



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

APPELLANT: Ryan Massey
DOCKET NO.: 10-03666.001-R-1
PARCEL NO.: 05-30-405-033

The parties of record before the Property Tax Appeal Board are Ryan Massey, 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 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: \$ 28,200
IMPR.: \$ 196,910
TOTAL: \$ 225,110**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story frame dwelling that contains 3,377 square feet of living area. The dwelling was constructed in 2004. Features include a full unfinished basement¹, central air conditioning, a fireplace and a 793 square foot attached garage. The subject dwelling is situated on a 10,467 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

¹ The appellant's evidence indicates the subject dwelling has a full unfinished basement while the board of review's evidence indicates the subject does not have a basement, but did not disclose its foundation type. Neither party provided credible evidence or corroborating testimony at the hearing with respect to the subject's foundation type. However, the Multiple Listing Service (MLS) from 2008 indicates the subject dwelling has a full unfinished basement.

property had a market value of \$603,000 or \$178.56 per square foot of living area including land as of January 1, 2010.

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 property². 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) lose, we get nothing. After discussing the Real Estate Appraiser 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 five suggested comparable sales described as being located in the 184-Arrow Glen Ct. neighborhood; 185 Legends of Whtn. neighborhood; and 144a Arrow-TD- neighborhood. A location map shows the comparables are located in relatively close proximity to the subject. The analysis describes the comparables as two-story dwellings of unknown exterior construction that were built from 1998 to 2006. Five comparables have full or partially finished basements. One comparable has a full unfinished basement. The comparables contain central air conditioning and a fireplace. Four comparables have garages that contain from 420 to 925 square feet. One comparable was described as having a three-car garage. The dwellings range in size from 2,757 to 4,082 square feet of living area and are situated on lots that range in size from 10,335 to 17,132 square feet of land area. The comparables sold from June 2007 to August 2009 for prices ranging from \$575,000 to \$1,000,000 or from \$208.56 to \$272.63 per square foot of living area including land.

Phenegar adjusted the comparables for differences to the subject for land area, condition/quality, dwelling size, finished basement area, garage size and date of sale. Phenegar testified the comparables located in Legends of Whtn. neighborhood are of a higher quality. He testified he found no other similar comparables that sold more proximate to the subject's January 1,

² The Board notes the 13th 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."

2010 assessment date. Pheneger calculated adjusted sales prices ranging from \$536,492 to \$687,433 or from \$131.43 to \$194.65 per square foot of living area including land. Based on these adjusted sale prices, Pheneger estimated the subject property had an indicated market value of \$603,000 or \$178.56 per square foot of living area including land.

Under cross-examination, Pheneger testified the adjustment amounts were based on his "experience and other appraiser reports he has been reviewing." Land adjustment amounts were based on the values assigned by the township assessor. Other adjustment amounts for dwelling size, garages and the like were also 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%. With respect to the large adjustments amounts of -\$165,060, \$-183,690 and \$-156,870 applied to comparables B, C, and D for condition/quality; Pheneger testified they were based on the quality grade as assigned by the township assessor. The witness agreed the quality grade is one factor used by the assessor in calculating an assessment under the cost approach to value. Pheneger also testified he reviewed the MLS sheets associated with the comparable sales. Pheneger testified he did not inspect the interior of 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 \$240,400 was disclosed. The subject's assessment reflects a market value of \$722,356 or \$213.90 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 Karen Corso, Deputy Assessor for Milton Township. Corso has the Certified Illinois Assessing Officer (CIAO) designation.

Corso analyzed four of the five comparable sales that were utilized by the appellant's valuation witness. In summary, the four comparables are located in the 184-Arrow Glen Ct. neighborhood or 185 Legends of Whtn. neighborhood, which are in close proximity to the subject. The analysis described the comparables as two-story dwellings of frame exterior construction that were built from 2004 to 2006. Two comparables have partially finished basements and two comparables have unfinished basements. The comparables contains central air conditioning and a fireplace. The comparables have attached garages that contain from 654 to 925 square feet. The dwellings range in size from

3,317 to 4,082 square feet of living area and are situated on lots that range in size from 10,348 to 15,250 square feet of land area. The comparables sold from June 2007 to August 2009 for prices ranging from \$710,500 to \$1,000,000 or from \$213.13 to \$272.63 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, Corso was questioned as to the condition and quality of comparables 2 through 4 in relation to the subject. Corso was unsure if comparables 1 through 3 were their initial or secondary sales. Property record card show the subject was originally purchased in January 2003 for \$604,688. Additionally the records show Comparable 1 initially sold in October 2003 for \$648,387; Comparable 2 initially sold in July 2005 for \$1,040,000; Comparable 3 initially sold in May 2004 for \$942,365; and comparable 4 initially sold in October 2003 for \$942,365, all of which are higher than the subject's original sale price. The assessor could not explain, except for application of equalization factors, why the subjects assessed value has increased by a market value of \$116,512 since its original sale.

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

The appellant submitted a report prepared by Chris C. Pheneger, of Barron Corporate Tax Solutions, containing an estimate of value of \$603,000. 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 adjustment 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. Furthermore, 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 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 has 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 its natural probative weight.

The Board finds this record contains raw sales data or five suggested comparable sales. In addition, the Board finds this record contains historical sales data for the subject and comparables, which provides further guidance in this matter. The Board gave less weight to appellant's comparable A and board of review comparable 1. This property sold in June 2007, which the Board finds is dated and not a reliable indicator of market value as of the subject's January 1, 2010 assessment date. The Board also gave less weight to appellant's comparable E due to its older age and smaller size. Furthermore, the Board finds appellant's comparable E originally sold for \$475,000 in 2001, considerably less than the subject original sale price of \$604,088 in 2003. The Board finds the historic market evidence suggest appellant's comparable E is inferior when compared to the subject property.

The Board finds the remaining three comparable sales are more representative of the subject in terms of location, design, age, size and most features, but are superior to the subject in many respects. For example, all the comparables are slightly newer, larger and have more bathrooms than the subject. Additionally, two comparables have superior finished basements when compared to the subject. The Board further finds these comparables originally sold from October 2003 to July 2005 for prices ranging from \$819,941 to \$1,040,000. The subject originally sold in January 2003 for \$604,688, or from \$215,283 to \$435,312 less than the comparables, which is a reliable market indicator that these

comparables are superior when compared to the subject. The most similar comparables sold from September 2008 to August 2009 for sales prices ranging from \$870,000 to \$1,000,000 of from \$213.13 to \$272.63 per square foot of living area including land. The subject's assessment reflects a market value of \$722,356 or \$213.90 per square foot of building area including land, which falls within the range established by the most similar comparable sales contained in this record on a per square foot basis. However, after considering any necessary adjustments to the comparables for differences when compared to the subject for their superior market characteristics, the Board finds the subject's estimated market value as reflected by its assessment is excessive and a 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 incorrect and a reduction 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: September 20, 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.