



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

APPELLANT: Mike & Kimberly Diamond
DOCKET NO.: 11-01533.001-R-1
PARCEL NO.: 03-16-204-005

The parties of record before the Property Tax Appeal Board are Mike & Kimberly Diamond, the appellants, by attorney Laura Godek of Laura Moore Godek, PC, in McHenry, 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: \$48,267
IMPR.: \$121,206
TOTAL: \$169,473

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single family dwelling of brick and stone exterior construction containing approximately 3,830 square feet of living area. The dwelling was constructed in 2003 and is approximately 8 years old. Features of the home include a full unfinished basement, central air conditioning, two fireplaces and a three-car attached garage. The property has a 36,155 square foot site and is located in Carpentersville, Dundee Township, Kane County.

The appellants contend overvaluation based on comparable sales and an appraisal. In support of this argument, the appellants submitted information on twenty-three comparable sales described as being improved with one, one-story dwelling and twenty-two two-story dwellings that range in size from 2,287 to 4,281

square feet of living area. The dwellings range in age from 3 to 33 years old. Twenty of the comparables were located from .3 to 6.4 miles from the subject property; no proximity was provided for comparables #21 through #23. Each comparable has a basement with fourteen having finished area and four being a walkout-style. Each home has central air conditioning and twenty-two have one to three fireplaces. Three comparables have a two-car garage and twenty comparables have a three-car garage. The comparables have sites ranging in size from 7,821 to 140,001 square feet of land area. The comparables sold from October 2009 to February 2012 for prices ranging from \$255,000 to \$459,000 or from \$72.17 to \$135.55 per square foot of living area, including land.

In further support of their overvaluation argument the appellants submitted an appraisal estimating the subject property had a market value of \$510,000 as of January 1, 2010. The appraisal was prepared by Elyce M. Meador, a State of Illinois certified real estate appraiser. In estimating the market value of the subject property the appraiser developed the cost and the sales comparison approaches to value.

Under the cost approach the appraiser estimated the subject had a site value of \$110,000. The appraiser estimated the replacement cost new of the improvements to be \$469,040. The appraiser estimated depreciation to be \$21,670 resulting in a depreciated improvement value of \$447,370. The appraiser also estimated the site improvements had a value of \$5,000. Adding the various components, the appraiser estimated the subject property had an estimated market value under the cost approach to value of \$562,370.

Using the sales comparison approach the appraiser provided information on five comparable sales described as two-story dwellings that ranged in size from 2,472 to 4,018 square feet of living area. The dwellings ranged in age from 2 to 22 years old. Each of the comparables had a basement with three being finished. Each comparable had central air conditioning, one or two fireplaces and a 2, 3 or 4-car garage. The comparables have sites ranging in size from .22 to 1.4 acres of land area and were located from .61 to 4.38 miles from the subject property. The comparables sold from May to November 2009 for prices ranging from \$349,000 to \$530,000 or from \$86.86 to \$199.84 per square foot of living area, including land. After making adjustments to the comparables for differences from the subject the appraiser estimated the comparables had adjusted prices ranging from \$465,917 to \$559,027. Based on this data the

appraiser estimated the subject had an estimated value under the sales comparison approach of \$510,000.

In reconciling the two approaches to value the appraiser estimated the subject property had a market value of \$510,000 as of January 1, 2010. Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$198,481 was disclosed. The subject's assessment reflects a market value of \$597,295 or \$155.95 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for Kane County of 33.23% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum prepared by Michael Bielak, Dundee Township Assessor, along with a grid analysis of three suggested comparable sales. As to the appellants' comparable sales data, the assessor contended that #1, #2, #3, #6, #8, #9, #10, #11, #12, #13, #14, #15, #21, #22 and #23 were all "tract housing." Furthermore, comparable #4 was a dissimilar one-story dwelling and #5 was "much smaller." Comparables #16, #17, #18, #19 and #20 are not in Kane County or Dundee Township according to the assessor. Comparable #7 was also older and smaller than the subject dwelling. As to the appellants' appraisal, the assessor noted there were "adjustments over 25%" and the comparables are not located in the township or in Kane County. Based on the foregoing, the assessor concluded "none of the appellants comparables are a good basis for comparison."

In support of its contention of the correct assessment of the subject property the township assessor provided information on three comparable sales located from .06 to 2.30-miles from the subject property. The comparable sales are improved with two-story dwellings that range in size from 3,689 to 3,900 square feet of living area. The dwellings were constructed in 2005. Each comparable has a basement, one of which is walkout-style, central air conditioning, a fireplace and a garage ranging in size from 732 to 927 square feet of building area. The comparables have sites ranging in size from approximately 15,119 to 25,265 square feet of land area. The comparables sold from July 2010 to January 2013 for prices of \$450,000 or \$530,000 or from \$121.98 to \$137.16 per square foot of living area, including land.

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

In rebuttal counsel noted the subject property was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 10-01809.001-R-1. In that appeal, the Board determined a total assessment of \$170,136 for the subject property based upon equity and the weight of the evidence.

Furthermore, the appellants asserted that board of review comparables sales #1 through #3 are dissimilar to the subject in various aspects, including exterior construction, location, garage size, amenities such as a finished basement and date of sale in relation to the assessment date of January 1, 2011.

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 supports a reduction in the subject's assessment.

In rebuttal, appellants' counsel raised a legal contention inferring that the Property Tax Appeal Board's prior year decision for 2010 should be carried forward to the subsequent year of 2011. See Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) which provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect **for the remainder of the general assessment period as provided in Sections 9-215 through 9-225**, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.
[Emphasis added.]

The Board takes judicial notice that for Kane County 2010 and 2011 are not within the same general assessment period. (See for authority 35 ILCS 200/9-215; 86 Ill.Admin.Code §1910.90(i)). In conclusion, the prior year's decision of the Property Tax

Appeal Board is not relevant to determining the correct 2011 assessment of the subject property for the first year of the new general assessment cycle.

The appellants contend 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the appraisal of the subject property submitted by the appellants estimating the subject property had a market value of \$510,000 or \$133.16 per square foot of living area, including land, as of January 1, 2010. The appellants' appraiser developed the cost and sales comparison approaches to value and gave most weight to the conclusion of value contained in the sales comparison approach. The appraised value is also supported by the best comparable sales identified by the appellants and the board of review with respect to style, size, age and date of sale, which include appellants' sales #2, #3, #16, #17, #18, #19, #20 and #23 and board of review sales #1 and #2. These properties sold from April 2010 to September 2012 for prices ranging from \$290,000 to \$530,000 or from \$72.17 to \$137.16 per square foot of living area, including land. The Board finds the subject's assessment reflects a market value of \$597,295 or \$155.95 per square foot of living area, including land, which is above the appraised value and above the range established by the best sales in the record. Based on this record the Board finds the subject property had a market value of \$510,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for Kane County of 33.23% 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.



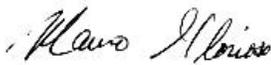
Chairman



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: March 21, 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.