



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

APPELLANT: Douglas Wise
DOCKET NO.: 11-02205.001-R-1
PARCEL NO.: 09-08-215-006

The parties of record before the Property Tax Appeal Board are Douglas Wise, the appellant, by attorney Patrick J. Smith, of The Law Office of Patrick J. Smith in Downers Grove; 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: \$59,120
IMPR: \$107,180
TOTAL: \$166,300

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 two-story dwelling of frame construction with 2,101 square feet of living area. The dwelling was constructed in 1965.¹ Features of the home include a full unfinished basement, central air conditioning and a 400

¹ The subject property has an effective age of 2004. A second story addition of 1,040 square feet was added in 2004.

square foot detached garage. The property has a 9,375 square foot site and is located in Downers Grove, Downers Grove Township, DuPage County.

The appellant appeared through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal of the subject property prepared by Jeff Wakeland, a State of Illinois Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$365,000 as of December 31, 2010.

Under the sales comparison approach the appraiser utilized four comparable sales located in Downers Grove, approximately .54-of a mile to .74-miles from the subject property. The comparables were described as being improved with two-story dwellings that ranged in size from 1,750 to 1,988 square feet of living area. The dwellings were of frame or brick and frame exterior construction that ranged in age from 61 to 90 years old. Three comparables have a full or partial basement with one comparable having some finished area. One comparable has a crawl space foundation. Each comparable has central air conditioning and a two-car detached garage. Two comparables have one or two fireplaces. The comparables sold from May 2010 to September 2010 for prices ranging from \$294,000 to \$433,000 or from \$159.09 to \$217.81 per square foot of living area, land included. After making adjustments for differences from the subject property, the appraiser concluded the comparables had adjusted prices ranging from \$344,825 to \$392,727. Using this data the appraiser estimated the subject had an estimated value under the sales comparison approach of \$365,000. The appraiser stated on page 1 of the appraisal "There was physical depreciation noticed on the subject's interior and exterior for age and wear. However, cosmetic maintenance, repairing, updating, and mechanical replacement in the years since construction indicated the effective age is greatly reduced from the actual age. Per the current owner of record, the second level of the dwelling was added in 2004. Additionally, the main level of the subject property was renovated and re-configured at the same time the second level was added".

During the hearing, the appellant's attorney distributed copies to the Administrative Law Judge and board of review of the Multiple Listing Service (MLS) sheets for the comparables used in the appellant's appraisal and comparables #1 through #3 submitted by the board of review. The board of review did not object to the documents.

The appellant's attorney called no witnesses.

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

At the hearing the board of review objected to the appraisal report and value conclusion contending the appraiser was not present at the hearing to be cross-examined. The Board reserved ruling on the objection.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$166,300. The subject's assessment reflects a market value of \$501,659 or \$238.77 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% as determined by the Illinois Department of Revenue.

Representing the board of review was member Charles Van Slyke. Van Slyke called Downers Grove Chief Deputy Assessor Joni Gaddis as a witness.

The board of review submitted a narrative report detailing both parties' comparables which was prepared by Gaddis. Gaddis testified that comparable #4 and #5 were teardown sales. Comparables #1 through #3 were described as being improved with two-story or part two-story and part one-story dwellings that ranged in size from 1,764 to 2,581 square feet of living area. The dwellings were of frame exterior construction and were built from 1919 to 2005.² Each comparable has a full or partial unfinished basement, central air conditioning and garages having 525 or 576 square feet of building area. Two comparables have a fireplace. Comparables #1 through #3 sold in June 2010 or September 2010 for prices ranging from \$502,500 to \$600,000 or from \$211.16 to \$284.86 per square foot of living area, land included.

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

Under cross-examination Gaddis testified that board of review comparables all have the same construction class as the subject property. Gaddis also testified that comparable #2 added a

² Board of review comparables #1 and #2 have effective ages of 2005 and 2007. Comparable #1 had an addition and garage added in 2005. Comparable #2 had an addition and garage added in 2007.

second story addition and garage in 2007 to the original structure and was renovated. Gaddis testified that this property was not new construction, even though the MLS sheet showed the year built as 2005. Gaddis stated that the MLS is not always correct and field inspectors from the assessor's office visited the property in 2007 and the original structure was still there. Gaddis also stated that comparable #3 was built in 2005.

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.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$365,000 as of December 31, 2010. The board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board hereby sustains the objection. The Board finds the appellant's appraiser was not present at the hearing to provided direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. 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." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Based on this case law, the Board gives

the conclusion of value contained in the appraisal no weight. The appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value. However, the Board will examine the raw sales data contained in this record, including the sales in the appellant's appraisal.

The Board finds the record contains nine comparable sales submitted by the parties in support of their respective positions. The Board gave no weight to board of review comparables #4 and #5 based on these comparables being comprised of teardown sales when the subject is an improved property. The Board gave less weight to appellant's comparable #3. This comparable is located in a different neighborhood code when compared to the subject. The Board gave less weight to appellant's comparable #4 based on a crawl space foundation, when compared to the subject's full basement. The Board gave less weight to the board of review comparable #3 based on its age and this property is newer than the subject dwelling. The Board finds the remaining four comparables are more similar to the subject in location, size, effective age and features. Due to these similarities the Board gave these four comparables more weight. These similar properties sold from June 2010 to September 2010 for prices ranging from \$350,000 to \$545,000 or from \$200.00 to \$284.86 per square foot of living area, including land. The subject's assessment reflects a market value of \$501,659 or \$238.77 per square foot of living area, including land, which falls within the range established by the most similar comparables in this record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction in the subject's assessment 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.

Chairman



Member



Member

Member



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 24, 2015



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.