



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

APPELLANT: Drew Ellis  
DOCKET NO.: 10-03589.001-R-1  
PARCEL NO.: 05-10-201-006

The parties of record before the Property Tax Appeal Board are Drew Ellis, the appellant, by attorney Terrence J. Benshoof of 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:** \$ 35,110  
**IMPR.:** \$ 120,040  
**TOTAL:** \$ 155,150

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a two-story frame dwelling that contains 2,404 square feet of living area. The dwelling was constructed in 1967. Features include a concrete slab foundation<sup>1</sup>, central air conditioning, a fireplace and a 440 square foot attached garage. The subject dwelling is situated on a 20,250 square foot lot. The subject property is located Milton Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a market value consulting report prepared by Chris C. Pheneger of Barron Corporate Tax Solutions (Barron). Pheneger estimated the subject property had a market value of \$415,000 or \$162.63 per square foot of living area including land as of January 1, 2010.

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<sup>1</sup> The appellant's evidence indicates the subject dwelling has a partial unfinished basement; the board of review's analysis shows the subject has a partial finished basement; and the subject's property record card depicts the dwelling as having a concrete slab foundation. Due to the lack of corroborating testimony elicited at the hearing, the Board finds the subject property has a concrete slab foundation based on its property record card.

Phenegar was called as the appellant's witness. He has a degree in Business Administration from North Park University, Chicago, and holds a Certified Member of the Institute (CMI) designation from the Institute for Professionals in Taxation. During qualification of the witness, Phenegar testified he is not a licensed appraiser in the State of Illinois. He agreed that he had developed an "opinion" of value for the subject property<sup>2</sup>. He testified he is qualified to render an opinion of value for the subject property. Based on his experience, he "pulled comps" to evaluate the subject property. Phenegar acknowledge through testimony any fee for services rendered is contingent based upon any tax saving on a percentage basis. Phenegar testified if we (Barron's) lose, we get nothing. After discussing the Real Estate Appraise Licensing Act of 2002 (225 ILCS 458/1-10) Phenegar did not believe he had prepared an appraisal and did not believe he was acting as an appraiser. Page 2 of the consulting report states in part: "Barron Corporate Tax Solutions, Ltd., is not performing services that constitute appraisal practice . . . but is providing consulting services which is not under the purview of the Uniform Standards of [Professional] Appraisal Practice (USPAP)."

Phenegar prepared an analysis of six suggested comparable sales described as being located in the Glencoe Area of Wheaton, Illinois. The analysis describes the comparables as two-story dwellings of unknown exterior construction that were built from 1959 to 1977. Five comparables have full or partial unfinished basements and one comparable has a full, partially finished basement. Four comparables have central air conditioning and all the comparables have fireplaces. Five comparables have garages that contain from 240 to 510 square feet. One comparable was described as having a two-car garage. The dwellings are situated on lots that range in size from 10,032 to 15,575 square feet of land area. The comparables sold from February 2009 to June 2010 for prices ranging from \$340,000 to \$425,000 or from \$147.95 to \$176.57 per square foot of living area including land. Phenegar adjusted the comparables for differences to the subject for land area, dwelling size, basement area, garage size and date of sale. After adjustments, Phenegar calculated adjusted sales prices ranging from \$387,987 to \$433,715 or from \$170.22 to \$200.49 per square foot of living area including land. Based on these adjusted sale prices, Phenegar estimated the subject property had an indicated market value of \$415,000 or \$172.63 per square foot of living area including land.

Under cross-examination, Phenegar testified the adjustments amounts were based on his "experience and other appraiser reports he has been reviewing." Land adjustments amounts were based on the values assigned by the township assessor. Other adjustment amounts for dwelling size, garages and the like were also

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<sup>2</sup> The Board notes the 13<sup>th</sup> Edition of the Appraisal of Real Estate and the Appraisal Institutes Uniform Standards of Professional Appraisal Practice (USPAP) defines an "appraisal" as "The act or process of developing an opinion of value."

questioned. A positive or negative time adjustment was made at .5% per month in relation to the January 1, 2010 valuation date, but the adjustment amount was capped at 10%. Pheneger testified he did not inspect the subject and may have "driven by" the comparable sales. Pheneger testified he did review Real Estate Transfer Declarations associated with the comparable sales to determine if they were arm's-length transactions. The declarations were not included in the report. Pheneger did not interview the buyers or sellers involved in the transactions.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$155,150 was disclosed. The subject's assessment reflects a market value of \$466,196 or \$193.33 per square foot of living area including land when applying the 2010 three year average median level of assessments for DuPage County of 33.28%. In support of the subject's assessment, the board of review submitted an analysis of four suggested comparable sales prepared by the Milton Township Assessor's office.

The board of review called as its witness Mary Cunningham, Deputy Assessor for Milton Township. Cunningham has the Certified Illinois Assessing Officer (CIAO) designation. The process of obtaining a CIAO designation was outlined. Cunningham holds a college degree in accounting and business. Appellant's counsel raised no objection with respect to the testimony of Cunningham.

The assessor initially opined appellant's comparable 5 was not an arm's-length transaction because it was not advertised for sale. However, after reviewing the Multiple Listing Service sheet and its associated Real Estate Transfer Declaration, Cunningham agreed the sale was exposed to the open market.

Cunningham analyzed four suggested comparable sales in defense of the subject's assessed valuation. The comparable sales were described as being located in the Glencoe Area. The analysis describes the comparables as two-story frame dwellings that were built from 1970 to 1978. The comparables have full or partial basements, three of which contain finished basement area. All the comparables have central air conditioning and four comparables have a fireplace. The comparables have attached garages that range in size from 418 to 506 square feet. The dwellings range in size from 1,944 to 2,282 square feet of living area and are situated on lots that range in size from 8,700 to 10,658 square feet of land area. The comparables sold from June 2008 to July 2010 for prices ranging from \$405,500 to \$480,000 or from \$196.18 to \$210.34 per square foot of living area including land.

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

Under cross-examination, Cunningham was questioned as to the similarity of comparables C and F in terms of dwelling size and age. Cunningham testified she did not inspect the subject or the

comparables. She was of the opinion all the sales submitted by both parties were arm's-length transactions.

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 the appeal. The Board further finds the evidence in the record does not support 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 (3<sup>rd</sup> Dist. 2002). 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted a report prepared by Chris C. Pheneger, of Barron Corporate Tax Solutions, containing an estimate of value of \$415,000. During the hearing Pheneger claimed the report was not an appraisal, although the report offered an opinion of value. The Board finds Pheneger's value conclusion and testimony not to be credible. Pheneger testified that Barron Corporate Tax Solutions' fee is contingent on the outcome of the appeal. Pheneger testified the company receives a percentage of the tax savings. If there are no tax savings, Barron's does not get paid. The Board finds the fact that Barron's fee is contingent on the outcome of the appeal calls into question the objectivity of the preparer of the report and final value conclusion. Page 2 of the consulting report states that "Barron Corporate Tax Solutions, Ltd. is not performing services that constitute appraisal practice, **requiring impartiality (Emphasis Added)**, but is providing consulting services which is not under the purview of the Uniform Standards of Appraisal Practice (USPAP) . . . The Board finds that Barron has a direct pecuniary interest in the outcome of the appeal that may result in a biased report. The Board finds that Pheneger's employer having a direct interest in the outcome of the hearing undermines Pheneger's testimony as an impartial unbiased expert. The Board further finds the adjustments amounts applied by Pheneger to the comparables, though logical, are not supported by any credible market value evidence contained in the consulting report. Pheneger explained the adjustment amounts were based upon his experience and reviewing other appraiser reports. However, the Board finds Pheneger is not a licensed appraiser nor deemed to be an expert in the field of real estate evaluation for purposes of this appeal, which detracts from the weight given his adjustment process and from the weight of his value opinion. The Board recognized Pheneger holds a Certified Member of the Institute (CMI) designation from the Institute for Professionals in

Taxation. However, the Board is not aware of any accreditations associated with this entity or that this entity been recognized in Illinois for their expertise in the field of real property valuation. For these reasons the Board finds Pheneger's testimony, the report and the opinion of value offered are not credible. However, the Board will examine the raw market data contained within the consulting report, applying is natural probative weight.

With respect to the comparable sales submitted by both parties, the Board gave less weight to comparables D, E and F submitted on behalf of the board of review. Comparables D and E sold in 2008, which are not considered credible indicators a market value as of the subject's January 1, 2010 assessment date. Comparable F is smaller in dwelling than the subject. The Board finds the remaining seven comparable sales are more representative of the subject in terms of location, design, age, size and most features, but contain considerably less land area than the subject. The comparables sold from February 2009 to June 2010 for sale prices ranging from \$340,000 to \$433,000 of from \$147.95 to \$193.46 per square foot of living area including land. The subject's assessment reflects a market value of \$466,196 or \$193.33 per square foot of building area including land, which falls within the range established by the most similar comparable sales contained in this record. After considering any necessary 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 supported and no reduction is warranted.

In conclusion, based on this record, the Board finds the assessment of the subject property as established by the board of review is correct and a reduction is not 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.



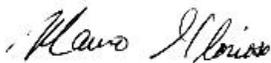
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Chairman



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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: September 20, 2013



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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.