rd Dist.2002). The Board finds the appellants did meet this burden.

As an initial matter, the Board finds the subject dwelling has 3,466 square feet of living area and the subject's parcels total approximately 6.2 acres of land area.

The Board finds both parties submitted a total of eight comparable properties for the Board's consideration. The Board gave less weight to the appellants' comparable #1 due to its sale date occurring greater than 13 months prior to the subject's January 1, 2010 assessment date. This sale would not be probative of the real estate market as of the subject's January 1, 2010 assessment date. The Board gave less weight to the board of review's comparables. Comparables #3 and #4 had sale dates occurring greater than 16 months prior to the subject's January 1, 2010 assessment date. These sales would not be probative of the real estate market as of the subject's January 1, 2010 assessment date. Comparable #1 had a sale date occurring greater than 15 months subsequent to the subject's January 1, 2010 assessment date. This sale would not be probative of the real estate market as of the subject's January 1, 2010 assessment date. Comparable #2 is significantly larger in size when compared to the subject and comparable #5 is a dissimilar one-

story style dwelling. The Board finds the remaining two sales offered by the appellants were more similar to the subject in location, size, style, exterior construction and features. These sales occurred in June and September 2009 for \$587,000 and \$599,000 or \$170.47 and \$162.44 per square foot of living area including land, respectively. The subject's assessment reflects an estimated market value of \$680,116 or \$196.23 per square foot of living area including land, which is greater than the market values of the best comparables in this record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is excessive and a reduction 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.

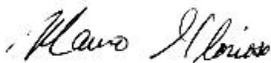


Chairman



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: May 24, 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.