



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

APPELLANT: Russell Hinnen
DOCKET NO.: 11-00400.001-R-1
PARCEL NO.: 12-02-18-410-056-0000

The parties of record before the Property Tax Appeal Board are Russell Hinnen, the appellant, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$25,900
IMPR.: \$72,070
TOTAL: \$97,970

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 8,925 square feet of land area with a pond view is improved with a two-story frame and brick exterior constructed dwelling built in 2004.¹ The dwelling contains approximately 2,780 square feet of living area with a full unfinished basement of 2,075 square feet of building area. Additional features of the dwelling are central air conditioning, a fireplace and an attached three-car garage. The subject property also has a deck with an above-ground pool. The

¹ In a letter, the board of review through the township assessor reported the subject site consists of 12,976 square feet of land area "abutting a large detention pond at rear"; "the builder reports a living area of 2,778 square feet"; "home built in 2003." The Property Tax Appeal Board finds the best evidence of the subject's descriptive information was provided in the appraisal which included a schematic drawing and an inspection of the property as compared to the statements in the letter from the township assessor along with a copy of the subject's property record card which had little descriptive data on the document. As to the lot, the property record card has a legal description, but no specified site size and there is also no substantive data in the "building record" portion of the document beyond an illegible schematic drawing.

subject property is located in Bolingbrook, DuPage Township, Will County.

The appellant's appeal is based on overvaluation and included a letter noting that the subject property was the subject matter of an appeal previously before the Property Tax Appeal Board. A copy of the Board's decision in Docket No. 08-01265.001-R-1 was attached. Based upon equity and the weight of the evidence for that 2008 assessment appeal, the Property Tax Appeal Board found the correct assessment of the subject property to be \$119,664 giving most weight to the appellant's appraisal with an opinion of the estimated market value of the subject property of \$360,000 as of January 6, 2009. In the letter, the appellant asserted that a 5% increase in the value of the subject property "is not supportable given the current climate within the housing market."

For this 2011 assessment appeal, the appellant submitted an appraisal estimating the subject property had a market value of \$295,000 as of November 17, 2010. The appraisal was prepared by Kurt Wessel, a State of Illinois Certified Residential Real Estate Appraiser. In estimating the market value of the subject property the appraiser developed the sales comparison approach to value.

In discussing the subject site, the appraiser noted the property adjoined a pond along its rear lot line and "this was considered to be a somewhat premium location and view for this market area."

In the report, the appraiser provided information on three comparable sales and two active listings located from .06 to .66 of a mile from the subject property. The comparables are described as two-story dwellings of frame or frame and masonry construction that range in size from 2,700 to 3,755 square feet of living area. The dwellings were new to 9 years old. Features of the comparables include a full basement, two of which have finished area, central air conditioning, a fireplace and an attached two-car or a three-car garage. The comparables have sites ranging in size from 8,775 to 9,790 square feet of land area. Three of the comparables sold in April or June 2010 for prices of \$275,000 or \$300,000 or from \$76.39 to \$111.11 per square foot of living area, including land. The listings had asking prices of \$289,900 and \$300,000 or \$105.42 and \$103.45 per square foot of living area, including land, respectively. After making adjustments to the comparables for differences from the subject, including, but not limited to, either \$10,000 or

\$20,000 upward adjustments for view as compared to the subject's pond location, the appraiser estimated the comparables had adjusted prices ranging from \$269,500 to \$312,000 or from \$74.86 to \$115.56 per square foot of living area, including land.

Based on this evidence, the appellant requested a reduction in the subject's assessment to approximately reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$126,100 was disclosed. The subject's assessment reflects a market value of \$379,705 or \$136.58 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for Will County of 33.21% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a letter from the DuPage Township Assessor outlining several criticisms of the appellant's appraisal. First, the subject's site size is purportedly erroneous (see footnote #1). Second, sale #3 is "an invalid sale - bankruptcy." Third, comparables #4 and #5 are "active listings." Fourth, the assessor reported the subject property is not in a Special Services Area (SSA)² for infrastructure, whereas comparable #5 is in an SSA. The assessor wrote regarding this issue, "As such their annual 'tax' has an additional \$1,714 burden not incurred by the subject site. But the appraiser makes no adjustment for that extra burden. It would be a positive adjustment."

Based on the foregoing assertions that the appellant's appraisal is flawed, the township assessor on behalf of the board of review requested confirmation of the subject's assessment.

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. The Board further finds a reduction in the subject's assessment is warranted.

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); 86

² 35 ILCS 200/27-5, et al.

Ill.Admin.Code §1910.63(e). 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best and only evidence of market value in the record to be the appraisal of the subject property submitted by the appellant. The board of review failed to submit any market value evidence to support its assessment of the subject property. In contrast to the board of review's submission, the appellant's appraiser developed the sales comparison approach to value and the sales utilized by the appraiser were similar to the subject in location, size, style, exterior construction, features, age and/or land area. These properties also sold most proximate in time to the assessment date at issue and the appraiser made adjustments to the listings for sales/financing concessions to adjust for the fact the properties had not yet sold. Furthermore, the appraised value of \$295,000 is below the market value reflected by the assessment of \$379,705.

The Property Tax Appeal Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of \$295,000 as of November 17, 2010, while the board of review submitted no appraisal or market value evidence, but only criticized various aspects of the appellant's appraisal. The Property Tax Appeal Board finds the criticisms presented by the board of review through the township assessor are irrelevant to a market value determination or criticized factual statements which were not sufficiently supported to overcome the facts presented in the appraisal.

The criticism of the subject's purportedly incorrect site size has been addressed previously; in the absence site size information on the subject's property record card, the Board has determined the best evidence was presented by the appellant's appraiser concerning the subject's site size.

It is particularly significant that the board of review provided no sales data to refute the sales and listings which were contained in the appraisal report and occurred relatively close in time to the assessment date of January 1, 2011.

The last criticism raised by the township assessor concerns the 'tax burden' of comparable listing #5. Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a

voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill.App.3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428 (1970). The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation. (86 Ill.Admin.Code §1910.10(f)). In this appeal, the board of review/township assessor provided no substantive market data to support the contention that the SSA status of comparable listing #5 did or would affect the sales price of this property. Therefore, on this record, the Property Tax Appeal Board finds that the board of review has failed to support this criticism of the appraisal with any substantive market data.

While the board of review raised several criticisms and/or shortcomings it perceived in the appellant's appraisal, in the end the Property Tax Appeal Board finds that as outlined above and despite those criticisms, the appraisal submitted by the appellant estimating the subject's market value of \$295,000 is the best evidence of the subject's market value in the record. Moreover, the appraisal's estimated opinion of value was not substantively challenged with any market value evidence presented by the board of review.

Based on this record the Board finds the subject property had a market value of \$295,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for Will County of 33.21% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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

K. L. Fern

Member

Tracy A. Huff

Member

Mario Morris

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: March 21, 2014

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.