



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

APPELLANT: David Cook
DOCKET NO.: 11-03932.001-R-1
PARCEL NO.: 07-13-407-005

The parties of record before the Property Tax Appeal Board are David Cook, the appellant, by attorney Herbert B. Rosenberg of Schoenberg Finkel Newman & Rosenberg LLC, 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: \$79,890
IMPR.: \$1,330
TOTAL: \$81,220

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 dwelling of frame construction with 1,530 square feet of living area. The dwelling was constructed in 1890. Features of the home include a full basement with finished area, central air conditioning, a fireplace and an attached three-car garage. The property has an

approximately 8,712 square foot corner site on a busy street and is located in Naperville, Naperville Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$245,000 as of January 1, 2011. The appraiser utilized the sales comparison approach to value and analyzed three comparable sales located from .21 to .78 of a mile from the subject. The comparables consist of parcels ranging in size from 8,521 to 10,206 square feet of living area and are improved with two-story frame dwellings that were 107 to 125 years old. The homes range in size from 1,268 to 1,812 square feet of living area with full or partial basements, one of which has finished area. One comparable has a fireplace and central air conditioning. Two of the comparables have one-car garages. The properties sold between April and December 2010 for prices ranging from \$210,000 to \$250,000 or from \$115.89 to \$181.39 per square foot of living area, including land. The appraiser made adjustments for room count, dwelling size, unfinished basements, lack of central air conditioning, and differences in fireplace, garages and garage size(s). The appraiser estimated adjusted sales prices ranging from \$205,670 to \$267,410.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$106,680. The subject's assessment reflects a market value of \$321,810 or \$210.33 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.

The board of review submitted a memorandum which noted that appraisal sale #1 was in adjoining Lisle Township and appraisal sale #2 was not in the subject's neighborhood code assigned by the assessor. As to appraisal sale #3, this property was sold by Federal Home Loan Mortgage Corporation and as shown in the attached PTAX-203 Illinois Real Estate Transfer Declaration, the property was advertised prior to its sale. The board of review also contends that sale #3 is a Cape Cod dwelling as compared to the subject's two-story design. The board of review also noted differences in dwelling sizes, unfinished basements, basement sizes, garage sizes and fireplaces.

In support of its contention of the correct assessment the board of review through the Naperville Township Assessor's Office submitted information on three comparable sales located in the

same neighborhood code assigned by the assessor as the subject property. The comparable parcels range in size from 7,500 to 8,712 square feet of land area and one parcel is on a busy street like the subject. The parcels are improved with two-story frame dwellings that range in age from 65 to 121 years old. The homes range in size from 1,344 to 1,632 square feet of living area and feature full or partial basements, one of which has finished area. One comparable has central air conditioning and each has a two-car garage. These properties sold between March 2008 and December 2010 for \$310,000 or \$375,000 or from \$189.95 to \$279.01 per square foot of living area, including land.

In rebuttal, counsel for the appellant argued that in response to the appellant's appraisal report, the board of review did not submit any meaningful analysis of recent sales of comparable properties to support the subject's assessment. The data submitted was unadjusted and the appellant included a factual critique prepared by the appellant's appraiser. The appraiser contended that board of review sale #1 has updates and renovations that were not taken into consideration and comparable sales #2 and #3 each occurred in 2009 and 2008 without consideration of the declining market conditions.

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.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant with an estimated market value of \$245,000 as of January 1, 2011. The appraiser utilized comparable properties that were in close proximity to the subject and were similar in age, size, design and/or features. The appraiser also made consistent adjustments for differences to the comparables as compared to the subject such as air conditioning, basement finish, fireplaces and garage sizes.

The board of review noted that one of the appraisal comparables was sold by the Federal Home Loan Mortgage Corporation. In this

regard, the Board takes judicial notice of Public Act 96-1083 amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010.

Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

Section 16-183 provides:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

The Board finds the effective date of these statutes is applicable to assessment date at issue, January 1, 2011.

The Board has also given no weight to the board of review comparables. Comparable #3 sold in 2008 which is more remote in time from the valuation date of January 1, 2011 and thus, less likely to be indicative of the subject's market value. The Board also finds that comparables #1 and #2 were each substantially newer than the subject dwelling that was built in 1890.

The subject's assessment reflects a market value of \$321,810 or \$210.33 per square foot of living area, including land, which is above the appraised value. The Board finds the subject property had a market value of \$245,000 as of the assessment date at issue. Since market value has been established the 2011 three year average median level of assessments for DuPage County of 33.15% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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: November 21, 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.