



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

APPELLANT: George Baker
DOCKET NO.: 11-02278.001-R-1
PARCEL NO.: 01-25-425-027

The parties of record before the Property Tax Appeal Board are George Baker, 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: \$ 34,130
IMPR.: \$ 132,200
TOTAL: \$ 166,330

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 frame dwelling with 3,801 square feet of living area. The dwelling was constructed in 1999. Features include an unfinished basement, central air conditioning, a fireplace and a 672 square foot three-car

attached garage. The property has a 10,053 square foot site that has a pond view. The subject property is located in Wayne Township, DuPage County, Illinois.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted three appraisal reports and one comparable sale. The appraisals estimate the subject property had market values of \$425,000 as of December 31 2008; \$490,000 as of July 1, 2010; and \$430,000 as of October 4, 2011. The appraisers were not present at the hearing. The board of review objected to the appraisal reports because the appraisers were not present to be cross-examined. The board of review argued that since the appraisers were not present to provide testimony pertaining to the appraisal process, final conclusions or be cross-examined, the appraisal reports are hearsay and inadmissible. The Board's Administrative Law Judge reserved ruling on the objection.

The one comparable sale submitted by the appellant consists of a two-story frame dwelling with 3,801 square feet of living area. The comparable is an Ellsworth model dwelling like the subject. The dwelling was constructed in 1999. Features include a finished basement, central air conditioning, a fireplace, and a 630 square foot three-car attached garage. The property has a 10,006 square foot site. The comparable is located in close proximity along the subject's street. The comparable sold in December 2011 for \$390,000 or \$102.60 per square foot of living area including land.

During the hearing, the appellant argued the assessor and board of review reduced the subject's assessment to reflect an estimated market value of \$414,000 for the 2013 tax year. The appellant opined the \$414,000 value was still too high, even for the 2011 tax year. The appellant testified the township assessor would not stipulate to an assessed value of \$414,000 for the 2011 or 2012 tax years. The appellant argued the three appraisals average a market value of not much more than the subject's assessed value for the 2013 tax year. The appellant argued the subject's assessment reflects a market value in excess of \$500,000, which is "insane" and nowhere near the fair cash value of the subject property as provided under Illinois law.

At the hearing, the appellant submitted two new comparable sales and a document printed from the internet (site and source omitted) purportedly showing the general decline of real estate

values from the Chicago metropolitan area. The board of review objected to the submission of new evidence at hearing. In response, the appellant argued the documents are for reference purposes; they are not new evidence; and are of public record. The Board's Administrative Law Judge reserved ruling on the objection.

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

Under cross-examination, the appellant testified real estate is not appraised based on the size of a dwelling. The appellant argued purchase decisions are not based upon the square footage alone. The appellant acknowledged his appraisers made adjustments within the reports for the size differences between the subject and comparable properties, but argued size was only one factor.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$172,770. The subject's assessment reflects an estimated market value of \$521,177 or \$137.12 per square foot of living area including land when applying DuPage County's 2011 three-year median level of assessment 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 six suggested comparable sales. In addition, the board of review submitted an analysis of the 16 suggested comparable properties that were contained within the three appraisal reports submitted by the appellant. The evidence was prepared by Bruce Mitchell, Deputy Assessor for Wayne Township. Mitchell was present at the hearing and provided testimony in connection with evidence prepared.

Board of review comparables #1 through #3 are located in the subject's subdivision while comparables #4 through #6 are located in a nearby competing subdivision that is approximately .25 of a mile from the subject's subdivision. Comparable #6 has a pond view like the subject. The comparables consists of two-story frame or brick and frame dwellings that were built from 1989 to 2006. The dwellings range in size from 2,959 to 3,743 square feet of living area. Four comparables have partial finished basements and two comparables have unfinished basements. Comparable #3 has a walkout basement. Other features include central air conditioning, one fireplace and three-car attached garages that range in size from 620 to 696

square feet of building area. The dwellings are situated in lots that range in size from 10,001 to 15,207 square feet of land area. The comparables sold from March 2009 to October 2010 for prices ranging from \$445,000 to \$500,000 or from \$130.84 to \$157.59 per square foot of living area including land. Mitchell acknowledged comparables #1, #2 and #6 are smaller in dwelling size when compared to the subject. Mitchell testified comparable #3 is most similar and is the same model type as the subject. It sold in November 2009 for \$492,500 or \$131.58 per square foot of living area including land.

With respect to the comparables contained in the appraisals submitted by the appellant, the assessor testified many of the dwellings are smaller than the subject.

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

The board of review raised two objections during the course of the hearing: (1) The appraisers were not present at the hearing to be cross-examined regarding the appraisal process and final value conclusions, therefore the appraisals reports are hearsay and inadmissible evidence of value; and (2) during the hearing, the appellant submitted two new comparable sales and a document printed from the internet showing the general decline of the real estate values from the Chicago metropolitan area. The Property Tax Appeal Board hereby sustains both objections.

The Board finds that it can give no weight to the appraisal reports submitted by the appellant as they are inadmissible hearsay evidence due to the fact the appraisers were not present at the hearing to provide testimony or be cross-examined

regarding the appraisal methodology and final value conclusions¹. 5 ILCS 100/10-40(a) & (b). The general rule is that hearsay is inadmissible in an administrative hearing. Spaulding v. Howlett, 59 Ill.App.3d 249, 251, 375 N.E.2d 437, 16 Ill.Dec. 564 (1st Dist. 1978). Hearsay evidence is an out-of-court statement offered to prove the proof of the matter asserted and is inadmissible in administrative proceedings unless it falls within one of the recognized exceptions to the rule. 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. 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 Board further finds it will not consider the two new comparable sales and the unverified statistical general market information the appellant attempted to submit during the hearing. Section 1910.67(k)(1) of the rules of the Property Tax Appeal Board provide:

In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless:

¹ The Board will consider the comparable sales contained within the appraisal reports due to the fact the board of review submitted a grid analysis with the raw sales data. These comparables are identified as Taxpayer comparables 1 through 16 in the board of review's evidence.

1) Such evidence has been submitted to the Property Tax Appeal Board prior to the hearing pursuant to this Part;

The Board finds this record contains 13 suggested comparable properties for the Board consideration. The Board finds four of the comparables are common comparable sales.² The Board gave less weight to comparables #1, #2 and #6 submitted by the board of review, which also include taxpayer comparables #7 and #8. These comparables are dissimilar when compared to the subject due their smaller dwelling sizes. Similarly, the Board gave less weight to taxpayer comparables #3, #4 and #10 due their smaller dwelling sizes when compared to the subject. The Board gave less weight to taxpayer comparables #11 through #16. These comparables sold between 2005 and 2008, which are less indicative of market value as of the subject's January 1, 2011 assessment date. The Board also gave less weight to one comparable sale submitted by the appellant. This property sold in December 2011 for \$390,000 or \$102.61 per square foot of living area including land. The board finds the sale appears to be an outlier due to fact its sale price is below and not consistent with the other credible market value comparables contained in this record, as outlined below.

The Board finds the remaining six comparables are more similar when compared to the subject on location, design, size, age amenities. These properties sold or were listed for sale most proximate to the subject's January 1, 2011 assessment date. Four comparables sold for prices ranging from \$445,000 to \$500,000 or from \$130.84 to \$137.48 per square foot of living area including land. Two comparables were listed for sale for prices of \$448,750 and \$479,800 or \$131.11 and \$131.99 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$521,177 or \$137.12 per square foot of living area including land. The Board finds none of the comparables contained in the record sold in excess of \$500,000, whereas the subject's assessment reflects an estimated market value of \$521,177. The board further finds that five of the six most similar comparable sold or were offered for sale for considerably less than the subject's estimated market value as reflected by its assessment. These five comparables sold or were listed for in a tighter range from

² Taxpayer comparables #1, #7, #8 and #9, which were contained within the three appraisals submitted by the appellant, are the same properties indentified as board of review (BOR) comparables #1, #2, #3, and #5. (BOR #1 is Taxpayer #8; BOR #2 is Taxpayer #7; BOR #3 is Taxpayer #9; and BOR #5 is taxpayer #1)

\$430,000 to \$492,000 or from \$124.06 to \$131.99 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$521,177 or \$137.12 per square foot of living area including land, which is greater than these five comparables. Based on this analysis, the Board finds a preponderance of the most credible market value evidence contained in this record supports a reduction in the subject's assessed valuation.

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.



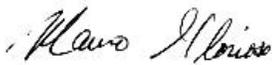
Chairman



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: May 21, 2014



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.