



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

APPELLANT: Brian Hays
DOCKET NO.: 11-01587.001-R-1
PARCEL NO.: 03-14-454-010

The parties of record before the Property Tax Appeal Board are Brian Hays, the appellant; 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: \$32,044
IMPR.: \$108,690
TOTAL: \$140,734

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a part one-story and part split level dwelling of frame and masonry construction containing 7,673 square feet of living area.¹ The home was built in 1969. Features include a partial finished basement with a walk-out, central air conditioning, three fireplaces, a three-car garage and an inground swimming pool. The dwelling is situated on approximately 49,223 square feet of land area located in Dundee Township, Kane County, Illinois.

The appellant appeared 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 Robert Jewell, a state licensed appraiser. The appraiser was not present at the hearing. The intended use of the appraisal report was for a 2011 tax appeal. The appraisal report conveys an estimated market value for the

¹ The appellant reports the subject contains 5,649 square feet of living area and submitted an appraisal sketch as support. The board of review reports the subject contains 7,673 square feet of living area and submitted the subject's property record card as support.

subject property of \$360,000 as of January 1, 2011, using the sales comparison approach to value.

Under the sales comparison approach to value, the appraiser utilized three comparable sales located from .24 of a mile to 2.46 miles from the subject property. The comparables have lot sizes ranging from 21,780 to 175,111 square feet of land area. The comparables consist of one-story, two-story or part one-story and part two-story dwellings of masonry or frame and masonry construction that contain from 2,618 to 4,348 square feet of living area. The dwellings were built from 1940 to 1977. Two comparables have full finished basements, one of which has a walkout and one comparable has a partial finished basement with a walkout. Other features include central air conditioning, one or two fireplaces and a two-car or a three-car garage. The comparables sold from January to December 2010 for prices ranging from \$300,000 to \$357,000 or from \$71.30 to \$136.36 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject for site, room count, gross living area, basement & finished, rooms below grade, garage/carport, porch/patio/deck and fireplaces. The adjusted sale prices ranged from \$315,800 to \$419,100. Based on the adjusted sale prices, the appraiser concluded the subject had an estimated market value under the sales comparison approach of \$360,000.

The appellant testified that the subject is "overbuilt" for the area in which it is located.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$120,000 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. 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 \$140,734 was disclosed. The subject's assessment reflects an estimated market value of \$423,515 or \$55.20 per square foot of living area including land, using 7,673 square feet of living area and 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, four additional sales provided by the assessor and an equity grid analysis.

In rebuttal the assessor asserted appellant's appraisal sale #2 was an estate sale and #3 was a foreclosure. Board of review

member Kevin Schulenburg also argued that the appellant's appraiser failed to acknowledge the subject's walk-out basement feature and made an improper -\$10,000 adjustment to comparable #1 for this feature. In addition, the appraiser failed to adjust comparables #2 and #3 for an inground swimming pool.

The assessor provided information on four comparable sales improved with part one-story and part two-story dwellings of frame or masonry construction that range in size from 4,051 to 4,905 square feet of living area. The dwellings were constructed from 2003 to 2008. Each comparable has a basement with two being finished, each comparable has central air conditioning. The comparables have either one, two or four fireplaces and each has a garage ranging in size from 660 to 1,016 square feet of building area. Comparable #4 has an inground swimming pool. The comparables have sites ranging in size from 16,584 to 196,891 square feet of land area. The comparables are located from 3 to 5.5 miles from the subject property. The comparables sold from March 2009 to January 2012 for prices ranging from \$550,000 to \$1,005,000 or from \$134.41 to \$248.09 per square foot of living area, including land.

The assessor also provided information on four equity comparables. Due to the fact the appellant's argument is based on overvaluation the Board will not otherwise discuss the equity comparables.

Dundee Township Deputy Assessor Bonnie Wilcox testified that there were no homes of similar size that sold in the subject's neighborhood proximate to the subject's January 1, 2011 assessment date. Wilcox also testified that the Dundee Township Assessor's Office includes the lower level of a split-level home as living area for assessment purposes.

Based on this evidence, 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 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. 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 value conclusion of \$360,000 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.

As to the dwelling size issue brought by the parties, the Board finds the appellant submitted an appraisal which included a sketch of the subject. The appraiser calculated a total of 5,649 square feet of living area for the subject, but failed to include any living area from the lower split-level. The board of review submitted the subject's property record card, which included a sketch of the subject as support. The sketch from the subject's property record card included living area from the lower split-level. Based on the sketch contained in the subject's property record card and testimony from the township assessor, the Property Tax Appeal Board finds the best evidence in the record is that the subject has 7,673 square feet of living area.

The parties submitted a total of seven sales for the Board's consideration. The Board gave less weight to the board of review's comparables. Comparables #1, #2 and #3 have sale dates occurring greater than 19 months prior to the subject's January 1, 2011 assessment date. Comparable #4 was built in 2003, which is significantly newer when compared to the subject. The Board finds the appellant's appraiser's 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 \$300,000 to \$357,000 or from \$71.30 to \$136.36 per square foot of living area, including land. The subject's assessment reflects a market value of \$423,515 or \$55.20 per square foot of living area, including land, which is below the range established by the best comparable sales in this record on a per square foot basis. 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.

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: 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.