



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

PELLANT: Jozef Dlugopolski
DOCKET NO.: 10-23664.001-R-1
PARCEL NO.: 19-31-212-166-0000

The parties of record before the Property Tax Appeal Board are Jozef Dlugopolski, the appellant; and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 3,023
IMPR: \$ 37,049
TOTAL: \$ 40,072

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 7,115 square feet of land, which is improved with a 14 year old, two-story, masonry, single-family dwelling. The subject's improvement size is 2,758 square feet of living area, and its total assessment is \$40,072. This assessment yields a fair market value of \$448,233, or \$162.52 per square foot of living area (including land), after applying the 2010 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 8.94%. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted a residential appraisal report for the subject property with an effective date of "tax year 2010." The appraiser estimated a fair market value for the subject of \$328,000 based on the sales comparison approach to value. The appraiser also conducted an inspection of the subject.

Under the sales comparison approach, the appraiser analyzed the sales of six properties located within a two mile radius of the subject property. He indicated that five of the six sales occurred after the January 1, 2010 valuation date. The appraisal indicated that the sales data was obtained through the Multiple

Listing Service (MLS) as well as county records and that he used the six most recent and relevant sales available. The appraiser adjusted the comparables for pertinent factors, including large adjustments for property "condition", with no further explanation. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject of \$328,000. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$40,072 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. Two of these comparables were identical to those contained in the appellant's appraisal. The comparables are described as two-story, masonry or frame and masonry, single-family dwellings. Additionally, the comparables range: in age from one to three years; in size from 2,511 to 2,830 square feet of living area; and in improvement assessments from \$9.67 to \$13.50 per square foot of living area. The comparables also have several amenities. The board of review's grid sheet also states that Comparable #1 sold in March 2010 for \$400,000, or \$147.87 per square foot of living area, including land; Comparable #2 sold in June 2010 for \$395,000, or \$149.45 per square foot of living area, including land; Comparable #3 sold in August 2009 for \$381,500, or \$151.93 per square foot of living area, including land; and that Comparable #4 sold in May 2008 for \$463,000, or \$163.60 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, Attorney David Platek filed an appearance on behalf of the appellant. He rested on the written evidence previously submitted. Additionally, the appraiser was not present at the hearing and therefore unable to testify or answer any questions regarding his methodology and adjustments. The board of review's representative, Israel Smith, testified that he researched the sale comparables used in the appraisal and that four of the six sales, specifically comparables #1, #3, #4 and #5, were either short sales or foreclosures, with two of these sales having market times of five days or less.

After reviewing the record, considering the evidence, and hearing the testimony, the Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86

Ill. Admin. Code § 1910.63(e). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). Having considered the evidence presented, the Board finds that the evidence indicates a reduction is not warranted.

The appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. 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, and in this case, as to adjustments made regarding date of sale and condition [of property].

Additionally, the Board finds there was no valuation date for this property except "tax year 2010". As the subject should be valued as of the lien date of January 1, 2010, adjustments should be made by the appraiser for the dates of sale occurring after January 1, 2010. No such adjustments were made to the five of six sale comparables that occurred after the lien date. The Board finds that because of this error, the estimate of value for the subject property is unreliable.

However, the Board will analyze the unadjusted sales of both the appellant and the board of review. The Board finds all eight comparables submitted by the parties to be similar to the subject. They are all two-story, single-family homes located in Burbank. These properties contain between 2,643 and 3,131 square feet of living area and sold from May 2008 to August 2010 for prices ranging from \$290,000 to \$463,000, or \$92.62 to \$163.60 per square foot of living area, including land. In comparison, the subject's assessed value reflects a market value of \$162.52 per square foot of living area which is within the range of these comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot assessment is supported and a reduction in the subject's assessment is not 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.

Donald R. Cuit

Chairman

Frank J. [unclear]

Member

Mark [unclear]

Member

[unclear]

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

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.