



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

APPELLANT: William Arend
DOCKET NO.: 10-27244.001-R-1
PARCEL NO.: 27-03-209-004-0000

The parties of record before the Property Tax Appeal Board are William Arend, the appellant(s); and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$8,625
IMPR.: \$8,272
TOTAL: \$16,897

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 23,000 square foot parcel of land improved with a 34-year old, one-story, frame and masonry, single-family dwelling containing one and one-half baths, air conditioning, and a full, unfinished basement. The appellant argued that the fair market value of the subject was not accurately reflected in its assessed value as the basis of the appeal.

In support of the market value argument, the appellant submitted an appraisal undertaken by James E. Sloan of Accurate Services, Inc. The report indicates Sloan is a State of Illinois certified residential appraiser. The appraiser indicated an estimated market value of \$189,000 for the year of 2010. However, the assignment section of the appraisal indicates the report reflects the current value at the date of inspection. The property was inspected on December 20, 2010. The appraisal report utilized the sales comparison approach to value to estimate the market value for the subject property. The appraisal found the subject's highest and best use to be its present use.

The appraisal lists the subject as containing 1,147 square feet of living area and includes a sketch of the subject with the subject's outside dimensions to support this.

Under the sales comparison approach, the appraiser analyzed the sales of six properties described as one-story, masonry, frame or frame and masonry, single-family dwellings located within the subject's market. The properties range in age from 34+ to 55+ years and in size from 910 to 1,650 square feet of living area. They sold from January to December 2010 for prices ranging from \$181,500 to \$260,000 or from \$120.61 to \$228.02 per square foot of living area. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$189,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$24,560 was disclosed. The subject's final assessment reflects a fair market value of \$274,720 when the Illinois Department of Revenue's 2010 three-year median level of assessment of 8.94% for Cook County Class 2 properties is applied. The board of review listed the subject's size as 1,169 square feet of living area and included the property characteristic printout to support this figure.

In support of the subject's assessment, the board of review presented descriptions and assessment information on four properties suggested as comparable. The properties are described as one-story, frame and masonry, single-family dwellings. The properties range: in age from 33 to 42 years; in size from 1,226 to 1,352 square feet of living area; and in improvement assessments from \$15.51 to \$17.46 per square foot of living area. The board also lists the sale of the subject in June 2007 for \$281,500. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant testified that the appraiser personally inspected the interior and exterior of the subject property. He asserted the subject's foundation is sinking and it will cost in excess of \$30,000 to fix. The appraisal describes the improvement as below average condition and apparent foundation settlement. The appellant testified he has no personal knowledge as to the comparables used by the appraiser. He testified he purchased the property within three years of the appraisal date for \$285,000. He acknowledged that the appraisal indicates that there were no sales of the subject within three years of the appraisal date.

The board of review's representative, Nick Jordan, argued that the appraiser was not present at the hearing to testify or be cross-examined and, therefore, the appraisal is hearsay. He asserted all the sales occurred after the lien date of January 1, 2010. He also asserted that comparables #1 and #3 used by the appraiser were compulsory sales and no adjustments were given for the compulsory nature of the sales.

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

As to the subject's size, the PTAB finds the appellant submitted sufficient evidence to support the subject's size at 1,147 square feet which reflects a market value of \$239.51 per square foot of living area.

When overvaluation is claimed the appellant has the burden of proving the value of the property 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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). 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. 86 Ill.Admin.Code 1910.65(c). Having considered the market value evidence presented, the PTAB concludes that this evidence indicates a reduction is warranted.

In determining the fair market value of the subject property, the PTAB looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the PTAB. 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 appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appraisal as hearsay. Therefore, the PTAB finds

the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the PTAB will consider the raw sales data submitted by the parties.

The board of review asserts that sales #1 and #3 submitted by the appellant are compulsory sales and not reflective of the market value. A "compulsory sale" is defined as

(i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Board of Educ. of Meridian Community Unit School Dist. No. 223 v. Illinois Property Tax Appeal Board, 961 N.E.2d 794, 802, 356 Ill.Dec. 405, 413 (2d Dist. 2011) (citing Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207, 211, 387 N.E.2d 351 (2d Dist. 1979)).

However, the Illinois General Assembly recently provided very clear guidance for the Board with regards to compulsory sales. Section 16-183 of the Illinois Property Tax Code states as follows:

The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

35 ILCS 200/16-183. Therefore, the PTAB is statutorily required to consider the compulsory sales submitted by the appellant.

The PTAB finds the sales closest to the lien date the most probative. These sales occurred from January to June 2010 for prices ranging from \$181,500 to \$260,000 or from \$156.99 to \$178.45 per square foot of living area. In comparison, the appellant's assessment reflects a market value of \$239.51 per square foot of living area which is above the range established by the sales comparables. After considering adjustments and the

differences in the comparables when compared to the subject, the PTAB finds the subject's per square foot assessment is not supported and a reduction 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.

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.