FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Mark Ryan
DOCKET NO.: 11-01212.001-R-1
PARCEL NO.: 03-05-454-018

The parties of record before the Property Tax Appeal Board are Mark Ryan, the appellant, by attorney Michael R. Davies of the Law Offices of Michael R. Davies, Ltd., in Oak Lawn; and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$20,659
IMPR.:	$83,987
TOTAL:	$104,646

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame construction containing 3,191 square feet of living area.[1] The home was built in 1999. Features include a partial basement that is partially finished, central air conditioning and a three-car garage. The dwelling is situated on 11,250 square feet of land area located in Dundee Township, Kane County, Illinois.

The appellant appeared, through counsel, before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property prepared by Dominick DiMaggio, a state licensed appraiser. The appraiser was not present at the hearing. The intended use of the appraisal report was to determine fair market value for the purpose of a property tax

[1] The appellant reports the subject contains 3,191 square feet of living area and submitted an appraisal sketch as support. The board of review reports the subject contains 3,386 square feet of living area and submitted the subject's property record card as support; however the property record card did not contain a sketch of the subject.

appeal. The appraisal report conveys an estimated market value for the subject property of $280,000 as of January 1, 2011, using the sales comparison and the cost approaches to value.

Under the cost approach, the appraiser utilized Marshall & Swift cost data and arrived at an estimate of value for the subject property of $386,689.

Under the sales comparison approach to value, the appraiser utilized three comparable sales located from .47 to .66 of a mile from the subject property. The comparables have lot sizes ranging from 9,918 to 14,554 square feet of land area. The comparables consist of two-story dwellings of frame construction that contain from 3,200 to 3,300 square feet of living area. The dwellings were reported to be 10 or 15 years old. Two comparables feature full basements, one of which has finished area and one comparable has a full unfinished basement. Other features include central air conditioning and three-car garages. Two comparables have one fireplace. The comparables sold from December 2009 to August 2010 for prices ranging from $280,000 to $307,500 or from $86.42 to $93.18 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject for sale concessions, room count, gross living area, basement & finished, rooms below grade, functional utility, porch/patio/deck and fireplaces. The adjusted sale prices ranged from $279,000 to $291,300. Based on the adjusted sale prices, the appraiser concluded the subject had an estimated market value under the sales comparison approach of $280,000.

Based on this evidence, the appellant requested the subject's assessment be reduced to $93,333 to reflect the appraised value.

At the hearing, the board of review objected to consideration of the appraisal since the appraiser was not present to provide testimony and/or be cross-examined with regard to the report. The objection was taken under advisement by the Board's Administrative Law Judge.

The Property Tax Appeal Board hereby sustains the objection of the board of review to the appellant's appraisal report with respect to the value conclusion. The Board finds that in the absence of the appraiser at hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appraiser. Novicki v. Dept. of Finance, 373 Ill. 342 (1940); Grand Liquor Co., Inc. v. Dept. of Revenue, 67 Ill. 2d 195 (1977); Jackson v. Board of Review of the Dept. of Labor, 105 Ill. 2d 501 (1985). The Board finds the appraisal report is tantamount to hearsay. Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill. App. 3d 887 (1st Dist. 1983). Illinois courts have held that where

hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2nd Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1st Dist. 1971). In the absence of an appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusion of $280,000 as of January 2011 has been significantly diminished and cannot be deemed conclusive as to the value of the subject property.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $104,646 was disclosed. The subject's assessment reflects an estimated market value of $314,914 or $98.69 per square foot of living area including land, using 3,191 square feet of living area, using Kane County's 2011 three-year average median level of assessments of 33.23%.

In rebuttal the assessor asserted appellant's appraisal sale #1 is not located in the subject's subdivision.

In support of the subject's assessment the board of review submitted information provided by the Dundee Township Assessor's Office containing a grid analysis of the appellant's appraiser's comparable sales and four additional sales provided by the township assessor. The comparables are improved with two-story dwellings of frame construction that range in size from 3,240 to 3,400 square feet of living area. The dwellings were constructed from 1994 to 2000. Each comparable has an unfinished basement, central air conditioning and a garage ranging in size from 560 to 704 square feet of building area. Four comparables have one fireplace and one comparable has two fireplaces. The comparables have sites ranging in size from 10,019 to 18,295 square feet of land area. The comparables were located in the same subdivision as the subject property. The comparables sold from October 2009 to April 2012 for prices ranging from $315,000 to $380,000 or from $93.03 to $117.28 per square foot of living area, including land.

Dundee Township Deputy Assessor, Coleen Acevedo, testified that the appellant's appraiser made an unwarranted -$8,000 adjustment to comparable #2 for a size difference of 11 square feet of building area. Adversely, the appraiser failed to make a positive adjustment to comparable #3 for a 709 square feet smaller basement.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal the appellant's counsel asserted that comparable sale #1 was the most similar appraisal comparable to the subject in age and size. Counsel further argued that this comparable,

although not in the subject's neighborhood, is of close proximity and should be considered by the Board.

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 the evidence in the record does not support a reduction in the subject's assessment.

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 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 sales in this record support the subject's assessment.

The Board finds the best evidence of market value in the record to be the comparable sales #2, #5 and #6 presented by board of review and comparable sales #1 and #2 included in the appellant's appraisal. These comparables were relatively similar to the subject in location, size, style, construction, features, and age. These properties also sold most proximate in time to the subject's January 1, 2011 assessment date at issue. Due to the similarities to the subject, these comparables received the most weight in the Board's analysis. The comparables sold for prices ranging from $291,600 to $380,000 or from $89.34 to $117.28 per square foot of living area, including land. The subject's assessment reflects a market value of $314,914 or $98.69 per square foot of living area, including land, which is within the range established by the best comparable sales in this record. Based on this record the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction in the subject's assessment is not justified.

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: October 18, 2013

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.