



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

APPELLANT: Kim Kelly
DOCKET NO.: 11-04870.001-R-1
PARCEL NO.: 17-31-103-003

The parties of record before the Property Tax Appeal Board are Kim Kelly, the appellant, by attorney Edward P. Larkin of Edward P. Larkin, Attorney at Law in Des Plaines; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$73,033
IMPR.: \$87,019
TOTAL: \$160,052

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Lake 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 one-story and part two-story dwelling with additional living area over the garage. The home has frame and brick exterior construction with 2,280 square feet of living area.¹ The dwelling was constructed in 1954. Features of the home include an unfinished basement, central air

¹ The appellant's appraiser reports the subject dwelling as having a split-level design with 1,896 square feet of living area and finished basement area. The board of review reports the subject dwelling as having a two-story design with 2,280 square feet of living area and an unfinished basement.

conditioning, a fireplace and a 576 square foot garage. The property has a 9,554 square foot site and is located in Highland Park, Moraine Township, Lake County.

The appellant appeared, through counsel, before the Property Tax Appeal Board contending 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 \$361,000 as of June 21, 2010. The appraiser, Raymond Ritter, was not present at the hearing for direct and cross-examination regarding the appraisal process and final value conclusion. The appraiser developed the sales comparison approach to value, using three sales and two listings, in arriving at a final value conclusion.

Additionally, counsel for the appellant argued that the subject's 2012 assessment was reduced and therefore the subject's 2011 assessment should be reduced based on prior cases including Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974) and 400 Condominium Association v. Tully, 79 Ill.App.3d 686, 398 N.E.2d 951 (1st. Dist. 1979)

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

At the hearing, the board of review's representative objected to consideration of the appraisal since the appraiser was not present to provide testimony and/or be cross-examined with regard to the report.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$160,052. The subject's assessment reflects a market value of \$493,683 or \$216.53 per square foot of living area, land included, when using the 2011 three year average median level of assessment for Lake County of 32.42% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on six comparable sales.

The board of review's witness, Moraine Township Deputy Assessor Barbara Werhane, testified that the subject dwelling is not a split-level design. Regarding the Hoyne argument, Werhane testified the subject's 2012 assessment was reduced based on a sales analysis of the subject's neighborhood.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

As an initial matter, the Property Tax Appeal Board hereby sustains the objection of the board of review as to hearsay. The Board finds that in the absence of the appraiser at hearing to address questions as to the selection of the comparables and/or

the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appraiser. The Board finds the appraisal report is tantamount to hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2nd Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1st Dist. 1971). In the absence of the appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusion of \$361,000 as of June 21, 2010 has been significantly diminished.

For this appeal, 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 sales in this record support the subject's assessment.

The parties submitted a total of nine sales for the Board's consideration. The Board gave less weight to the appellant's appraiser's comparable #1 due to its dissimilar ranch design, when compared to the subject. The Board finds the best comparables in this record were the appellant's appraiser's comparables #2 and #3 and the board of review's comparables. These properties were relatively similar to the subject in location, design, age, size and features. The comparables had sale dates occurring from January 2010 to June 2011 for prices ranging from \$321,700 to \$597,500 or from \$161.82 to \$254.37 per square foot of living area, including land. The subject's assessment reflects a market value of \$493,683 or \$216.53 per square foot of living area, including land, which is within the range of the best comparables in this record. After considering adjustments to the comparables for differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is justified and no reduction in the subject's assessment is warranted.

Regarding the appellant's contention of law referencing Hoyne and 400 Condominium Association, [citations omitted], the Board finds in the recent decision of Moroney & Co. v. Property Tax Appeal Board, 2013 IL App (1st) 120493, 2 N.E.3d 522, the Court at ¶46 did not perceive Hoyne and 400 Condominium as standing for the proposition that "subsequent actions by assessing officials are

fertile grounds to demonstrate a mistake in a prior year's assessments." In Moroney, the Court wrote in pertinent part:

... in each of those unique cases, which are confined to their facts, there were glaring errors in the tax assessments -- in Hoyne, the assessment was increased on a property from \$9,510 to \$246,810 in one year even though no changes or improvements to the property had occurred (Hoyne, 60 Ill.2d at 89), and in 400 Condominium, assessments on a garage were assessed separately from the adjoining condominium in violation of the Condominium Property Act (400 Condominium, 79 Ill.App.3d at 691). Here, based upon the evidence that was submitted, there is no evidence that there was an error in the calculation of the 2005 assessment. Rather, the record shows that the 2005 assessment was properly calculated based on the market value of the property.

Similarly in the instant appeal, the Property Tax Appeal Board finds there were no unusual circumstances present in this appeal relative to the establishment of the subject's assessment for the 2011 tax year. Furthermore, the subject's 2012 assessment was calculated based on a sales analysis reflecting changes in the market and not based on correcting glaring errors or a violation of the Property Tax Code. Therefore, the Property Tax Appeal Board finds no merit in the contention of law argument brought by the appellant.

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

Frank 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: June 20, 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.