



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

APPELLANT: Thomas McCleary
DOCKET NO.: 11-02602.001-R-2
PARCEL NO.: 09-01-311-003

The parties of record before the Property Tax Appeal Board are Thomas McCleary, the appellant, by attorney George J. Relias of the Enterprise Law Group, LLP in Chicago; and the DuPage County Board of Review.¹

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: \$113,940
IMPR: \$409,880
TOTAL: \$523,820

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 part two-story, part one-story and part three-story single family dwelling with 4,407

¹ The Property Tax Appeal Board held a consolidated hearing for Docket Nos. 11-02602.001-R-2 and 12-03258.001-R-2.

square feet of living area. The dwelling is of frame construction and was built in 2008. Features of the home include a partial finished basement, central air conditioning, four fireplaces and a 693 square foot attached garage. The property has a 13,186 square foot site and is located in Hinsdale, Downers Grove Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by counsel contending both overvaluation and assessment inequity as the bases of the appeal. In support of this argument the appellant submitted information on four comparables. The comparables were improved with dwellings similar in style to the subject property that ranged in size from 3,510 to 4,503 square feet of living area. The comparables were constructed from 1998 to 2003 with comparable #4 having an addition in 2000. Each comparable had a basement with two being partially finished. The comparables had two or four fireplaces, each comparable had central air conditioning and the comparables had garages ranging in size from 410 to 499 square feet of building area. The comparables had sites ranging in size from 7,895 to 12,335 square feet of land area. The comparables sold from July 2009 to April 2011 for prices ranging from \$939,000 to \$1,340,000 or from \$221.31 to \$320.51 per square foot of living area, including land. The appellant requested the subject's assessment be reduced to \$420,957 to reflect a market value of \$1,262,997 or \$286.59 per square foot of living area, including land, which is the average per square foot price of the comparable sales.

These same comparables had improvement assessments ranging from \$290,830 to \$338,706 or from \$49.56 to \$87.25 per square foot of living area.²

During the hearing Mr. Relias asserted that he selected the comparable properties based on neighborhood code, construction type, square footage and proximity to the subject property. Relias stated that Hinsdale is divided by train tracks and the values of property can depend on the proximity to the train tracks and to the train station. Relias averred that he is a resident of the area, he is a real estate broker, and is very familiar with Hinsdale. Relias also stated he has a contingent fee structure which is based on the tax savings.

² Some of the descriptive data for the appellant's comparables and the improvement assessments for appellant's comparables #2 and #4 were taken from copies of the property record cards for these properties submitted by the board of review.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$523,820. The subject's assessment reflects a market value of \$1,580,151 or \$358.55 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 subject property has an improvement assessment of \$409,880 or \$93.01 per square foot of living area.

In support of its contention of the correct assessment the board of review submitted information from the Downers Grove Township Assessor's office which included a grid analysis of the appellant's comparables, a grid analysis of three additional comparables selected by the township assessor, the property record cards for all the comparables and a written narrative discussing the subject property and the comparables.

At the hearing the board of review called as its witness Joni Gaddis, Chief Deputy Assessor of Downers Grove Township. In rebuttal the witness testified that appellant's comparables #1 and #3 are substantially smaller than the subject property. She also testified that appellant's comparables #3 and #4 were constructed in 1999 and 1998, respectively, compared to the subject dwelling being built in 2008. Gaddis also pointed out differences in construction and amenities between the appellant's comparables and the subject property. She testified that after making adjustments to the appellant's four comparables to account for differences from the subject their improvement assessments would be \$92, \$82, \$95 and \$55 per square foot of building area, respectively.

In support of the assessment the board of review submitted three comparable sales that were similar to the subject in style and ranged in size from 4,015 to 4,709 square feet of living area. The dwellings were constructed from 2004 to 2007. The comparables had the same neighborhood code as the subject property. Each of the comparables had a full basement that had finished area, central air conditioning, two or four fireplaces and attached garages that ranged in size from 480 to 726 square feet. These properties had sites ranging in size from 11,385 to 16,900 square feet of land area. The comparables sold from July 2009 to September 2010 for prices ranging from \$1,725,000 to \$2,925,000 or from \$416.47 to \$621.15 per square foot of living area, including land. Gaddis testified sale #3 occurred in July 2009 and was of the opinion assessor sale #1 represented the market as of January 1, 2011.

These same comparables had improvement assessments that ranged from \$401,880 to \$470,420 or from \$96.98 to \$100.09 per square foot of living area. Gaddis testified that after making adjustments to the three comparables to account for differences from the subject their improvement assessments would be \$95, \$92, and \$89 per square foot of building area, respectively.

Under cross-examination Gaddis agreed that comparable #3 was superior to the subject and sold in July 2009, when they were starting to see a decline in the economy in Hinsdale. She also testified the adjustments made to the comparables were based on the market driven cost manual used in the township.

Conclusion of Law

The appellant contends in part 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.

The Board finds the best evidence of market value to be appellant's comparable sale #2 and board of review comparable sales #1 and #2. These comparables were most similar to the subject in living area, relatively similar to the subject dwelling in age and relatively similar to the subject in land area. These properties also sold most proximate in time to the assessment date at issue. The Board finds appellant's comparable sale #2 was slightly inferior to the subject in age, being constructed in 2003, and inferior to the subject in that it did not have a finished basement and had a smaller garage. Board of review comparable sales #1 and #2 were more similar to the subject in age and features. These three comparables sold for from July 2010 to September 2010 for prices ranging from \$1,340,000 to \$1,730,000 or from \$297.58 to \$420.22 per square foot of living area, including land. The subject's assessment reflects a market value of \$1,580,151 or \$358.55 per square foot of living area, including land, which is within the range established by the best comparable sales in this record. Based on this evidence the Board finds a reduction in the subject's assessment is not justified based on overvaluation.

The appellant also argued assessment inequity. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be the board of review comparables. These comparables were most similar to the subject in location, age, style, size and features. The board of review comparables had improvement assessments that ranged from \$96.98 to \$100.09 per square foot of living area. The subject's improvement assessment of \$93.01 per square foot of living area falls below the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified on this basis.

As an additional point, the Board further finds problematic the fact that appellant's counsel selected the comparables and appeared at the hearing to testify on behalf of his client. The attorney also indicated his fee is contingent on the tax savings, which would seem to impact the objectivity of the attorney as he would have an interest in the tax savings. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion testimony of value or testimony with respect to assessment uniformity for that client's property. Section 1910.70(f) of the rules of the Property Tax Appeal Board provides that:

An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. When an attorney is a witness for the client, except as to merely formal matters, the attorney should leave the hearing of the appeal to other counsel. Except when essential to the ends of justice, an attorney shall avoid testifying before the

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Board on behalf of a client. 86 Ill.Admin.Code
1910.70(f).

By appearing before the Property Tax Appeal Board as both an advocate and as a witness that selected the appellant's comparables, the appellant's counsel is in violation of this rule.

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. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: July 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.