



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

APPELLANT: Daniel Scott
DOCKET NO.: 11-02884.001-R-1
PARCEL NO.: 10-11-203-003

The parties of record before the Property Tax Appeal Board are Daniel Scott, the appellant, by attorney Dennis M. Nolan, of Dennis M. Nolan, P.C. in Bartlett; 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: \$99,850
IMPR: \$36,930
TOTAL: \$136,780**

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 one-story dwelling of brick construction with 1,794 square feet of living area. The dwelling was constructed in 1967. Features of the home include a partial basement, central air conditioning, a fireplace and a 420 square foot two-car garage. The property has a 2.96 acre

site and is located in Burr Ridge, Downers Grove Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by counsel contending land and building overvaluation as the basis of the appeal. In support of this argument the appellant submitted a Residential Appraisal Summary Report of the subject property prepared by Gregory Cummins, a State Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to provide testimony and be cross examined regarding the appraisal methodology and the final value conclusion. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$325,000 as of May 4, 2011.

Under the sales comparison approach the appraiser utilized three comparable sales and two sale listings located in Burr Ridge or Hinsdale, approximately .32 of a mile to 2.17 miles from the subject property. The comparables have lots that range in size from 20,826 to 98,010 square feet of land area. The comparables were described as being improved with a one-story, 1.5-story or two-story single family dwellings that ranged in size from 1,586 to 2,652 square feet of living area. The dwellings were of brick construction that ranged in age from 25 to 56 years old. Each comparable has central air conditioning and a two or three-car garage. Three comparables have a full basement with finished area. Two comparables have a crawl space foundation.¹ Comparable #1 through #3 sold in November 2010 or February 2011 for prices ranging from \$210,000 to \$250,000 or from \$79.19 to \$157.63 per square foot of living area, land included. Comparable #4 was listed for \$489,000 or \$219.78 per square foot of living area, land included. Comparable #5 was listed for \$450,000 or \$225.00 per square foot of living area, land included. After making adjustments to the comparables for differences when compared to the subject property, the appraiser concluded the comparables had adjusted prices ranging from \$278,757 to \$378,193. Based on these adjusted sales, the appraiser estimated the subject had an estimated value of \$325,000 under the sales comparison approach to value.

The appellant's attorney called no witnesses and acknowledged that the appraiser was not present at the hearing. The appellant's attorney asserted the argument was based on market value. The appellant's attorney also argued the land was overvalued based on sloping of the land to front, rear and side along with a creek that

¹ The appraisal did not indicate fireplaces. The grid analysis submitted by the board of review indicates four comparables have one or two fireplaces

runs through the property. The appellant's attorney requested the Property Tax Appeal Board reduce the subject property's assessment to \$108,323.

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

The board of review also objected to the comparables used in the appraisal based on location for comparable #1, different style for comparables #2 and #3 and no evidence of sale for comparables #4 and #5 . The Board reserved ruling.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$177,550. The subject's land assessment of \$99,850 reflects a market value of \$301,207 or \$101,759 per acre of land area. The subject's assessment reflects a market value of \$535,596 or \$298.55 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 board member Charles Van Slyke and the Downers Grove Chief Deputy Assessor Joni Gaddis. Van Slyke called Gaddis as a witness.

The board of review submitted a narrative report detailing both parties' comparables which was prepared by Gaddis. Also submitted was a detailed grid analysis of the appellants' comparables and six additional comparables identified by Gaddis along with copies of the property record cards and a map showing the comparables used by the parties.² Gaddis testified that comparable #1, #5 and #6 were vacant land sales that ranged in size from 1.15 to 3.13 acres of land area. These properties sold from June 2010 to October 2010 for prices ranging from \$433,000 to \$1,050,000 or from \$260,000 to \$376,522 per acre of land area. Comparable #2, #3 and #4 were described as being improved with a one-story, single family dwellings that ranged in size from 988 to 1,713 square feet of living area. The dwellings were of brick construction and were built from 1956 to 1964. Each comparable has a full basement, one or two fireplaces and garages that range in size from 600 to 1,284 square feet of building area. One comparable has central air conditioning. Comparable #2 through #4 sold from May 2010 to

² All comparables were included except appellant's sale #1 which is located in Cook County.

September 2010 for prices ranging from \$201,400 to \$735,000 or from \$156.00 to \$743.93 per square foot of living area, land included.

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

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$325,000 as of May 4, 2011. The board of review objected to the comparables used in the appraisal based on location, style and sales information. The Board overrules the objection finding the objection goes to the weight of the evidence. 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. The Board gives the conclusion of value contained in the appraisal little 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 Property Tax Appeal Board finds the appellant alleges land overvaluation based on its topography and a creek. The Board finds, however, page 3 of the appellant's appraisal states, "No known adverse site conditions were readily observed although typical utility easements were assumed". This statement undermines the appellant's argument. The Board also finds the record contains three vacant land sales submitted by the board of review. These properties sold for prices ranging from \$260,000 to \$376,522 per acre of land area. The subject's assessment reflects a market value of \$101,759 per acre of land area, which falls below the range established by the comparables in this record. After considering the land comparables, the Board finds the subject's land assessment as established by the board of review is correct and no reduction is warranted.

The Board also finds the record contains eight improved comparables submitted by the parties in support of their respective positions. The Board gave less weight to the appellant's comparables #2, #3 and #5 based on a different design and/or foundation when compared to the subject. The Board gave less weight to board of review comparables #2 and #3 based on their considerably smaller dwelling size when compared to the subject. The Board finds the remaining three comparables; two sales and one listing are more similar to the subject in design, size, age and features. Due to these similarities the Board gave these three comparables more weight. These most similar properties sold or were listed, which sets the upper limit of value, from August 2010 to February 2011 for prices ranging from \$250,000 to \$489,000 or from \$157.63 to \$233.51 per square foot of living area including land. The subject's assessment reflects a market value of \$535,596 or \$298.55 per square foot of living area including land, which falls above 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 assessment is excessive and a 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.



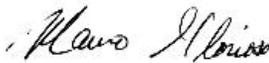
Chairman



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: February 20, 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.