



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

APPELLANT: Filogonio Rodriquez
DOCKET NO.: 11-01540.001-R-1
PARCEL NO.: 03-18-253-014

The parties of record before the Property Tax Appeal Board are Filogonio Rodriquez, the appellant, by attorney James F. Bishop in Crystal Lake, 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: \$21,693
IMPR.: \$48,300
TOTAL: \$69,993**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of brick and vinyl exterior construction containing 1,772 square feet of living area.¹ The home was built in 1996. Features include a full partially finished basement, central air conditioning and an attached two-car garage. The dwelling is situated on approximately 7,405 square feet of land area located in Dundee Township, Kane County, Illinois.

The appellant appeared before the Property Tax Appeal Board through counsel claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property prepared by Dennis Bell, a state licensed appraiser. The appraiser was not present at the hearing. The intended use of the appraisal report was to

¹ The appellant reports the subject contains 1,772 square feet of living area and submitted an appraisal sketch as support. The board of review reports the subject contains 1,812 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.

establish fair cash market value. The appraisal report conveys an estimated market value for the subject property of \$159,000 as of January 1, 2011, using the cost and sales comparison approaches to value.

Under the cost approach, the appraiser utilized cost estimates from local builders and estimators to arrive at an estimate of value for the subject property of \$175,000, rounded.

Under the sales comparison approach to value, the appraiser utilized three comparable sales located from "next house" to "4 blocks north" from the subject property. The comparables have lot sizes ranging from 6,660 to 9,583 square feet of land area. The comparables consist of two-story dwellings of vinyl or brick and vinyl exterior construction that contain from 1,772 to 2,096 square feet of living area. The dwellings were built in 1996 or 1997. The comparables feature full or partial basements that are partially finished. Other features include central air conditioning and two-car garages. Comparable #2 was reported to have one fireplace.² The comparables sold from December 2010 to May 2011 for prices ranging from \$160,000 to \$167,500 or from \$79.91 to \$93.12 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject for quality of construction, gross living area, basement & finished, rooms below grade, garage/carport and fireplace. The adjusted sale prices ranged from \$155,000 to \$163,400. Based on the adjusted sale prices, the appraiser concluded the subject had an estimated market value under the sales comparison approach of \$159,000.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$53,000 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. In response, counsel for the appellant argued that if the board of review wanted the appellant's appraiser to testify at the hearing, they should have filed documentation for a motion, "Form 213 F", Motion for appraiser to appear or "Form 237" Request to produce witnesses, in accordance with the "Code of Civil Procedure", which is applicable to administrative hearings and board hearings. In addition, counsel argued that there is case law to the effect that an appraisal prepared by an Illinois licensed appraiser is the best evidence. 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 \$69,993 was disclosed. The subject's assessment reflects an estimated market

² The assessor's comparable grid differs slightly from the appellant's appraiser's grid. Most notably being the basement finished area for comparables #1 and #2. The assessor reports these basements are unfinished.

value of \$210,632 or \$118.87 per square foot of living area including land, using 1,772 square feet of living area, 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 Dundee Township Assessor's Office containing a grid analysis of the appellant's appraiser's comparable sales, the real estate transfer declarations of the appellant's appraiser's comparable sales and four additional sales provided by the assessor.

In rebuttal the assessor asserted appellant's appraisal sale #1 was a HUD sale, #2 was a foreclosure/short sale and #3 was a bank sale. Dundee Township Deputy Assessor, Bonnie Wilcox, also testified that appellant's comparable #3 was not advertized for sale as disclosed in the real estate transfer declaration supplied by the board of review.

The assessor provided information on four comparable sales improved with two-story dwellings of frame or brick and frame exterior construction that range in size from 1,812 to 2,028 square feet of living area. The dwellings were constructed in 1996 or 1997. Each comparable has a basement with one being partially finished, each comparable has central air conditioning, three comparables have one fireplace and each has a garage ranging in size from 420 to 641 square feet of building area. The comparables have sites ranging in size from 6,930 to 10,019 square feet of land area. The comparables are located from .58 to .87 miles from the subject property. The comparables sold from April 2009 to August 2011 for prices ranging from \$217,500 to \$248,000 or from \$109.22 to \$133.84 per square foot of living area, including land.

Board of review member, Kevin Schulenburg, argued that the appraiser failed to select the same model "Sunflower" homes that were supplied as board of review comparables #1 and #2.

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

Under rebuttal, counsel argued that the board of review's comparables #3 and #4 were sold in 2009 and would not reflect the declining market.

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.

As an initial matter, the Property Tax Appeal Board hereby sustains the objection of the board of review. 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. 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 \$159,000 as of January 2011 has been significantly diminished.

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 parties submitted a total of seven sales for the Board's consideration. The Board gave less weight to appellant's comparable #3 due to its lack of exposure to the real estate market as reflected by the real estate transfer declaration submitted as rebuttal evidence by the board of review. The real estate transfer declaration revealed that this sale was not advertized on the market, which calls into question the arms-length nature of the transaction. The Board gave less weight to the board of review's comparables #3 and #4 due to their sale dates occurring greater than 20 months prior to the subject's January 1, 2011 assessment date. The Board finds the remaining four sales were relatively similar to the subject in location, style, construction 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 sold for prices ranging from \$165,000 to \$225,000 or from \$90.29 to \$124.17 per square foot of living area, including land. The subject's assessment reflects a market value of \$210,632 or \$118.87 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.

Ronald 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: October 18, 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.