



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

APPELLANT: Edward Castans
DOCKET NO.: 11-01392.001-R-1
PARCEL NO.: 09-24-403-007

The parties of record before the Property Tax Appeal Board are Edward Castans, the appellant, by attorney Richard Larson in Sandwich, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$94,991
IMPR: \$125,989
TOTAL: \$220,980

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame and masonry construction containing 3,861 square feet of living area.¹ The home was built in 2003. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a three-car garage. The dwelling is situated on approximately 18,077 square feet of land area located in the Majestic Oaks subdivision, St. Charles 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 Tammy L. Marcozzi, a state certified appraiser. The appraiser was not present at the hearing. The intended use of the appraisal report was to establish the market value of the subject property for a real

¹ The appellant's appraiser reported a dwelling size of 3,865 square feet of living area and the board of review reported a dwelling size of 3,861. The Board finds the small difference has little relevance on the outcome of the decision.

estate tax appeal. The appraisal report conveys an estimated market value for the subject property of \$640,000 as of September 6, 2011 with an effective date of January 1, 2011, using the cost and sales comparison approaches to value.

Under the cost approach, the appraiser estimated a replacement cost new for the subject improvements of \$547,805. The appraiser then subtracted \$39,113 for physical depreciation for a depreciated value of the improvements of \$508,692. The appraiser then added \$20,000 for the depreciated value of site improvements to arrive at a total depreciated value of improvements of \$528,692. The appraiser estimated the subject's land value to be \$240,000 for an estimated value of the subject property under the cost approach of \$768,692.

Under the sales comparison approach to value, the appraiser utilized five comparable sales located from .06 of a mile to 1.19 miles from the subject property. The comparables consist of one-story or two-story dwellings of frame and masonry exterior construction containing from 2,841 to 4,682 square feet of living area. One comparable has a full unfinished basement and four comparables have full, partially finished or fully finished basements. Other features include central air conditioning, one fireplace and either a two-car or three-car garage. Comparable #2 has an in ground swimming pool. The comparables sold from October 2009 to November 2010 for prices ranging from \$515,000 to \$690,000 or from \$147.37 to \$205.91 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject for date of sale/time, location, site, view, age, condition, room count, gross living area, room below grade, functional utility, garage/carport and porch/patio/deck/in ground swimming pool. The adjusted sale prices ranged from \$563,000 to \$657,600. Based on the adjusted sale prices, the appraiser concluded the subject had an estimated market value under the sales comparison approach of \$640,000.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$213,333 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 board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$239,976 was disclosed. The subject's assessment reflects an estimated market value of \$722,167 or \$187.04 per square foot of living area including land using Kane County's 2011 three-year average median level of assessments of 33.23%.

In support of the subject's assessment the board of review submitted information provided by the St. Charles Township Assessor's Office containing a grid analysis of three comparable sales located in the Majestic Oaks subdivision, like the subject.

In rebuttal the assessor asserted appellant's appraisal sale #5 was not located in the subject's neighborhood.

The board of review's comparables are improved with two-story dwellings of frame and masonry exterior construction that range in size from 3,529 to 4,805 square feet of living area. The dwellings were constructed from 2000 to 2008. The comparables feature full basements, one of which has finished area, central air conditioning, one fireplace and garages ranging in size from 649 to 930 square feet of building area. The comparables sold in February or November 2008 for prices ranging from \$750,000 to \$1,150,000 or from \$211.08 to \$239.33 per square foot of living area, including land.

The board of review's representative, Michael Madziarek, argued that the subject is located on a wooded lot that was not disclosed in the appraisal. The subject's lot size is also larger than all the comparables submitted, except for the board of review's comparable #3. In addition, the appraiser's cost approach estimate is substantially higher than the sales comparison approach estimate and is more reflective of the subject's market value.

The board of review called St. Charles Township Assessor, Colleen Lang, as a witness. Lang testified that the assessment that she calculated for the subject was based on the cost approach, which a factor is then applied to the cost estimate based on sales from the prior three years. Lang further testified that 2008 sales have some relevance to the 2011 real estate market.

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

Under rebuttal, counsel for the appellant argued that due to the 2007 decline in the real estate market, the board of review is not justified in using 2008 sales as evidence of a 2011 market value.

After hearing the testimony 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 supports a reduction in the subject's assessment.

As an initial matter, the Property Tax Appeal Board hereby sustains the objection of the board of review as to hearsay. 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. The Board finds the appraisal report is tantamount to hearsay. 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 \$640,000 as of January 2011 has been significantly diminished.

For this appeal, 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 a reduction in the subject's assessment.

The parties submitted a total of eight sales for the Board's consideration. The Board gave less weight to the appellant's comparables #3 due to its sale date occurring greater than 14 months prior to the subject's January 1, 2011 assessment date. Additionally, this comparable is considerably larger when compared to the subject. The Board gave less weight to the appellant's comparable #4 due to its dissimilar one-story design and considerably smaller size when compared to the subject. The Board also gave less weight to the appellant's comparable #5 due to its dissimilar location in the Hunt Club subdivision. The Board gave less weight to the board of review's comparables due to their sale dates occurring greater than 25 months prior to the subject's January 1, 2011 assessment date. The Board finds the remaining two sales submitted by the appellant were relatively similar to the subject in location, style, construction, size and features. These properties also sold most proximate in time to the 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 had sale dates occurring in June 2010 for prices of \$520,000 and \$665,000 or from \$148.44 to \$188.81 per square foot of living area, including land. The subject's assessment reflects a market value of \$722,167 or \$187.04 per square foot of living area, including land, which is within the range of the best comparables on a square foot basis and above the best comparables on a total market value basis. After making adjustments to the comparables for differences when compared to the subject, the Board finds the appellant did demonstrate by a preponderance of the evidence that

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the subject was overvalued and a reduction in the subject's assessment is 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.

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: November 22, 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.