



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

APPELLANT: Rolf Schilling - Hillcrest Land Trust
DOCKET NO.: 11-05598.001-C-1
PARCEL NO.: 15-19-451-006

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: \$4,882
IMPR.: \$30,920
TOTAL: \$35,802

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a part one-story and part two-story multi-family dwelling of frame construction containing 2,926 square feet of living area. The dwelling is approximately 48 years old. Features of the building include four apartment units, window air conditioning and an integral two-car garage. The property has a .52-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 \$105,000 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 USPAP¹ 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. The appraiser testified that she inspected the subject property on November 30, 2011 and had viewed the comparable properties several times in the past.

¹ Uniform Standards of Professional Appraisal Practice.

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 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 provided information on three comparable sales located from 1.32 to 5.24-miles from the subject property which is further depicted on page 2 of the appraisal 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 that contain either 2 or 4 apartment 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 has a two-car attached garage. The comparables have sites ranging in size from .30 to .81-acres of land area. The 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, count & total, dwelling size, central air conditioning and/or car storage, the appraiser estimated the comparables had adjusted sales prices ranging from \$91,260 to \$111,140 or from \$19.01 to \$55.86 per square foot of living area, including land or from \$22,815 to \$55,570 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 \$2,400. 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. Based on this data and analysis of the subject in relation to these comparable sales, Zieba selected a

GRM of 45 for the subject which falls within the range of the comparables set forth in her report.

Based on this data, when Zieba applied the GRM of 45 to the subject's monthly rental of \$2,400 this resulted in an indicated value for the subject of \$108,000. By abstracting from the sales data, Zieba estimated a price per unit of the subject of \$27,000 which resulted in an indicated value of \$108,000 and she also estimated a price per square foot of the subject of \$40 which resulted in an indicated value conclusion of \$117,000, rounded. The appraiser also acknowledged at hearing that there is an error in her report stating "adjusted values from Sales Comp App range from \$89000 to \$105000"; the actual range of adjusted comparable sales was from \$91,260 to \$111,140.

In reconciling the various indicated values, the appraiser wrote "[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." Zieba then opined an estimated market value for the subject property of \$105,000 as of January 30, 2012. Zieba testified that she chose this valuation date because it was the last date that you could file an appeal. She further opined at hearing that her conclusion of value would be the same as of January 1, 2011.

On cross examination, Zieba testified that she found no other comparable sales that she would consider comparable to the subject property. She was also asked about her adjustment process for car storage noting no difference in value between an attached garage and an integral garage for rental properties. The appraiser was asked about her selection of a 45 GRM given the GRMs of the comparables. The witness testified that each subject property is different and there should not be a comparison of the various properties that are part of this consolidated hearing to one another. When asked about the comparability of the subject to comparables #2 and #3 for neighborhood, Zieba testified that comparable #2 was adjusted for location and the best adjustment for location to comparable #3 was the adjustment for land value.

On re-direct examination, Zieba testified that in her professional opinion it would be inappropriate to use the three GRMs of the comparables and arrive at an average GRM to be applied to the subject property because that is subjective overall in nature. She further opined that for no income property appraisal would the appraiser "average" either values, GRMs or overall capitalization rates. Rather, the appraiser

takes all of the data and considers all of the data when arriving at conclusions.

With additional cross-examination, Zieba reiterated that the GRM for the subject property is determined based upon the appraiser's experience and knowledge with the data of comparables for that subject property.

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 \$53,816 was disclosed. The subject's assessment reflects a market value of \$162,341 or \$55.48 per square foot of living area, including land, or \$40,585 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 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 of \$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.² 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. Thus, by applying a GRM of 89 to the subject's monthly rent of \$2,400 the board of review opined an estimated market value for the subject of \$213,600 which should be an assessment of \$71,200. Based on

² 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.

this analysis, however, the board of review seeks confirmation of the subject's 2011 assessment.

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 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." This 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.³ The witness was questioned about

³ "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

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 stated, "You don't have a uniform GRM. That's saying that all sales are alike."

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

In written rebuttal, the appellant noted the board of review applied the GRM for comparable #1 to the more recent sale price "without taking into consideration the \$100,000 of renovations prior to sale." The appellant further contends that reliance should not be placed on only one approach to value. At hearing, Zieba acknowledged some errors in the rebuttal submission and reaffirmed her appraisal presented a market value conclusion for the subject property of \$105,000, not \$120,000 as stated in the rebuttal letter.

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.

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)).

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 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 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 (1st 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 (2nd 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 (5th 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 appellant's appraisal presented three comparable sales with adjustments for differences from the subject property resulting in a range of adjusted sales prices from \$91,260 to \$111,140. Furthermore, the appellant's appraiser provided indicated values

of \$108,000 based upon the application of the income approach to value; an indicated value of \$108,000 based upon an abstraction of the sales and applying a per unit price to the subject; and an indicated value of \$117,000, rounded, based upon an abstraction of the sales and applying a square foot price to the subject. From this data, the appellant's appraiser opined a final value conclusion of \$105,000 which the Board finds lacks credibility and reliability in light of her three indicated values of \$108,000 and \$117,000 as set forth in the appraisal report. Thus, the Board will discount the appraisal conclusion, but otherwise finds the indicated values in the Zieba appraisal report to be the best evidence of market value of the subject property in the record. 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.

Having discounted the appraiser's value conclusion in light of Zieba's three indicated values in the appraisal report, the Board finds the best evidence in the record supports that the subject property had a market value of \$108,000 as of January 1, 2011. This market value of \$108,000 is below the market value of \$162,341 as reflected by the subject's 2011 assessment. In conclusion, 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.