FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Edward Mansell
DOCKET NO.: 10-35366.001-C-1
PARCEL NO.: 22-29-322-036-1001

The parties of record before the Property Tax Appeal Board are Edward Mansell, the appellant, represented by Edward T. Mansell, Jr.; 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:	$ 8,477
IMPR.:	$ 61,460
TOTAL:	$ 69,937

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 28,931 square feet of land that is improved with a 14 year old, one-story, masonry, commercial office condominium unit. The subject's improvement size is 1,480 square feet of building area, and its total assessment is $69,937. This assessment yields a fair market value of $279,748, or $189.02 per square foot of building area (including land), after applying the 25% assessment level for commercial properties under the 2010 Cook County Classification of Real Property Ordinance. 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 commercial appraisal report for the subject property with an effective date of January 1, 2011. The appraiser estimated a fair market value for the subject of $135,000 based on the sales comparison approach to value. The appraiser also conducted an inspection of the subject, however, was not present at the

hearing to offer testimony. 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 final assessment of $69,937 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for five commercial office or mixed-use/commercial buildings. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County Assessor's Office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further states that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The comparables are described as one-story or multi-story, masonry, commercial office or mixed-use/commercial buildings. Additionally, the comparables are from 4 to 87 years old and have from 1,713 to 2,750 square feet of building area. The comparables sold between February 2005 and July 2009 for $295,000 to $1,055,000, or $168.16 to $426.95 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant detailed the differences between the board of review's suggested sale comparables and the subject property. Additionally, five new sale comparables in the subject's vicinity were submitted. The Board gives no weight to the new sale comparables pursuant to Section 1910.66 (c) of the Property Tax Code, which states:

> "Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence."

At hearing, Edward T. Mansell, Jr. entered an appearance on behalf of the appellant. The appellant then offered his appraisal as evidence that the subject is overvalued. The board of review's representative objected to the valuation contained

in the appraisal as the appraiser was not present at the hearing to offer testimony. A previous Property Tax Appeal Board decision identified as Docket No. 10-23666.001-R-1 was accepted into evidence and identified as Board of Review Hearing Exhibit No.1 in support. The board of review also tendered evidence from the Cook County Recorder of Deeds website (Board of Review Hearing Exhibit No. 2), with no objection from the appellant, that indicated the appraiser's comparables #1 through #3 were either foreclosure sales or bank sales, and that comparable #4 was located in Will County and should be given no consideration.

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 provided 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 of review submitted evidence at the hearing that calls into question the quality of the sale comparables contained in the appraisal. As the appraiser was not present at the hearing to answer questions regarding the circumstances surrounding these sales, the Board gives the unadjusted comparables no weight. As a final point, the Board also gives no weight to the sale comparables submitted by the board of review the evidence was raw sales data that did not make any adjustments for age, exterior construction, improvement size, improvement type, location, or market conditions.

Accordingly, in determining the fair market value of the subject property, the Board finds that the appellant failed to submit sufficient evidence to show the subject was overvalued. Therefore, the Board finds that the appellant has not met its burden by a preponderance of the evidence and that the subject does not warrant a reduction based upon the market data submitted into evidence.

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.

Chairman

Member

Member

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: June 20, 2014

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.