



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

APPELLANT: Gilad Niv
DOCKET NO.: 11-01883.001-R-1
PARCEL NO.: 07-19-304-022

The parties of record before the Property Tax Appeal Board are Gilad Niv, the appellant, 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: \$29,070
IMPR.: \$70,050
TOTAL: \$99,120**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story single-family dwelling of frame construction containing 2,288 square feet of living area. The dwelling was constructed in 1994. Features of the home include a full finished basement, central air conditioning, a fireplace and an attached two-car garage. The property has an approximately 14,133 square foot site and is located in Aurora, Naperville Township, DuPage County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted information on three comparable sales located in the same Oakhurst neighborhood as the subject property. The comparables are described as two-story single-family dwellings of frame exterior construction that range in size from 2,103 to 2,288 square feet of living area. The dwellings were 17 to 23 years old. Features of the comparables include a basement, two of which are fully finished. Each home has central air conditioning, a fireplace and a two-car garage. These comparables sold from March to August 2010 for prices ranging from \$237,000 to \$299,000 or from \$112.70 to \$130.68 per square foot of living area, including land. Based

on this evidence, the appellant requested a reduction in the subject's total assessment to \$93,324 which would reflect a market value of approximately \$280,000 or \$122.38 per square foot of living area at the statutory assessment level of 33.33%.

The board of review submitted its "Board of Review Notes on Appeals" wherein the subject's total assessment of \$105,660 was disclosed. The subject's assessment reflects a market value of \$318,733 or \$139.31 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.

The board of review submitted its "Addendum to Board of Review Notes on Appeal" with Exhibit #1 consisting of a memorandum commenting on the appellant's comparables and the board of review's suggested comparables along with additional documentation. As part of the submission, the board of review contends that the subject property sold in 2009 for \$315,000 based upon the copy of the PTAX-203 Illinois Real Estate Transfer Declaration; in the appeal, the appellant had reported the subject's sale price as \$307,800.

As to the appellant's comparable #1 and #2, the board of review contends these are "outside the subject's neighborhood code." Additionally, comparable #1 was reportedly a foreclosure sale based upon a copy of the Multiple Listing Service data sheet, a copy of which was presented and depicts the property was advertised on the open market for a period of 13 days, it had an original asking price of \$245,000 and sold for \$237,000. The board of review also noted that appellant's comparable #1 was smaller than the subject, both comparables #1 and #2 have smaller basement areas and comparables #1 and #3 "lack a premium cul-de-sac location like the subject and comparable #2.

In support of the subject's estimated market value as reflected by its assessment, the board of review presented a grid analysis of the three comparables sales located in the same neighborhood code assigned by the assessor as the subject property. Board of review comparable #1 is the same property as appellant's comparable #3. These three comparables are improved with two-story dwellings of frame or frame and masonry construction that range in size from 2,024 to 2,288 square feet of living area. The dwellings were constructed from 1992 to 1995. Features of the comparables include a full basement, one of which includes finished area. Each home has central air conditioning, a fireplace and a two-car garage. None of the comparables is

located on a cul-de-sac like the subject. These three comparables sold from March to July 2010 for prices ranging from \$280,000 to \$305,000 or from \$130.68 to \$150.69 per square foot of living area, including land.

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 a reduction in the subject's assessment is warranted.

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 appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The parties submitted a total of five comparable sales to support their respective positions before the Property Tax Appeal Board. In part, the board of review sought to discredit the consideration of the appellant's comparable #1 due to the sale be the consequence of a foreclosure action. In this regard, the Property Tax Appeal Board takes notice that Public Act 96-1083 amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

Section 16-183 provides:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

The Board finds the effective date of these statutes is applicable to assessment date at issue, January 1, 2011. Thus, the mere fact that appellant's comparable #1 sold as a consequence of a foreclosure action is not alone a basis to disregard the sale.

As to the location of the comparables presented by both parties, while the board of review noted that two of the appellant's comparables were not "in the same assigned neighborhood code," the Board finds there is no map to indicate that these properties are not in close proximity to the subject. The appellant reported the subject and these two disputed comparables are in the Oakhurst neighborhood and the board of review did not refute that contention.

The Board has given reduced weight to board of review comparable #3 as this dwelling is the smallest comparable when compared to the subject and has the highest per-square-foot sales price. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases.

The Board finds the appellant's three comparables along with board of review comparables #1 and #2, where #1 is the same property as appellant's comparable #3, are most similar to the subject in location, size, style, exterior construction, features and/or age. These properties also sold proximate in time to the 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 \$237,000 to \$299,000 or from \$112.70 to \$136.45 per square foot of living area, including land. The subject's assessment reflects a market value of \$318,733 or \$139.31 per square foot of living area, including land, which is above the range established by the best comparable sales in this record both in terms of overall value and on a per-square-foot basis. After considering these five most comparable sales on this record, the Board finds the appellant did demonstrate that the subject

property's assessment was excessive in relation to its market value and a reduction in the subject's assessment is warranted. The subject is most similar to the common property presented by both parties being identical in size, similar in age and identical in design, exterior construction and basement size. The common comparable sold in March 2010 for \$299,000 or \$130.68 per square foot of living area, including land, and supports a reduction in the subject's assessment.

Based on this record the Board finds the appellant did demonstrate by a preponderance of the evidence that the subject was overvalued and a 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.