



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

APPELLANT: Krystof Dlugopolski
DOCKET NO.: 10-23666.001-R-1
PARCEL NO.: 19-31-307-040-0000

The parties of record before the Property Tax Appeal Board are Krystof 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: \$ 2,649
IMPR.: \$ 34,777
TOTAL: \$ 37,426

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 6,233 square feet of land, which is improved with a one year old, two-story, frame and masonry, single-family dwelling. The subject's improvement size is 3,447 square feet of living area, and its total assessment is \$37,426. This is a partial assessment and reflects a 77.3% occupancy factor. This partial assessment yields a fair market value of \$418,635, or \$121.45 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%. At full occupancy, the proposed assessment is \$47,639. This assessment yields a fair market value of \$532,875, or \$154.59 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. The appellant also requested that an occupancy factor be applied to the revised assessment.

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 \$348,000 based on the sales comparison approach to value. The appraiser did not develop a cost approach for the subject, or submit actual construction costs, although the subject is only one year old and was not completed until March 25, 2010. Additionally, the appellant failed to complete any information regarding construction costs as requested on the petition form. The appraiser did acknowledge that the subject land was purchased in October 2008 for \$110,000. A Certificate of Occupancy issued by the City of Burbank was also submitted by the appellant as evidence of the occupancy date.

Under the sales comparison approach, the appraiser analyzed the sales of six properties located within a two and one-quarter mile radius of the subject property. These suggested comparables ranged in size from 2,643 to 3,390 square feet of living area and at least three of the transaction were foreclosures and/or cash deals. He indicated that all six sales occurred after the January 1, 2010 valuation date. The appraisal stated 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, however, no adjustments were made for the date of sale, as all occurred after the valuation date of January 1, 2010, in a declining market. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject of \$348,000. 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 \$37,426 was disclosed, based on partial occupancy. In support of the subject's assessment, the board of review submitted descriptive and assessment information for the subject and four properties suggested as comparable to the subject. The comparables are described as two-story, masonry, single-family dwellings. Additionally, the comparables range: in age from one to two years; in size from 3,147 to 3,325 square feet of living area; and in improvement assessments from \$11.20 to \$14.03 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 July 2008 for \$610,000, or \$183.46 per square foot of living area, including land; Comparable #2 sold in January 2008 for \$500,000, or \$158.63 per square foot of living area, including land; Comparable #3 sold in August 2008 for \$520,000, or \$161.74 per square foot of living area, including land; and that Comparable #4 sold in June 2008 for \$540,000, or \$171.59 per square foot of living area, including land. The board of review's grid sheet also confirmed the subject's October 2008 land purchase. 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.

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 any of the six sale comparables that occurred after the lien date.

Additionally, the appraiser failed to include actual construction costs of the subject although the subject was newly constructed, as the appellant was requesting an occupancy factor in addition to a market value reduction. The Board finds that because of these errors, 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 that Comparables #1 and #2 submitted by the appellant, as well as Comparable #1 submitted by the board of review, to be most similar to the subject. They are all two-story, single-family homes located in Burbank, within one and one-half miles of the subject. These properties contain between 3,305 and 3,390 square feet of living area and sold from July 2008 to September 2010 for prices ranging from \$365,000 to \$610,000, or \$110.44 to \$183.46 per square foot of living area, including land. In comparison, the subject's assessed value, at full occupancy, reflects a market value of \$154.59 per square foot of living area which is within the range of these comparables. The evidence reflects that the subject is entitled to an occupancy factor of 77%, which the board of review has already applied to the 2010 assessment. 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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Mark Morris

Member

JR

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.