



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

APPELLANT: James Oles
DOCKET NO.: 11-01786.001-R-1
PARCEL NO.: 09-12-131-004

The parties of record before the Property Tax Appeal Board are James Oles, the appellant, by attorney Joseph Spillane of the Law Offices of Michael R. Davies, Ltd., in Oak Lawn; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$247,760
IMPR: \$389,440
TOTAL: \$637,200

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a part two-story and part one-story dwelling of stucco construction with 5,504 square feet of

living area¹. The dwelling was constructed in 1900². Features of the home include a full basement with 75% finished area, central air conditioning, five fireplaces with one non-functioning and a 576 square foot detached garage. The property has approximately 26,507 square foot site and is located in Hinsdale, Downers Grove Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel, contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal of the subject property. The appraisal report conveyed an estimated market value of \$1,750,000 as of January 1, 2011, using the sales comparison approach to value.

Under the sales comparison approach the appraiser utilized three comparable sales located in Hinsdale, approximately .40 to .51 of a mile from the subject property. The comparables have lots that range in size from 19,200 to 30,438 square feet of land area. The comparables were described as being improved with two-story single family dwellings that ranged in size from 5,005 to 5,175 square feet of living area. The dwellings were of frame, brick and dryvit or stone exterior construction that ranged from 71 to 114 years old. Each comparable had full basements with finished area, central air conditioning, two to five fireplaces and a two-car garage. The comparables sold from March 2010 to August 2010 for prices ranging from \$1,300,000 to \$1,842,500 or from \$259.02 to \$363.64 per square foot of living area, land included. After making adjustments to the comparables for differences when compared to the subject property, the appraiser concluded the comparables had adjusted prices ranging from \$1,382,000 to \$1,789,870. Based on these adjusted sales, the appraiser estimated the subject had an estimated value of \$1,750,000 under the sales comparison approach to value.

The appraiser was not present at the hearing. The board of review objected to the appraisal report because the appraiser was not present at the hearing to be cross-examined regarding

¹ The Board finds the best evidence of the subject's dwelling size was submitted by the board of review, which included the subject's property record card. The board of review originally reported the living area as 5,305 square feet, but the subject property was re-measured on 12/20/11 and a schematic drawing was included with the property record card depicting 5,504 square feet of living area. The appellant's appraisal shows 5,110 square feet of living area but did not include a schematic drawing to support the contention of size.

² The subject property had an addition added in 1995 and alteration permits issued in 1996 and 1997.

the adjustment process and final value conclusion. The Board's Administrative Law Judge reserved ruling on the objection.

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$637,200. The subject's assessment reflects a market value of \$1,922,172 or \$349.23 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15%. 86 Ill.Admin.Code §1910.50(C)(1).

In support of its contention of the correct assessment, the board of review submitted a narrative report detailing both parties' comparables which was prepared by Joni Gaddis, Chief Deputy Assessor for Downers Grove Township. Also submitted was a detailed grid analysis of the appellants' comparables and provided five additional comparables along with copies of the property record cards and a map showing all the comparables used by the parties. Gaddis was present at the hearing to provide testimony in connection with evidence prepared.

The comparables have varying degrees of similarity when compared to the subject. Comparable #4 was a vacant land sale and #5 was tear-down land sale. The three improved properties sold from April 2009 to October 2011 for prices ranging from \$1,550,000 to \$1,737,500 or from \$339.88 to \$473.21 per square foot of living area, including land.

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

Conclusion of Law

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. 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 appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The board of review raised an objection during the course of the hearing because the appellant's appraiser was not present at the hearing to be cross-examined regarding the adjustment process and final value conclusions. The Property Tax Appeal Board hereby sustains the board of review's objection.

The Board finds that it can give no weight to the appraisal report submitted by the appellant due to the fact the appraiser was not present at the hearing to provide testimony or be cross-examined regarding the appraisal methodology and final value conclusions. 5 ILCS 100/10-40(a) & (b). In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Similarly, in Grand Liquor Company, Inc. v. Dept. of Revenue, 67 Ill.2d 195, 367 N.E.2d 1238, 10 Ill.Dec.472 (1977), the Supreme Court of Illinois, following Novicki, again asserted that the rule against hearsay evidence is founded on the necessity of an opportunity for cross-examination, and is a basic and not a technical rule of evidence. In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. The Board finds the board of review did not object to the appellants' appraisal on the grounds of hearsay or admissibility, but merely that the appraiser was not present for cross-examination regarding the adjustment process and final value conclusion.³

The Board finds the record contains five improved comparable sales submitted by the parties in support of their respective positions. The Board gave no weight to the appellant's comparable #2 and board of review comparables #4 and #5. These were a vacant land sale or tear-down sale that represents vacant land value. The Board gave less weight to the board of review comparable #1 and #2 based on the sale date being from 15 to 20 months prior to the subject's January 1, 2011 assessment date. The Board finds the best evidence of market value to be the

³ The Board will consider the comparable sales contained within the appellant's appraisal report due to the fact the board of review submitted a grid analysis with the raw sales data.

appellant's comparables #1 and #3 and board of review comparable #3. The Board finds these three comparables are more similar to the subject in location, effective age, design and features, although these comparables are inferior in dwelling size to the subject property. Due to these similarities the Board gave the three comparable sales more weight. These most similar properties sold from April 2010 to October 2010 for prices ranging from \$1,300,000 to \$2,040,000 or from \$259.02 to \$413.04 per square foot of living area including land. The subject's assessment reflects a market value of \$1,922,172 or \$349.23 per square foot of living area including land which is within the range established by the best comparable sales in the record. Based on this record the Board finds the subject's assessment is supported and a reduction is not 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy 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: August 22, 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.