



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

APPELLANT: Trust # 95-1-6867 Midwest Bank & Trust Company
DOCKET NO.: 11-01646.001-R-1
PARCEL NO.: 09-05-127-014

The parties of record before the Property Tax Appeal Board are Trust # 95-1-6867 Midwest Bank & Trust Company, the appellant, by attorney David R. Bass of Field and Goldberg, LLC in Chicago; 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: \$28,497
IMPR: \$125,025
TOTAL: \$153,522

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story dwelling of frame and brick exterior construction containing 3,596 square feet of living area. The dwelling was built in 2001. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a 1,230 square foot garage. The dwelling is situated on approximately 16,000 square feet of land area located in South Elgin, 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.¹

¹ At the hearing, counsel for the appellant withdrew the contention of law and assessment equity complaints that were originally listed on the appeal.

In support of this argument, the appellant submitted an appraisal of the subject property prepared by Steve Slojkowski and Rick S. Hiton, both Certified Residential Real Estate Appraisers. The appraisers were not present at the hearing. The intended use of the appraisal report was to determine the market value of the subject property as of January 1, 2011 for Real Estate Tax Assessment purposes. The appraisal report conveys an estimated market value for the subject property of \$365,000 as of January 1, 2011.

Under the sales comparison approach to value, the appraisers utilized five comparable sales located from .08 to .82 of a mile from the subject. The comparables lot sizes ranged from 10,018 to 23,086 square feet of land area. The comparables were described as contemporary style brick and vinyl sided dwellings that contain from 3,256 to 3,666 square feet of living area. The dwellings were built from 1998 to 2002. The dwellings feature full basements, two of which have finished area, central air conditioning, a fireplace and a three-car garage. The comparables sold from February to December of 2010 for prices ranging from \$345,500 to \$410,000 or from \$106.11 to \$117.24 per square foot of living area including land.

The appraisers adjusted the comparables for differences when compared to the subject and concluded the subject had an estimated market value under the sales comparison approach of \$365,000 or \$101.50 per square foot of living area including land.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$121,655 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 board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$153,522 was disclosed. The subject's assessment reflects an estimated market value of \$461,998 or \$128.48 per square foot of living area including land using Kane County's 2011 three-year average median level of assessments of 33.23%.

In response to the appellant's appraisal evidence, the assessor argued that comparable #1 is located in Elgin, not South Elgin like the subject. This argument was not rebutted by the

appellant's counsel. In addition, the assessor argued comparables #1 and #3 have inferior locations with heavy vehicular traffic.

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 six comparable sales located in the Thornwood subdivision in South Elgin, like the subject. The comparables lot sizes ranged from 11,138 to 12,947 square feet of land area. The dwellings consist of a two-story frame and brick dwellings containing from 3,246 to 3,877 square feet of living area. The dwellings were built from 1999 to 2005. The comparables feature full unfinished basements, one of which has a walkout, central air conditioning, one or two fireplaces and garages ranging in size from 613 to 830 square feet of building area. The comparables sold from June 2009 to October 2011 for prices ranging from \$460,000 to \$530,000 or from \$129.17 to \$141.71 per square foot of living area including land.

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

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 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 \$365,000 as of January 1, 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 the subject's assessment.

The parties submitted a total of eleven sales for the Board's consideration. The Board gave less weight to the appraiser's comparable #1 due to its location in Elgin, unlike the subject. The Board gave less weight to the board of review's comparables #2 and #4 due to their sale dates occurring greater than 15 months prior to the subject's January 1, 2011 assessment date. The Board finds the remaining nine sales were most 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 from February 2010 to October 2011 for prices ranging from \$385,000 to \$530,000 or from \$109.11 to \$136.70 per square foot of living area, including land. The subject's assessment reflects a market value of \$461,998 or \$128.48 per square foot of living area, including land, which is within the range of the best comparables both in terms of overall value and on a square foot basis. After considering adjustments to the comparables for differences when compared to the subject, such as the subject's larger lot and garage, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and no 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

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: April 18, 2014

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.