



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

APPELLANT: Sumir Shah
DOCKET NO.: 11-02165.001-R-1
PARCEL NO.: 07-23-402-022

The parties of record before the Property Tax Appeal Board are Sumir Shah, 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: \$33,580
IMPR.: \$102,420
TOTAL: \$136,000**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story brick and frame dwelling containing 2,613¹ square feet of living area that was built in 1984. Features include a full basement with finished area, central air conditioning, a fireplace and a two-car attached garage. The subject dwelling is situated on a 10,247 square foot lot. The subject property is located in Naperville Township, DuPage County, Illinois.

¹ The appellant's appraisal report contains a schematic drawing of the subject dwelling depicting 2,613 square feet of living area. The appraisal report indicates the dwelling size was acquired using physical measurements from the appraiser. The board of review submitted the subject's property record card with a schematic drawing showing the dwelling contains 2,704 square feet of living area. However, the board of review did not explain how or whom calculated the subject's dwelling size. Based on this record, the Board finds the subject dwelling contains 2,613 square feet of living area.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted property information sheets and an analysis of four comparable sales located in close proximity to the subject. The comparables consist of two-story frame dwellings that were built in 1984 or 1986. Comparables 1 and 4 have basements that are partially finished and comparables 2 and 3 have unfinished basements. All the comparables have central air conditioning, one fireplace and two-car attached garages. The dwellings range in size from 2,446 to 2,836 square feet of living area and are situated on lots that contain from 10,200 to 14,592 square feet of land area. The comparables sold from October 2009 to November 2011 for prices ranging from \$350,000 to \$423,000 or from \$134.84 to \$161.90 per square foot of living area including land.

In further support of the overvaluation claim, the appellant submitted an appraisal of the subject property prepared by a state licensed appraiser. The property rights appraised was fee simple interest. The appraisal report estimated a market value of \$374,000 as of October 4, 2011, using the sales comparison and cost approaches to value.

Under the cost approach, the appraiser calculated a market value for the subject property of \$420,100. However, the appraiser did not consider the cost approach to be a reliable indicator of market value.

Under the sales comparison approach to value, the appraiser selected four suggested comparable sales and two comparable listings located from .12 to .63 of a mile from the subject property. The comparables consist of two-story brick or brick and frame dwellings that are from 20 to 30 years old. Four comparables have full or partial basements that are partially finished and two comparables have unfinished basements. Other features include central air conditioning and two or three-car garages. The dwellings range in size from 2,446 to 3,349 square feet of living area and are situated on lots that contain from 10,200 to 14,912 square feet of land area. Comparables 1, 2, 3 and 6 sold in May or July 2011 for prices ranging from \$315,000 to \$415,000 or from \$115.13 to \$161.90 per square foot of living area including land. Comparables 4 and 5 were listed for sale in the open market for offering prices of \$369,000 or \$377,900 or \$145.68 and \$149.15 per square foot of living area including land.

The appraiser adjusted the comparables for differences to the subject in sale or financing concessions, land area, finished basement area and garage area. The adjustments resulted in adjusted sale or listing prices ranging from \$338,400 to \$401,800 or from \$111.95 to \$152.73 per square foot of living area including land. Based on these adjusted sales and listings, the appraiser concluded the subject property had a fair market value of \$374,000 or \$143.13 per square foot of living area including land as of October 4, 2011.

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

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$146,620 was disclosed. The subject's assessment reflects an estimated market value of \$442,293 or \$169.27 per square foot of living area including land when applying DuPage County's 2011 three-year median level of assessments of 33.15%. In support of the subject's assessment, the board of review submitted a critique of the evidence submitted by the appellant and three suggested comparable sales.

Although the property rights appraised was fee simple interest in the appellant's appraisal, the board of review argued the intended use of the report was for a refinance transaction and not an opinion of value for "Ad Valorem Assessment" value. The board of review also argued the effective date of the appraisal report was October 4, 2011, which is ten months after the January 1, 2011 assessment date.

The board of review also submitted a critique of the appellant's evidence that was submitted by the township assessor. The township assessor argued comparable sales 1, 2 and 4 occurred in 2011, well beyond the subject's January, 1 2011 assessment date. The township assessor argued comparable sales 1 and 4 are smaller than the subject with smaller basements and comparables 2 and 3 have unfinished basements.

With respect to the appraisal submitted by the appellant, the township assessor argued comparables 4 and 5 have not sold and comparable 6 is not located in the subject's neighborhood code² as defined by the assessor. The township assessor argued all the sale occurred in 2011, which are well beyond the January 1, 2011 assessment date. The township assessor further argued the

² Appellant's appraiser's comparable 6 is located .63 of a mile from the subject.

seller for comparable 3 was a relocation company, which typically will accept a below market offers to liquidate a property, but submitted no evidence to corroborate this claim. The township assessor argued comparables 1 and 6 are larger and comparable 2 is smaller when compared to the subject dwelling. The township assessor argued comparables 1, 3 and 6 lack finished basement area and comparable 2 has a smaller finished basement. Comparable 1 has an in-ground swimming pool, which was not disclosed or adjusted for in the appraisal.

The comparable sales submitted on behalf of the board of review consist of two-story frame or brick and frame dwellings that were built in 1981 or 1986. The comparables have full or partial unfinished basements, central air conditioning, one fireplace and two-car attached garages. The township assessor did not disclose the comparables' land sizes, but described the lots as "cul-de-sac or inside" lots. The dwellings range in size from 2,464 to 2,809 square feet of living area. The comparables sold from May 2010 to February 2011 for prices ranging of \$395,000 to \$449,500 or from \$140.61 to \$175.11 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). 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 has met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted four comparable sales and an appraisal of the subject property. The comparables sold from October 2009 to November 2011 for prices ranging from \$350,000 to \$423,000 or from \$134.84 to \$161.90 per square foot of living area including

land. The appraisal report estimated a market value for the subject property of \$374,000 or \$143.13 per square foot of living area including land of October 4, 2011. The board of review submitted three suggested comparable sales that sold from May 2010 to February 2011 for prices ranging of \$395,000 to \$449,500 or from \$140.61 to \$175.11 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$442,293 or \$169.27 per square foot of living area including land. The Board finds that of all the comparable sales contained in this record, only comparable 1 submitted by the board or review, which sold for \$449,000 or \$175.11 per square foot of living area including land, is greater than the subject's estimated market value as reflected by its assessment \$442,293 or \$169.27 per square foot of living area including land. All of the remaining comparables sold for prices less than the subject's estimated market value as reflected by its assessment. As a result, the Board finds a preponderance of the market value evidence contained in this record shows the subject's assessed valuation is excessive.

In further analysis of the evidence, the Board finds this record contains market value information for 13 suggested comparables, including the six comparables indentified in the appellant's appraisal. The Board gave less weight to comparable 3 submitted by the appellant due to its 2009 sale date, which is dated and a less reliable indicator of the subject's market value as of the January 1, 2011 assessment date. The Board also gave less weight to comparable 6 contained in the appellant's appraisal report due to its larger dwelling size when compared to the subject. The remaining comparables, which had varying degrees of similarity when compared to the subject, sold or were offered for sale³ for prices ranging from \$315,000 to \$449,000 or from \$115.13 to \$179.11 per square foot of living area. Removing the lowest and the highest sale, results in a tighter value range from \$350,000 to \$423,000 or from \$138.33 to \$161.90 square foot of living area including land. The subject's assessment reflects an estimated market value of \$442,293 or \$169.27 per square foot of living area including land, which falls above the range established by the comparable sales. After considering any necessary adjustments to the comparables for differences when compared to the subject, the Board finds a preponderance of the most credible market value evidence contained in this record supports a reduction in the subject's assessment.

³ The Board finds the listing or offering price of the comparables set the upper limit of value for these properties.

In response to the appeal, the board of review and township assessor argued the valuation evidence submitted by the appellant occurred after the subject's January 1, 2011 assessment date and should be given little weight. The Board gave this response little merit and finds DuPage County Assessment Officials are misguided on this particular issue.

The Board finds the valuation date at issue in this appeal is January 1, 2011. Section 9-155 of the Property Tax Code provides in part:

On or before **June 1** in each general assessment year in all counties with less than 3,000,000 inhabitants, . . . the assessor, in person or by deputy, shall actually view and **determine as near as practicable the value of each property listed for taxation as of January 1 of that year**, or as provided by Section 9-180, and assess the property at 33 1/3% of its fair cash value, or in accordance with Sections 10-110 through 10-140. . . . (35 ILCS 200/9-155).

The Board finds the legislature clearly contemplated subsequent events in the assessment process by inserting the language "On or before **June 1** . . . the assessor, in person or by deputy, shall actually view and **determine as near as practicable the value of each property listed for taxation as of January 1 of that year**. . . and assess the property at 33 1/3% of its fair cash value, or in accordance with Sections 10-110 through 10-140."

The Property Tax Appeal Board finds assessment officials are statutorily bound to determine a given property's fair cash value as near as practicable **as of** the date of January 1 of a given assessment year. The Board finds January 1 is the statutorily defined date to determine the correct classification or assessment for any real property in Illinois. However, Illinois courts recognized that assessing officials are not barred, as a matter of law, from considering events which occurred after the lien date in assessing properties and subsequent events assessing officials may consider in any individual case will depend on the nature of the event and the weight to be given the event will depend upon its reliability in tending to show value as of January 1. Application of Rosewell, 120 Ill. App. 3d 369 (1st Dist. 1983). As a result, no weight was given to the board of review's claim with respect to the appellant's valuation evidence in relation to the subject's January 1, 2011 assessment date.

In fact, the Board finds it problematic that on one hand the boards of review alleged that market value comparable sales taking place after the statutory lien date of January 1, should not be considered as credible valuation evidence, but then in defense of its assessment submit a suggested comparable sale that sold in February 2011. The Board further takes notice the 2011 comparable sale submitted by the board review of on behalf of the township assessor, sold for \$395,000 or \$140.61 per square foot of living area including land, further demonstrating the subject's estimated market value as reflected by its assessment of \$442,293 or \$169.27 is excessive.

In conclusion, the Board finds the appellant has demonstrated that the subject property is overvalued by a preponderance of the evidence contained in this record. As a result, the Board finds the subject's assessment as established by the board of review is incorrect and 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.

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: February 21, 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.