FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Violet Radwill-Lalicon
DOCKET NO.: 10-03195.001-R-2
PARCEL NO.: 09-08-417-034

The parties of record before the Property Tax Appeal Board are Violet Radwill-Lalicon, the appellant, by attorney Terrence J. Benshoof, in Glen Ellyn, and the DuPage County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***no change*** 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:	$ 110,680
IMPR.:	$ 138,680
TOTAL:	$ 249,360

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a part one-story and part two-story frame and brick dwelling containing 4,591 square feet of living area.[1] The dwelling was originally built in 1959 with the additional two-story rear portion added in 1998. Features include a full basement, which is 70% finished, central air conditioning, two fireplaces and an attached 1,004 square foot four-car garage. The home is situated on a double lot containing approximately 37,999 square feet of land area located in Downers Grove Township, DuPage County, Illinois.

The appellant appeared, with counsel, before the Property Tax Appeal Board claiming overvaluation and assessment inequity as the bases of the appeal. The appellant submitted 10 equity comparables; however, no property descriptions, characteristics or features were disclosed. The equity portion of the appeal was not addressed at hearing by either the appellant or appellant's

[1] The appellant reported the subject dwelling as having 3,370 square feet of living area on the appeal petition, but offered no evidence to support this dwelling size. The appellant's appraiser reported the subject dwelling as having 4,591 square feet of living area and provided a sketch in support, which the Board finds is the best evidence of the subject's dwelling size.

counsel; therefore, no further analysis on the grounds of assessment inequity will be addressed in the Board's decision.

In support of the overvaluation argument, the appellant submitted an appraisal and a realtor's comparative market analysis. The appraisal report conveys an estimated market value for the subject of $750,000 as of January 1, 2008, using the sales comparison approach to value. The appraisal was prepared by a state licensed appraiser, Thomas Butynski, who was not present at the hearing.

Under the sales comparison approach to value, the appraiser utilized four comparable sales located from .7 of a mile to 1.8 miles from the subject property. The comparables have lot sizes ranging from 8,940 to 36,000 square feet of land area. The comparables are improved with two-story frame or frame and stone dwellings containing from 2,515 to 4,826 square feet of living area. The homes were originally built from 1898 to 2004. Three comparables have partial finished basements and one has a full unfinished basement. Other features include central air conditioning and garages ranging in size from 528 to 960 square feet of building area. Two comparables have one fireplace and one has two fireplaces. The comparables sold from January to July 2007 for prices ranging from $645,000 to $885,000 or from $173.60 to $256.46 per square foot of living area, including land.

The appraiser adjusted the comparables for many differences when compared to the subject, resulting in adjusted sale prices ranging from $690,900 to $778,800. The percentage of total gross adjustments to the comparables ranged from 33.18% to 50.71%. From this analysis, the appraiser opined a value of the subject property of $750,000 as of January 1, 2008.

The realtor's comparative market analysis was prepared by Joyce Breitenberg Baird & Warner, who was not present at the hearing. The analysis was comprised of 15 properties, six of which were sales and the remaining were listings, either expired or active. The 9 listings were depicted as one-story, one and one-half story or two-story frame, brick, frame and brick or frame and stone dwellings containing from 2,321 to 6,000 square feet of living area. Two dwellings did not have their sizes disclosed. The dwellings had ages ranging from 1 to 100 years and feature full finished basements or full or partial unfinished basements and garages ranging in size from a one and one-half to a three-car style. These properties had offerings ranging from $200,000 to $1,950,000 or from $172.30 to $325.00 per square foot of living area including land. The six sales were depicted as one-story, split-level or two-story frame, frame and brick or frame, brick and stone dwellings containing 2,400 and 3,400 square feet of living area. Four dwellings did not have their sizes disclosed. The dwellings had ages ranging from 1 to 100 years and feature full or partial basements with finished area, full unfinished basements or an English style basement. The comparables have a one-car, two-car, two and one-half car or a three-car garage.

One comparable did not have garage information disclosed. These properties sold from November 2009 to August 2010. The two properties with dwelling sizes disclosed sold for prices of $542,000 and $740,000 or $225.83 and $217.65 per square foot of living area including land, respectively.

The appellant testified that the subject's lot is larger than is typical for the neighborhood, however, the subject dwelling is located in the middle, towards the back of the property, and therefore the lot cannot be easily subdivided. The appellant also testified that she was unaware of the January 1, 2008 effective date of the appraisal, because she was doing everything on her own and didn't even look at the date.

During the hearing, the board of review's representative, Charles Van Slyke, objected to the use of the appellant's appraisal and the realtor's comparative market analysis because neither the appraiser nor the author of the market analysis was present to answer questions as to the choice of comparables and/or methodology used to adjust the comparables. The Board reserved ruling.

The appellant also submitted the subject's 2010 notice of final assessment wherein the subject's final assessment of $249,360 was disclosed. The subject's assessment reflects an estimated market value of $749,279 or $163.21 per square foot of living area, using 4,591 square feet of living area, including land using DuPage County's 2010 three-year median level of assessments of 33.28%.

Based on this evidence, the appellant requested the subject's assessment be reduced by $20,000 to $30,000 of assessed value. This would equate to a total assessed value range for the subject of $219,360 to $229,360.

The board of review did not timely submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property as required by Section 1910.40(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a)). By letter dated April 24, 2012, the DuPage County Board of Review was found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.69(a)).[2]

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

[2] The DuPage County Board of Review was notified of this appeal on November 17, 2011 and given 90 days to submit evidence in support of its assessment of the subject property or request an extension to file evidence for good cause by February 15, 2012. On May 16, 2012, the Property Tax Appeal Board received a packet of evidence from the DuPage County Board of Review, postmarked May 14, 2012, in support of the subject's assessment. The Property Tax Appeal Board finds the evidence submitted by the board of review was not timely filed and will not be considered.

Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant 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 appellant has not met this burden of proof.

The appellant submitted an appraisal report estimating the subject had a fair market value of $750,000 as of January 1, 2008. The appellant also submitted a realtor's comparative market analysis comprised of 15 properties with sale or asking prices ranging from $200,000 to $1,950,000.

The board of review's representative, Charles Van Slyke, objected to the use of the appellant's appraisal and the realtor's comparative market analysis because neither the appraiser nor the author of the market analysis was present to answer questions as to the choice of comparables and/or methodology used to adjust the comparables. The Property Tax Appeal Board hereby sustains the objection by the board of review in regards to the value conclusion of appraisal report. In the absence of the appraiser for the 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 and the sales within the market analysis in its analysis and give no weight to the final value conclusion made by the appraiser. The Board finds the appraisal report is tantamount to hearsay. 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. In Novicki v. Department of Finance, 373 Ill. 342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined.

The Board gave less weight to the sales utilized within the appraisal report. The sales occurred from January to July 2007,

which are dated and less reliable indicators of value as of the subject's January 1, 2010 assessment date. The Board gave less weight to the appellant's market analysis comparables #1, #4, #10, #11 and #13 due to their dissimilar one-story or split-level designs when compared to the subject. In addition, all but comparable #13 did not have their dwelling sizes disclosed and #13 at 2,400 square feet of living area was considered considerably smaller when compared to the subject. The Board also gave less weight to the appellant's market analysis comparables #2, #3, #5, #6, #9, #12 and #14 due to their dwelling sizes being significantly larger, significantly smaller or not being disclosed. The Board finds comparable listings #7 and #8 and sale #15 offered by the appellant were most similar to the subject in style, exterior construction, size and features. The sale occurred in August 2010 for a price of $740,000 or $217.65 per square foot of living area including land. The listings were offered for sale for prices of $770,000 and $924,900 or $236.92 and $205.53 per square foot of living area including land, respectively. The subject's assessment reflects an estimated market value of $749,279 or $163.21 square foot of living area including land. The subject's assessment is below the market value range of the best comparables in the record on a square foot basis. After considering adjustments to the comparables for differences when compared to the subject, such as the subject's larger lot size and larger garage, the Board finds the subject's market value as reflected by its assessment is supported and no reduction in the subject's assessment 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: December 21, 2012

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.