



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

APPELLANT: Donald Swistowicz
DOCKET NO.: 11-03146.001-R-1
PARCEL NO.: 09-24-200-003

The parties of record before the Property Tax Appeal Board are Donald Swistowicz, the appellant, by attorney Ralph J. Schindler, Jr., of the Law Offices of Ralph J. Schindler, in Chicago, 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: \$164,150
IMPR: \$59,180
TOTAL: \$223,330**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a split-level dwelling¹ of frame construction containing approximately 2,348 square feet of living area.² The dwelling was constructed in 1965 with various updates/remodels as recently as 1997. Features of the home include a partial walkout-style basement that is partially finished, central air conditioning, three fireplaces and a two-car garage. Additional amenities include a screened porch and a tennis or basketball court. The property has a 53,325 square foot site and is located in Burr Ridge, Downers Grove Township, DuPage County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant through legal counsel submitted a bound volume consisting of 39 pages with an addition that was subsequently filed to correct errors in a cover letter and present additional data including an affidavit of the appellant.

¹ The assessing officials described the subject as a one-story dwelling.

² The assessing officials reported 2,300 square feet of living area, but the attached property record card described a dwelling size of 2,188 square feet. The Property Tax Appeal Board finds the appellant's appraiser provided the best evidence of dwelling size consisting of a concise schematic drawing.

The primary evidence of overvaluation consists of an appraisal estimating the subject property had a market value of \$670,000 as of January 1, 2011.³ The appraisal was prepared by Cynthia Gansel, a State of Illinois Certified Residential Real Estate Appraiser. In estimating the market value of the subject property, the appraiser developed the sales comparison approach to value and appraised the fee simple rights of the property.

The appraiser noted the report was based on an exterior only inspection and further stated in the description of the improvements that:

The subject's interior was inspected (interior and exterior) by this appraiser in October, 2010. At that time it was noted that the kitchen and two baths lacked in updating and modernization. This appraisal is based on the Extraordinary Assumption that the condition of the subject has not changed since the inspection in October 2010 (less normal wear and tear).

(See also Supplemental Addendum). The appraiser further described the subject as a home that has had some updating and "is considered to be in good condition."

The appraiser noted this same appraisal firm previously appraised the subject property in October 2010 for the same client. That report had an effective date of January 1, 2010 and estimated a market value of \$790,000. "At that time the market in Burr Ridge was indicating a stabilizing market. Data into 2011 indicates that property values in the Burr Ridge market are once again declining." The appraiser also prepared a Market Conditions analysis in the addendum to support the approximately 15% lower market value estimate in this report.

Using the sales comparison approach, the appraiser provided information on three comparable sales located from .05 to .63 of a mile from the subject property. The comparables are described as two-story dwellings of brick or frame and brick construction that range in size from 2,562 to 3,220 square feet of living area. The dwellings range in age from 21 to 46 years old. Features of the comparables include a full basement with finished area and one is also a walkout-style. Each home has central air conditioning, one or two fireplaces and a two-car or a three-car garage. The comparables have sites ranging in size from 9,895 to 54,566 square feet of land area. The comparables sold from April to May 2011 for prices ranging from \$648,500 to \$750,000 or from \$201.40 to \$281.03 per square foot of living area, including land. After making adjustments to the comparables for differences from the subject in lot size, quality of construction, condition, bath count, dwelling size, basement and finish below grade, and other amenities, the appraiser estimated

³ The appellant also marked Section 2d "comparable sales" as a basis of the appeal, but simply reiterated the three comparable sales contained within the appraisal report for this aspect of the appeal.

the comparables had adjusted prices ranging from \$656,500 to \$691,000 or from \$203.88 to \$261.51 per square foot of living area, including land. Giving greatest weight to comparable #1 which sold in February 2011 and is located next to the subject, the appraiser estimated the subject had an estimated value under the sales comparison approach of \$670,000 or \$285.35 per square foot of living area, including land.

The appellant supplemented the record with an affidavit he prepared relating to conversations the appellant had with a realtor, the seller and the new owner of comparable #1 from the appraisal report. Reportedly, there was no discussion that the sale of this property was a planned teardown and a copy of the sale circular with interior photographs was also submitted to illustrate the condition of the dwelling. The seller also confirmed that there were no discussions that the property would be torn down after purchase. One of the new buyers related in June 2011 that plans were to make an addition to the home and commence foundation work before the next winter freeze.

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

The board of review submitted its "Board of Review Notes on Appeals" wherein the subject's total assessment of \$321,100 was disclosed. The subject's assessment reflects a market value of \$968,627 or \$412.53 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. (86 Ill.Admin.Code §1910.50(c)(1)).

In support of the subject's assessment the board of review submitted a two-page memorandum outlining the evidence and arguments. As part of the evidence, it was reported that 2011 was the general assessment year and all property in the jurisdiction was revalued. However, the assessor presented a copy of the 2010 stipulation of assessment made before the Property Tax Appeal Board which reflected a market value of \$850,225, significantly more than the 2010 appraisal report presented here by the appellant.

The memorandum also states that the assessor "requested an interior/exterior inspection of the home via certified mail sent 3/5/2013 to verify data presented in the 2011 appraisal" and submitted a copy of the 2010 appraisal of the property as evidence. Furthermore, as the purported declining market conditions, the assessor contends the appellant's appraiser has relied upon the last quarter sales in 2010 in the Burr Ridge area. "[I]t is the opinion of the Assessor that the last quarter sales decline is partly due to it being the winter months when there are typically fewer real estate sales."

As a final argument, the assessor pointed out that comparable #1 in the 2011 appraisal report was on the market for only 19 days

when it sold "which is not typical in the current market and indicates this home was priced to sell quickly." In addition, while the appraiser made adjustments for superior quality, comparable #1 did not have an addition or updating/modernization like the subject had in 1997. The permit issued for the subject in June 1996 indicating a cost of \$92,000 for the addition to the subject property.

In support of the subject's estimated market value, the assessor provided two grid sheets with information on six comparable improved sales. Three of the comparables are located in the same neighborhood code assigned by the assessor to the subject property. The comparables are improved with one-story, part one-story and part 1.5-story or part two-story and part one-story dwellings of masonry, frame or frame and masonry construction that range in size from 1,616 to 3,972 square feet of living area. The dwellings were constructed from 1958 to 1996. Features of the comparables include a full or partial unfinished basement, one or two fireplaces and a garage. The comparables sold from June 2009 to August 2010 for prices ranging from \$627,500 to \$885,000 or from \$213 to \$388 per square foot of living area, including land, rounded.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value of \$968,627 or \$412.53 per square foot of living area, including land.

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.

With regard to the assessor's inspection request, Section 1910.94 of the rules of the Property Tax Appeal Board are relevant:

a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes. [Emphasis added.]

b) Any motion made to invoke this Section shall incorporate a statement detailing the consultation and failed reasonable attempts to resolve differences over issues involving inspection with the taxpayer or property owner.

As set forth above, the assessor made the inspection request, not the board of review. Thus, the request does not comply with Section 1910.94 for purposes of enforcement before the Property Tax Appeal Board. Furthermore, as set forth in subsection (b) a motion must be made to invoke this section and the board of review made no such motion. Thus, the Property Tax Appeal Board gives no weight to the arguments made by the assessor regarding the denial of an inspection request.

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); 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.

The Board finds the best evidence of market value to be the 2011 appraisal of the subject property submitted by the appellant. The appellant's appraiser developed the sales comparison approach to value and selected sales that were close in proximity to the subject and close in time to the assessment date of January 1, 2011. The sales utilized by the appraiser were also similar to the subject in size, style, exterior construction, features, age and/or land area. The appraised value of \$670,000 is below the market value reflected by the assessment of \$968,627.

Less weight was given the comparable sales presented by the board of review due to differences from the subject in size, style, age, exterior construction and the dates of these sales not being as proximate in time to the assessment date at issue as the sales within the appraisal report. Three of the sales presented by the board of review were about 1,000 square feet larger than the subject and three of the homes were of two-story design whereas the assessor describes the subject as a one-story home. Moreover, the value of the subject as reflected by its assessment is above the six improved sales presented by the board of review on a per-square-foot basis and in terms of overall value, despite the fact that the subject is at the older end of the range of ages of the comparables, even though it had an addition in 1997.

Based on this record, the Property Tax Appeal Board finds that a reduction in the subject's assessment commensurate with the appellant's request is justified.

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.



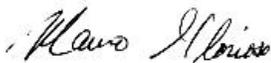
Chairman



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: November 22, 2013



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.