



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

APPELLANT: Rolf Schilling - Hillcrest Land Trust  
DOCKET NO.: 11-05578.001-C-1  
PARCEL NO.: 15-19-451-003

The parties of record before the Property Tax Appeal Board are Rolf Schilling - Hillcrest Land Trust, the appellant, by attorney Sarah J. Taylor of Barrett, Twomey, Broom, Hughes & Hoke, LLP, in Carbondale, and the Jackson 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 **Jackson** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$10,281  
**IMPR.:** \$29,499  
**TOTAL:** \$39,780

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a one-story multi-family dwelling of frame construction containing 3,124 square feet of living area. The dwelling is approximately 40 years old. Features of the building include three apartment units, central air conditioning and an attached two-car garage. The property has a 1.68-acre site located in Carbondale, Carbondale Township, Jackson County.

A consolidated hearing was held on Docket Nos. 11-05578.001-C-1, 11-05591.001-C-1, 11-05593.001-C-1, 11-05596.001-C-1 and 11-05598.001-C-1 although individual decisions will be issued for each of these appeals.

The appellant Rolf Schilling, the trustee and beneficial owner of the trust, appeared before the Property Tax Appeal Board with legal counsel contending that the subject property was overvalued based on its 2011 assessment. In support of this

market value argument, the appellant submitted an appraisal estimating the subject property had a market value of \$120,000 as of January 30, 2012.

The appraisal was prepared by Barbara J. Zieba, a State of Illinois Certified General Real Estate Appraiser who was called to testify regarding her appraisal report, the comparables selected and the conclusions drawn including the theory behind the conclusions. In the past, Zieba has been involved with the National Association of Independent Fee Appraisers as an instructor for several years including teaching appraisal techniques. Zieba has been a licensed appraiser in Illinois for 35 years. To maintain her appraisal license she is mandated to take continuing education courses totaling 27 hours annually including a USPAP<sup>1</sup> course.

Zieba's initial appraisal experience was with Murden Appraisal. In 1978 she established Zieba Appraisal Company in DeSoto and has been self-employed since that time. She has experience preparing appraisals estimating fair market value for various purposes including property tax appeals and has performed appraisals of both residential and commercial properties. In the past year she estimated she performed 20 to 30 appraisals per month. The properties have been located in numerous counties in southern Illinois, including Jackson, and on down to Arkansas. The witness professed knowledge of property values in Jackson County, Illinois as she does a lot of work in the county and she keeps familiar with the area's real estate activity. In addition, she is a member of the Egyptian Board of Realtors and thereby has access to a quarterly report for the area. She further noted that the National Association of Realtors produces a newsletter reflecting area/county market activities. Without objection the witness was tendered as an expert in the field of real estate appraisal.

In estimating the market value of the subject property the appraiser developed the sales comparison and income approaches to value. She further testified that she deemed the cost approach to not be a credible indicator of the subject's market value. Zieba inspected the subject property as part of her appraisal process on February 6, 2012.

Zieba asserted that the phrase "highest and best use" in appraisal practice means what is the property's highest and best use as far as the income it can produce at the time of the

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<sup>1</sup> Uniform Standards of Professional Appraisal Practice.

inspection. Zieba opined at hearing that the highest and best use of the subject property was for multi-family use.

For the sales comparison approach, the appraiser analyzed information on three comparable sales located from 1.32 to 5.24-miles from the subject property which is further depicted on a map on page 2 of the report. Zieba testified that these were the most similar sales available for the appraisal given a search of data for the prior three years' sales of multi-family properties prior to the date of her inspection and for which she had valid rental data.

The comparables were described as multi-family dwellings that range in size from 1,864 to 4,800 square feet of living area containing either two or four units each. The dwellings were either 20 or 26 years old. Two of the comparables have concrete slab foundations. The comparables have 4 or 8 bedrooms, 2 or 4 bathrooms and central air conditioning. One comparable also has a two-car attached garage. The comparables have sites ranging in size from .30 to .81-acres of land area. These comparables sold from November 2009 to July 2011 for prices ranging from \$100,000 to \$109,500 or from \$21.88 to \$58.75 per square foot of living area, including land or from \$26,250 to \$54,750 per apartment unit, including land.

After making adjustments to the comparables for differences from the subject in site, location, age/condition, dwelling size and/or car storage, the appraiser estimated the comparables had adjusted sales prices ranging from \$103,740 to \$127,100 or from \$21.61 to \$68.19 per square foot of living area, including land or from \$25,935 to \$63,550 per apartment unit, including land.

Next, the appraiser developed an income approach to value using the gross monthly rents for the sales comparables to develop a GRM (gross rent multiplier). At hearing, Zieba noted that there was "a vacancy" in comparable #1 at the time the report was prepared. She also noted the subject property had a monthly rental of \$1,950 which included utilities. The appraiser testified that to arrive at a GRM the sale price is divided by the monthly rent. The comparable sales had actual rents ranging from \$1,200 to \$2,600 per month resulting in gross rent multipliers of 40.39, 81.63 and 91.25, respectively. The witness further testified that comparables #2 and #3 as duplex properties had fewer units and comparable #1 as a four-plex had more units than the subject, although for comparable #1 only three of the four units were rented. She also noted that none of these comparable rentals included utilities. Based on this

data and analysis of the subject in relation to these comparables, Zieba selected a GRM of 60 for the subject which falls within the range of "the three patterns" she set forth in her report. Furthermore, Zieba asserted that she took into consideration overall differences in land value, in gross living area, bathroom units and things like that.

Zieba applied the GRM of 60 to the subject's monthly rental of \$1,950 which resulted in an estimated value of \$117,000. From the sales comparison approach the appraiser opined a value of \$40 per square foot of living area which reflected a value of \$124,960. She also opined a price per unit of \$40,000 which reflected a total value of \$120,000.

In reconciling the various value conclusions, the appraiser wrote in her report that "[w]hile the Sales comparison approach tends to be the most credible indicator of value, the other data tends to support the indicated value of the subject property." The appraiser further testified that she gave some weight to each sale, but did not give all weight to one sale and arrived at an estimated market value for the subject property of \$120,000 as of January 30, 2012.

Given that the assignment was for a 2011 assessment appeal, the Hearing Officer inquired why Zieba did not provide a retrospective value as of January 1, 2011. The witness testified that using a valuation date of January 1, 2011 would not have provided her with enough sales proximate in time to the valuation date so she instead chose an effective date "the last day it was due."

On cross examination, Zieba was asked if there were other multi-family sale properties to which she responded that there were a couple of 50-unit property sales, but no others that were similar to the subject besides the three which she presented in her report. Zieba also testified that she personally did the inspection of the subject and visually inspected the comparables. As to the parties to the transaction for comparable #1 in her report, the witness noted that it was a bank sale, but she spoke to the seller and verified the data. As to comparables #2 and #3 in the appraisal report, Zieba contended that these properties are in comparable neighborhoods to the subject. She noted that comparable #2 was in a rural area and comparable #3 was also in a comparable neighborhood even though it was closer to the university. The witness further testified in this regard that adjustments in land value "a lot of times that will take up for location." Zieba also

reiterated her methodology in arriving at a GRM for the subject of 60 by taking into consideration the various GRMs of the comparable properties, the differences and the fact that the subject included utilities in the rental figure.

For redirect examination, Zieba testified that the monthly rent for the subject property included "some of" the utilities. As to comparable #1 which was a bank sale, Zieba stated she did not give it "a whole lot of consideration," but since it was similar to the subject and due to the lack of available sales, it was included in her report. She said, "That sale was weak."

With an additional question from the Hearing Officer, Zieba stated that the "heat" was the utility that was included in the subject's rent whereas the comparable properties did not have any utilities included in the rent.

The appellant Rolf Schilling was next called as a witness. As to the subject property, he testified that the landlord pays for the gas-based heat through a boiler system and also pays for the water and sewer service to the property. Additionally, he testified that there is a washer and dryer provided at no cost to the tenants with the landlord paying the electric utilities to the washer and dryer.

On cross-examination, Schilling acknowledged that those included utility costs are passed on to the tenants through the rental amount.

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 Appeal" wherein the subject's total assessment of \$65,436 was disclosed.<sup>2</sup> The subject's assessment reflects a market value of \$197,394 or \$63.19 per square foot of living area, including land, or \$65,798 per apartment unit, including land, when applying the 2011 three year average median level of assessment for Jackson County of 33.15% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

In the course of the hearing, the board of review requested that the Property Tax Appeal Board "disregard" the appellant's

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<sup>2</sup> The Notes on Appeal erroneously reported the final board of review action as reflective of the proposed assessment reduction in this matter. The Board takes notice of the Notice of Final Change in Assessed Value by the Board of Review dated June 28, 2012 which sets forth a total assessment of \$65,436.

appraisal report due to the date of valuation being January 30, 2012 and the assessment at issue being January 1, 2011.

In response to the appeal, the board of review asserted in a letter that appellant's appraisal comparable #1 sold in October 2011 for \$250,000 whereas the appellant's appraiser utilized the March 2010 sale of this property for \$105,000. There was no documentation submitted by the board of review to support the assertion of a second sale or the facts surrounding that sale.<sup>3</sup> Then using this purported 2011 sale price of comparable #1, the board of review contended the GRM for this property would be 96. Next, averaging the three GRM's, using this revised GRM for comparable #1 and the appellant's appraiser's GRMs for comparables #2 and #3, the board of review contended a GRM of 89 should be applied to the subject property's monthly rent of \$1,950. With this analysis, the board of review opined an estimated market value for the subject of \$173,550 which should be an assessment of \$57,850 and thus an assessment reduction is warranted.

At the hearing, the board of review called Andy Kagy, Carbondale Township Assessor, as its first witness. He has worked for the township assessor's office for 27 years and has been the assessor for 15 years. The witness has lived in Carbondale for 10 years. Kagy was of the opinion that appraisal comparable #2 was much more rural than the subject property and lacked the amenities in the city such as city sewer. He further noted the surroundings of comparable #2 are farmland and/or scrub ground with very few high priced residences in the area. He also testified that comparable #2 is in a remote area and is not in a very desirable area. Based upon these differences, Kagy opined that the neighborhood of comparable #2 was not similar to the subject's neighborhood.

The board of review called as its next witness, Maureen Berkowitz, the Chief County Assessment Officer of Jackson County. She has held that position from 2002 to the present. Her prior work experience for 20 years was as a real estate agent in the City of Carbondale. Berkowitz testified that her

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<sup>3</sup> In the course of the board of review's case-in-chief, the board of review representative sought to tender a copy of the "sales declaration sheet" concerning appellant's appraisal comparable #1's subsequent sale. Appellant's counsel objected to the late submission of this evidence in light of the Board's procedural rules. (86 Ill.Admin.Code §1910.67(k)). The document was withdrawn by the board of review and the Hearing Officer advised that the appellant's counsel presented a valid objection to such late submission of evidence.

office recently determined a uniform GRM of .77 in Carbondale through use of sales and rents for the past two years.

On cross-examination, Berkowitz further expounded that this "uniform GRM" was developed from "all of the multi-family sales that we could find" along with matching the sales up to rents "to see if we could come up with what a fair [GRM] would be to uniformly value rental property in Carbondale." The analysis involved actual rents based upon documentation submitted to the Jackson County Board of Review by property owners.

Upon additional questioning from the Hearing Officer, Berkowitz testified that there were eight to twelve duplex, tri-plex and/or four-plex properties that constituted this analysis.

Upon additional cross-examination, Berkowitz identified that the sales which were analyzed for this uniform GRM calculation occurred in 2013 along with some sales from 2012. The witness acknowledged that the uniform GRM was after the 2011 tax year.

The board of review next called appellant's appraiser Barbara J. Zieba as an adverse witness.<sup>4</sup> The witness was questioned about the subsequent sale of comparable #1 referenced in the board of review's materials. Zieba testified that there was substantial work put into this property which was not considered in her appraisal because she analyzed the March 2010 sale of this property prior to those renovations.

The witness was also asked if she believed it would be more uniform to use the same GRM on all the properties "in that subdivision" in looking for uniformity? Zieba responded, "You don't have a uniform GRM. That's saying that all sales are alike."

Based on this evidence, the board of review requested a reduction in the subject's total assessment to \$57,850. This new assessment at the three year median level of assessment would reflect a market value of \$174,510 or \$55.86 per square foot of living area, including land, or \$58,170 per apartment unit, including land. This proposed assessment reduction was forwarded to the appellant prior to the date of hearing. The proposed reduction was rejected by the appellant.

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<sup>4</sup> "Any party or his or her witness may be called by any other party as an adverse witness and examined as if under cross-examination in the same manner and under the same circumstances as provided in Section 2-1102 of the Code of Civil Procedure [735 ILCS 5/2-1102]." (86 Ill.Admin.Code §1910.90(j)).

In written rebuttal, the appellant asserted the appraiser used the most recent valid sales available of multi-family units. In addition, the appellant cited two properties that are adjacent to the subject which had decreased assessments of 11.92% and 17.32%, respectively.<sup>5</sup> Appellant contended these multi-family properties have similar rents, are similar in age, condition and location.

As rebuttal at hearing, Zieba testified that she investigated the purported 2011 sale of her comparable #1 and chose not to include it in her appraisal of the subject property. She spoke to the buyer and learned that over \$100,000 in renovations were made to the building and there were no tenants at the time. Also, in the absence of tenants, Zieba could not determine a GRM at that time. Thus, the appraiser chose to use the March 2010 sale of comparable #1 as it was in the appropriate timeframe and she had rental information necessary to calculate a GRM.

After hearing the testimony and reviewing the record, 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.

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 (3<sup>rd</sup> 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 Property Tax Appeal Board hereby denies the board of review's request to "disregard" the appellant's appraisal in this matter. Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the

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<sup>5</sup> The Board gives this aspect of the appellants' argument no weight. The mere fact that an assessment of reportedly comparable property increases or decreases from one year to the next does not of itself establish the assessment of the subject is incorrect. To demonstrate the assessment at issue is incorrect, the taxpayer needs to submit relevant, credible and probative market data to establish the market value of the property as of the assessment date at issue, such as the appraisal report in this matter.

subject property. (86 Ill.Admin.Code §1910.65(c)). The Zieba appraisal with a valuation date of January 30, 2012 was filed to challenge the assessment date of January 1, 2011 in this matter. In Cook County Board of Review v. Property Tax Appeal Board, 334 Ill.App.3d 56, 777 N.E.2d 622 (1<sup>st</sup> Dist. 2002), the court stated "[t]here is no requirement that a taxpayer must submit a particular type of proof in support of an appeal. The rule instead sets out the types of proof that *may* be submitted. . . . Whether a two-year old appraisal is 'substantive, documentary evidence' of a property's value goes to the weight of the evidence, not its admissibility. [Citing Department of Transportation v. Zabel, 47 Ill.App.3d 1049, 1052, 362 N.E.2d 687 (1977) (whether a six-month-old appraisal is sufficient to establish value is for the trier of fact to consider in weighing the evidence)]."

The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2<sup>nd</sup> Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5<sup>th</sup> Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. The Board finds there are credible market sales contained in this record. Thus, the Board placed most weight on this evidence.

The Board finds the best evidence of market value to be the appraisal of the subject property submitted by the appellant with a value conclusion of \$120,000. The appellant's appraiser developed the sales comparison and income approaches to value. The sales utilized by the appraiser were the most similar to the subject available in the market area and occurred within three years of the assessment date at issue. Moreover, the appraiser had applicable rental data for these comparables.

The board of review in response only criticized Zieba's consideration of comparable #1 with a sale date in March 2010, contending that there was a 2011 sale of the property for \$250,000. In the absence of any documentary evidence, the Board gives this subsequent sale little weight. More importantly, the Property Tax Appeal Board finds that both parties actually agree that this subsequent sale occurred and they also agree that there were substantial renovations to this property (see direct

and adverse witness testimony of Zieba). Based on the appraiser's un rebutted testimony, with the renovations, the subsequent sale of comparable #1 was dissimilar to the subject and was therefore not appropriate to be utilized in the analysis. Furthermore, Zieba contended the property lacked any tenants after the subsequent 2011 sale and thus she could not determine a GRM. In this regard, it is noteworthy that the board of review accepted Zieba's monthly rent of \$2,600 for comparable #1 even after its sale and substantial renovation with no factual data to support that the rent remained unchanged after the 2011 sale.

Additionally, the Property Tax Appeal Board finds that the board of review presented no independent comparable sales data in response to this appeal and/or in support of its assessment of the subject property. The board of review provided no substantive market value evidence to dispute the appellant's market value evidence other than noting a subsequent sale for comparable #1. Furthermore, the board of review accepted the comparability of appraisal comparables #2 and #3 as presented in the Zieba report by having accepted and argued Zieba's GRMs for these two properties in its submission. The Board also recognizes that the board of review's presentation at hearing was contradictory and confusing in this regard given the efforts to raise questions concerning neighborhood comparability between the subject and comparable #2 (see testimony of Kagy). However, the Board finds that having accepted the Zieba GRM for comparable #2 in its analysis, the board of review also accepted the property as a suitable comparable for all purposes, including neighborhood.

Finally, the Board has given no weight to the purported "uniform GRM" developed by Berkowitz as there was no evidence to support the contention.

The appraised value of \$120,000 is below the market value of \$174,510 as reflected by the proposed assessment reduction to \$57,850. In conclusion, based on this record, the Board finds the subject property had a market value of \$120,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for Jackson County of 33.15% 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. Cuit*

Chairman

*K. L. Fern*

Member

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: April 18, 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.