



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

APPELLANT: Gary Chiappetta
DOCKET NO.: 11-03428.001-R-1
PARCEL NO.: 09-01-301-010

The parties of record before the Property Tax Appeal Board are Gary Chiappetta, the appellant, by attorney Glenn S. Guttman, of Rieff Schramm Kanter & Guttman in Chicago; 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: \$118,040
IMPR.: \$343,730
TOTAL: \$461,770

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 and part one-story dwelling of brick and frame construction with 4,260 square feet of living area. The dwelling was constructed in 1996. Features of the home include a partial basement with 1,912 square feet of finished area, central air conditioning, a

fireplace and a 685 square foot three-car garage.¹ The property has a 13,158 square foot site and is located in Hinsdale, Downers Grove Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal.² In support of this argument the appellant submitted an appraisal of the subject property prepared by Mary Rice, a State of Illinois Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$1,100,000 as of October 11, 2011.

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 contending the appraiser was not present 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 \$461,770. The subject's assessment reflects a market value of \$1,392,971 or \$326.99 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 to testify regarding the evidence she prepared on behalf of the board of review.

The board of review submitted a narrative report detailing both parties' comparables. Gaddis testified that the five comparables are improved with part 2-story, part 3-story and part 1-story or part 2-story and part 1-story dwellings that are

¹ The subject's appraisal depicts a partially finished basement, which included photographs. The board of review's evidence depicts the subject property has an unfinished basement.

² A consolidated hearing was held under Docket Nos. 11-03428.001-R-1 and 12-03558.001-R-1. Individual decisions will be rendered for each parcel with the applicable evidence presented.

located in the same neighborhood assigned by the assessor as the subject. The dwellings were of frame or brick construction and were built from 1991 to 2005. The comparables have a full basement with three comparables having finished area. Each comparable has central air conditioning, two to five fireplaces and garages that range in size from 473 to 726 square feet of building area. The comparables have sites that range in size from 10,890 to 16,900 square feet of land area. The dwellings range in size from 3,434 to 4,634 square feet of living area. The comparables sold from March 2010 to January 2011 for prices ranging from \$1,550,000 to \$1,737,500 or from \$339.88 to \$473.21 per square foot of living area, land included.

Under cross-examination, Gaddis testified she did not make adjustments to the comparables for differences when compared to the subject.

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 \$1,100,000 as of October 11, 2011. 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 provide 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 since 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/listings in the appellant's appraisal.

The Board finds the record contains eleven comparables submitted by the parties in support of their respective positions. The Board gave less weight to the appellant's comparable #3 due to the discrepancy in its dwelling size. The Board gave less weight to the board of review's comparable #5 due to its larger dwelling size when compared to the subject. The Board gave less weight to the board of review comparable #4 due to its smaller dwelling size when compared to the subject. The Board finds the remaining eight comparables are more similar to the subject in location, age, dwelling size, style and features. These properties sold/listed from June 2010 to September 2011 for prices ranging from \$1,015,000 to \$1,737,500 or from \$248.53 to \$416.47 per square foot of living area including land. The subject's assessment reflects a market value of \$1,392,971 or \$326.99 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 any 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.

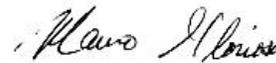
Chairman



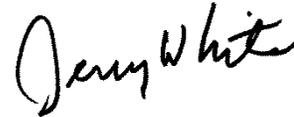
Member



Member



Member



Acting 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: June 26, 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.