



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

APPELLANT: Daniel Tischler
DOCKET NO.: 11-01598.001-R-1
PARCEL NO.: 09-23-306-004

The parties of record before the Property Tax Appeal Board are Daniel Tischler, the appellant, by attorney Edwin M. Wittenstein of Worsek & Vihon, in Chicago, and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$45,820
IMPR.: \$29,130
TOTAL: \$74,950**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story frame and brick dwelling¹ on a concrete slab foundation. The home contains 1,404 square feet of living area and was constructed in 1959 with an addition that was built in 1965. Features of the home include a garage of 440 square feet of building area. The property has a 14,476 square foot site and is located in Darien, Downers Grove Township, DuPage County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted two documents in support of the appeal basis "recent sale," but the appellant failed to complete Section IV as required in the Residential Appeal petition.

The appellant submitted page one of a Final Statement disclosing a settlement date of February 6, 2009 and a contract sales price of \$150,500. The appellant also submitted a copy of the Multiple Listing Service sheet disclosing the subject property was

¹ The assessor's memorandum described the subject as a frame dwelling. The assessor's grid analysis described the subject as a brick dwelling. The handwritten property record card attached to the board of review's evidence depicts exterior construction as ½ frame and ½ brick; the computer generated property characteristics sheet describes the dwelling as brick.

originally listed for sale for \$164,900 in September 2008 and was sold after 126 days on the market for \$150,500. The property remarks include:

Sold in "as is" condition by corporate seller. . . .
Needs some repairs and updates externally. . . .

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$50,166 which would reflect a market value of approximately \$150,500.

The board of review submitted its "Board of Review Notes on Appeals" wherein the subject's total assessment of \$82,010 was disclosed. The subject's assessment reflects a market value of \$247,390 or \$176.20 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

In support of the assessment the board of review submitted a memorandum and spreadsheet with five comparable sales gathered by the Downers Grove Township Assessor. In the memorandum, the assessor first reports that the subject's purchase in January 2009 was a Bank REO.

Second, the assessor reported that a certified letter was mailed on January 24, 2013 to appellant's legal counsel requesting an interior/exterior inspection. The letter was signed for on January 29, 2013. As of February 13, 2013, the assessor's office has not been contacted by counsel to schedule the inspection "in order to verify the condition and physically view the property in question for remodeling or updates." Therefore, the memorandum states:

We would like to invoke Section 1910.94 Inspection of Subject Property - Effect of Denial by Taxpayer or Property Owner, as we have not received correspondence regarding our request.

The assessor has no statement detailing efforts at consultation and/or failed reasonable attempts to resolve differences over issues involving inspection. (86 Ill.Admin.Code §1910.94(b)).

In support of the subject's estimated market value based on its assessment, the assessor provided a spreadsheet of five comparable sales located in the same neighborhood code assigned by the assessor as the subject property. The comparables are improved with one-story frame or brick dwellings that range in size from 1,040 to 1,212 square feet of living area. The dwellings were constructed from 1957 to 1962. Three of the comparables include a full unfinished basement, and each home has a garage ranging in size from 440 to 780 square feet of building area. The comparables have sites ranging in size from 12,250 to 18,990 square feet of land area. The comparables sold from

December 2009 to November 2010 for prices ranging from \$170,000 to \$261,000 or from \$157 to \$215 per square foot of living area, including land, rounded.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value of \$247,390 or \$176.20 per square foot of living area, including land, as reflected by its assessment.

As written rebuttal, counsel for the appellant contended that since the appeal was based upon a recent sale and work on the property after purchase "was primarily cosmetic in nature for the purpose of attracting a tenant" the question of condition is not relevant in the absence of "significant renovation or an addition to the improvements." However, at the time the rebuttal was filed, contact information was also being provided to the assessor to allow the requested inspection of the property to occur.

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 a reduction in the subject's assessment is warranted.

With regard to the assessor's inspection request, Section 1910.94 of the rules of the Property Tax Appeal Board state:

a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes. [Emphasis added.]

b) Any motion made to invoke this Section shall incorporate a statement detailing the consultation and failed reasonable attempts to resolve differences over issues involving inspection with the taxpayer or property owner.

As set forth above, the assessor made the inspection request, not the board of review. Thus, the request does not comply with Section 1910.94 for purposes of enforcement before the Property Tax Appeal Board. Furthermore, as set forth in subsection (b) a motion must be made to invoke this section and the board of review made no such motion. Thus, the Property Tax Appeal Board gives no weight to the arguments made by the assessor regarding the failure to respond to an inspection request.

Moreover, the cited rule prohibits a taxpayer from presenting for consideration evidence "to refute, discredit or disprove evidence . . . regarding the description, physical characteristics or condition of the subject property." In this proceeding, the appellant did not complete Section III of the Residential Appeal petition regarding the description of the subject property and the only "descriptive" data presented by the appellant was from the Multiple Listing Service sheet remarks regarding the property as of the time it was sold in January 2009. It is not clear on this record what the assessor would be seeking to have disregarded in terms of descriptive data of the subject dwelling.

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. 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). 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)).

While the Board finds the evidence in the record supports a reduction in the subject's assessment, the reduction is not due to the January 2009 sale of the subject property. The appellant failed to provide sufficient details regarding the terms of the sale as required in Section IV of the appeal petition. More importantly, the sale in February 2009 is nearly two years prior to the assessment date at issue of January 1, 2011 and, in light of other record evidence, is found not to be indicative of the subject's estimated market value as of the assessment date.

The Board finds the best evidence of the subject's estimated fair market value in the record consists of comparable sales #3 and #4 presented by the board of review. These sales occurred in November 2010 and December 2009 with sale prices of \$190,000 and \$179,900 or \$157 and \$165 per square foot of living area, including land, rounded. These comparables were most similar to the subject dwelling in that they lacked basements like the subject. The properties were built in 1957 and 1959 whereas the subject was built in 1959 and these homes contain 1,212 and 1,092 square feet of living area, respectively, as compared to the subject which contains 1,404 square feet of living area.

The subject's assessment reflects a market value of \$247,390 or \$176.20 per square foot of living area, including land, which is higher in terms of both overall value and on a per-square-foot basis than the two most similar sales in this record. Therefore, based on this record, the Board finds the subject property is overvalued and a reduction is warranted.

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.