



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

APPELLANT: Alan D. Zielinski
DOCKET NO.: 11-04748.001-R-1
PARCEL NO.: 13-15-401-021

The parties of record before the Property Tax Appeal Board are Alan D. Zielinski, the appellant; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$41,432
IMPR: \$68,568
TOTAL: \$110,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story dwelling of frame exterior construction containing approximately 2,500 square feet of living area.¹ The dwelling was built in 1976. Features of the home include a partially finished basement, central air conditioning, two fireplaces and an attached two-car garage. The home is situated on approximately 40,000 square feet of land area and is located in Lake Barrington, Cuba Township, Lake County, Illinois.

¹ The appellant reports the subject dwelling as having 2,547 square feet of living area with 545 square feet of finished basement area. The board of review reports the subject dwelling as having 2,485 square feet of living area with 1,380 square feet of finished basement area.

The appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property prepared by himself. The appellant, Alan Zielinski, is a licensed appraiser in Illinois and Wisconsin. The appraisal report conveys an estimated market value for the subject property of \$315,000 as of January 1, 2011 using the sales comparison approach to value.

Under the sales comparison approach to value, the appraiser utilized three comparable sales, two of which are located in Lake Barrington. The comparables are located from .12 to 2.16 miles from the subject. The comparable sales consist of one-story or two-story dwellings of frame, brick or frame and brick exterior construction that contain from 2,220 to 2,995 square feet of living area. The dwellings were built from 1966 to 1979. One comparable has an unfinished basement and two comparables have partially finished basements. Other features of the homes include central air conditioning and two or three-car attached garages. Two comparables have two fireplaces. The comparables sold in April or September of 2010 for prices ranging from \$250,000 to \$350,000 or from \$83.47 to \$157.66 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject in quality of construction, rooms above grade, room count, gross living area, basement and finish, heating/cooling, garage/carport, porch/patio/deck, basement bath and fireplaces. Based on the adjusted comparable sales, the appraiser concluded the subject had a fair market value of \$315,000 as of January 1, 2011.

Mr. Zielinski testified that he is the Grafton Township Assessor in McHenry County and he appraised his property for Ad Valorem purposes relative to his 2011 property tax assessment. Zielinski argued that he did not receive the Lake County Board of Review's evidence and opined that his appraisal is the best evidence of the subject's market value in the record. Zielinski further testified that his comparables were "near clones" of the subject due to their functional utility.

Zielinski was cross examined by the board of review's representative, the Chief County Assessment Officer for Lake County, Martin Paulson. Zielinski testified that he is the homeowner and the appraiser of the subject property. When asked, in your opinion, does this create any USPAP [Uniform Standards of Professional Appraisal Practice] issues, Zielinski

replied "no it does not." Zielinski acknowledged that he outlined the "Scope of Work" for this report, the intended user was listed in the report as the Lake County Board of Review and the "Client" was listed in the report as the Lake County Board of Review. When asked, how can the Lake County Board of Review be the client, Zielinski stated, "because they were the ones that I performed the appraisal for." When asked, aren't you really performing the appraisal for yourself as evidence, Zielinski stated, "No." Zielinski further testified that "I was performing it for the Lake County Board of Review as evidence relative to my appeal." When asked, how they [Lake County Board of Review] can be your client, Zielinski stated, "because they were the intended recipient of the report and the only sole intended user."² Zielinski contends that the subject had physical obsolescence as the master bath was unusable and under repair and most of the interior, including carpet, was original. Zielinski testified that he was aware of the differences in the subject's gross living area, the size of the basement and the amount of basement finish between the County's records and his records, but he has not contacted the Cuba Township Assessor's Office to address the differences. Zielinski testified that there was not an issue regarding access to the subject property by the Cuba Township Assessor's Office. Zielinski acknowledged that the basement size of 11,148 square feet of building area, for his comparable #2, and the sale price of \$50,000 for his comparable #3, were "typo(s)." Regarding his use of 2, two-story homes as comparables to the subject's one-story style, Zielinski disclosed that, of the 20 sales reviewed for this appraisal, 4 were one-story homes. When asked, could it be that in the market one-story homes would sell differently from two-story homes, Zielinski replied, "They might." Zielinski testified that in researching homes in Lake Barrington, he found no difference between sales of one-story or two-story homes

² The "Ethics Rule" of USPAP states:

Conduct:..An..An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests. In appraisal practice, an appraiser must not perform as an advocate for any party or issue.

In addition USPAP states:

Management: It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following: 2. A direction in assignment results that favors the cause of the client;

(The Appraisal Foundation-USPAP 2006 Edition)

because he relied on the primary predictors of gross living area and bathroom count, but offered no evidence to support this claim such as a paired sales analysis.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$114,299 was disclosed. The subject's assessment reflects an estimated market value of \$352,557 or \$141.02 per square foot of living area including land, using 2,500 square feet of living area and using Lake County's 2011 three-year median level of assessments of 32.42%.

In support of the subject's assessment, the board of review submitted four suggested comparable sales. The comparables are located from 1.01 to 3.37 miles from the subject. The board of review's comparable #4 is the same property as the appellant's comparable #3. The comparables consist of one-story frame, brick or brick and stone dwellings that contain from 2,164 to 2,533 square feet of living area. The dwellings were built from 1955 to 1994. One comparable has an unfinished basement and three comparables have partially finished basements of which two feature walkouts. Other features of the homes include central air conditioning, from one to three fireplaces and garages ranging in size from 462 to 690 square feet of building area. The comparables sold from April 2010 to October 2011 for prices ranging from \$300,000 to \$374,000 or from \$133.24 to \$161.74 per square foot for living area including land.

Paulson opined that the board of review's comparables #1 and #4 were superior to the subject in location and the additional basement walkout feature.

The board of review's witness, Cuba Township Deputy Assessor Charlie Walsh, testified that a request to view the subject property was sent to the appellant via certified mail. Walsh further testified that the letter was returned to the assessor's office by the post office, because it was unclaimed by the appellant.

During cross examination, Paulson acknowledged that the Assessor's Office used the mass appraisal technique, specifically a modified cost approach, when assessing the subject property for the 2011 assessment year. Paulson further acknowledged that the assessments based on the cost approach are then modified for the sales that have occurred within the marketplace. When asked if the best evidence of fair cash value, absent an arm's-length sale, is a USPAP compliant

appraisal, Paulson testified, "I would agree that, if an appraisal that has the right mix of comparable properties can be the best evidence of market value." As to the criteria used in selecting comparable properties, Paulson acknowledged that the style of a home within the same marketplace is their first criteria. Paulson further disclosed that their selection of comparables was restricted to a 5 mile radius of the subject's location. The board of review offered to reduce the subject's assessment to \$111,814. The appellant rejected the offer.

Under rebuttal, the appellant argued he never received a request to view the subject by the Cuba Township Assessor's Office. In addition, the appellant argued the board of review comparables are superior to the subject and the board of review failed to disclose a previous sale for their comparable #2.

After hearing testimony 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 Property Tax Appeal Board further finds a reduction in the subject property's assessment is warranted.

The appellant argued the subject property was overvalued. 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.

The appellant submitted an appraisal report estimating the subject property had a fair market value of \$315,000 as of January 1, 2011. The board of review offered four sales comparables.

Initially the Board finds the appellant submitted an appraisal of the subject property which he prepared. The Board finds the fact that the appellant is also the appraiser creates a conflict in that the appellant has a present interest in the property and a direct pecuniary interest in the outcome of the appeal proceeding if the assessment is reduced. The Board finds the appellant is acting as both an advocate for an assessment reduction and a purported expert who is to provide an unbiased opinion of market value as of the assessment date at issue. Due

to this conflict, the Board finds that the appellant's estimate of value as contained in the appraisal is given no weight. The Board, however, will examine the raw sales data submitted by the parties in determining the correct assessment of the subject property.

As to the differences regarding the subject's gross living area and basement size, the Board finds the differences are minimal and do not substantially impact a determination of the correct assessment of the subject property. With regard to the amount of finish in the subject's basement and the condition issues reported, the Board finds the appellant denied access to inspect the dwelling. The appellant argued that no issues existed regarding access; however, the Board finds the appellant's testimony is not credible. The Board further finds that as the Grafton Township Assessor, Zielinski should be aware that some differences between taxpayers and assessors can only be rectified by viewing the subject property. The Board finds the testimony from Walsh was credible regarding the township's attempts to inspect the subject property. The Board therefore gives reduced weight to the appellant's evidence as to the amount of basement finish and the subject's condition.

The Board gave less weight to the appellant's comparables #1 and #2 due to their dissimilar two-story styles when compared to the subject's one-story style. The Board finds the best comparables in the record with respect to location and features are the board of review's comparables #2 and #3. These sales occurred in April 2010 and December 2010 for prices of \$337,500 and \$300,000 or \$133.24 and \$134.11 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$352,557 or \$141.02 per square foot of living area including land, using 2,500 square feet of living area, which is above the market values of the best comparables in this record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's improvement assessment is excessive and a 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy A. Huff

Member

Mario Morris

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: August 22, 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.