



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

APPELLANT: Frank J. Scarpelli/ Pamela J. Poincelet Trust #1
DOCKET NO.: 11-02024.001-R-1
PARCEL NO.: 03-14-329-011

The parties of record before the Property Tax Appeal Board are Frank J. Scarpelli/ Pamela J. Poincelet Trust #1, the appellant, by attorney Nicholas E. Scarpelli in Carpentersville, and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$10,715
IMPR.: \$24,980
TOTAL: \$35,695

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a split-level condominium unit of frame construction containing 1,452 square feet of living area.¹ The home was built in 1993. Features of the home include central air conditioning, a fireplace and a one-car garage. The dwelling is located in Dundee Township, Kane County, Illinois.

The appellant appeared, with counsel, 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 C. Peter Soderquist, a state certified appraiser. The appraiser was not present at the hearing. The purpose of the appraisal report was to estimate the market value of the subject property as of February 23, 2011. The appraisal report conveys an estimated market value for the subject property of \$90,000 as of February 23, 2011, using the sales comparison approach to value.

¹ After the hearing, the parties jointly reported a dwelling size of 1,452 square feet of living area as a result of a re-measurement.

Under the sales comparison approach to value, the appraiser utilized nine comparable sales located on Brookdale Drive in Carpentersville, Illinois. The comparables consist of condominiums ranging in size from 1,203 to 1,425 square feet of living area. No other information regarding the features of the comparables was disclosed by the appraiser. The appraiser described the subject as containing 1,000 square feet of living area. The comparables sold from November 2009 to October 2011 for prices ranging from \$65,000 to \$140,000 or from \$45.61 to \$108.06 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject for date of sale and condition/utility. Based on the adjusted sale prices, the appraiser concluded the subject had an estimated market value under the sales comparison approach "of between \$80,000 and \$100,000, say \$90,000."

The appellant also included an income approach to value the subject using the subject's actual income and expenses. The subject had rental income of \$13,800, minus expenses totaling \$8,242.50, for a net income of \$5,557.50. Using a capitalization rate of 7.5%, the subject's concluded value under the income approach was \$74,100 on this analysis.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$29,997 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 \$41,281 was disclosed. The subject's assessment reflects an estimated market value of \$124,228 or \$85.56 per square foot of living area including land 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 four comparable sales located in East Dundee and Carpentersville, Illinois. The board of review's comparable #4 is the same property as the appraiser's comparable #4. The comparables are located from .1 to 2.6 miles from the subject property. The comparables are improved with condominiums of frame construction that range in size from 1,425 to 1,553 square feet of living area. The dwellings were constructed from 1996 to 2000. The comparables feature central air conditioning and a one-car garage. Three comparables have a fireplace. The comparables sold from April 2010 to April 2012 for prices ranging from \$140,000 to \$185,000 or from 94.98 to \$119.28 per square foot of living area, including land.

The board of review's chairman, Kevin Schulenburg, argued that the appellant's appraiser used four sales that were bank owned properties and should be given less weight by the Property Tax Appeal Board.

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

Under rebuttal, the appellant argued the board of review used three sales that are located in East Dundee, which is a more desirable market area when compared to Carpentersville.

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 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 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 \$90,000 as of February 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 a reduction in the subject's assessment.

As to the income approach to value submitted by the appellant using the subject's actual income and expenses, the Board finds the appellant's argument that the subject's assessment is

excessive when applying an income approach based on the subject's actual income and expenses is unconvincing and not supported by evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

it is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property, which accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Id.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses were reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument no weight.

The parties submitted a total of twelve sales for the Board's consideration. The Board gave less weight to the appellant's comparables #3 and #9 due to their sale dates occurring greater than 13 months prior to the subject's January 1, 2011 assessment date. The Board gave less weight to the board of review's comparables #1, #2 and #3 due to their locations in East Dundee and 2.4 or 2.6 miles from the subject, when compared to the subject's location in Carpentersville. In addition, comparable #1 enjoys a basement that the subject lacks and comparable #2's sale date occurred greater than 16 months after the subject's January 1, 2011 assessment date. The Board, furthermore, has given less weight to the two outlier sales of \$65,000 and \$140,000. The Board finds the remaining five sales were relatively 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 March 2010 to October 2011 for prices ranging from \$76,000 to \$97,900 or from \$56.21 to \$73.98 per square foot of living area, including land. The

subject's assessment reflects a market value of \$124,228 or \$85.56 per square foot of living area, including land, which is above the range of the best comparables. Therefore, 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

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.