FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Edgar M. DeVries
DOCKET NO.: 11-26386.001-R-1
PARCEL NO.: 18-24-308-010-0000

The parties of record before the Property Tax Appeal Board are Edgar M. DeVries, the appellant(s); and the Cook 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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$585
IMPR.:	$16,022
TOTAL:	$16,607

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 1,803 square foot parcel of land improved with a 12-year old, two-story, frame and masonry, attached, single-family dwelling containing two and one-half baths, air conditioning, and a partial, unfinished basement. The appellant argued that the fair market value of the subject was not accurately reflected in its assessed value as the basis of the appeal.

In support of the market value argument, the appellant submitted an appraisal undertaken by James E. Sloan of Accurate Services, Inc. The report indicates Sloan is a State of Illinois certified residential appraiser. The appraiser indicated an estimated market value of $130,500 as of August 23, 2011. The property was inspected on December 20, 2010. The appraisal report

utilized the sales comparison approach to value to estimate the market value for the subject property. The appraisal found the subject's highest and best use to be its present use.

The appraisal lists the subject as containing 1,474 square feet of living area and includes a sketch of the subject with the subject's outside dimensions to support this.

Under the sales comparison approach, the appraiser analyzed the sales of six properties described as two-story, frame and masonry, attached, single-family dwellings located within the subject's market. The properties range in age from 3 to 18 years and in size from 1,164 to 1,850 square feet of living area. They sold from May 2010 to February 2011 for prices ranging from $130,000 to $219,000 or from $80.45 to $147.47 per square foot of living area. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of $130,500.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $21,723 was disclosed. The subject's final assessment reflects a fair market value of $228,904 when the Illinois Department of Revenue's 2011 three-year median level of assessment of 9.49% for Cook County Class 2 properties is applied. The board of review listed the subject's size as 1,436 square feet of living area and included the property characteristic printout to support this figure.

In support of the subject's assessment, the board of review presented descriptions and assessment information on four properties suggested as comparable. The properties are described as two-story, frame and masonry, attached, single-family dwellings. The properties range in age from 7 to 10 years; contain 1,540 square feet of living area; and have improvement assessments from $14.15 to $14.17 per square foot of living May 2008 to May 2011 for prices ranging from $193,500 to $220,000 or from $125.65 to $142.86 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a letter asserting that the sales for the board of review’s comparables #1 and #3 were not arm’s length transactions and that comparables #2 and #4 were sold in 2008 which is before the decline in the market. In addition, the appellant submitted a new appraisal, several new

comparables, and an argument in regards to these comparables. The Official Rules of the Property Tax Appeal Board prohibit the submission of new evidence as rebuttal and, therefore, this evidence cannot be considered by the PTAB. 86 Ill.Admin.Code 1910.66.

At hearing, the appellant's witness, Kenneth DeVries, testified he has been a builder in the south suburbs for 40 years and he built the subject property as well as several of the comparables presented by the appraiser and the board of review. Mr. DeVries testified that the board of review's comparable #1 is owned by the appellant's grandfather. He testified he has personal knowledge of this transaction and that it was not a sale, but a refinancing of the property. As to the board of review's comparable #2, Mr. DeVries argued this sale occurred in 2008 prior to the decline in the market and does not reflect the subject's market value in 2011. He testified that this property sold again in 2013 for $110,000. Mr. DeVries testified that he knows the seller of comparable #3 and, from his personal knowledge, this property was sold to a relative of the owner with her taking over the mortgage. He also asserted comparable #4 sold in 2008 prior to the decline in the market.

In regards to questions by the Property Tax Appeal Board (PTAB), the witness testified he built all the board of review's comparables. He testified that the subject is located on a busy street while these comparables are located within a complex in a quiet, residential neighborhood. He testified that the City of Justice is located across the street from the subject. Mr. DeVries testified he built the comparables #1 and #5 in the appraisal. He testified these properties are similar to the subject and that comparable #1 is the same floor plan as the subject.

As to the size of the subject, Mr. DeVries testified that as the builder he knows the subject's size to be 1,456 square feet of living area based on the floor plan for the subject.

The board of review's representative, Isreal Smith, argued that the appraiser was not present at the hearing to testify or be cross-examined and, therefore, the appraisal is hearsay. He asserted that the appraisal's comparables #2, #3, and #4 are all compulsory sales. Mr. Smith testified that the subject's square footage as listed by the board of review is from the assessor's records.

After reviewing the 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.

As to the subject's size, the PTAB finds the witness was the builder for the subject property and testified competently as to how he determined the subject's size. Therefore, the PTAB finds the subject's size at 1,456 square feet of living area which reflects a market value of $157.71 per square foot of living area.

When overvaluation is claimed the appellant has the burden of proving the value of the property 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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). 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). Having considered the market value evidence presented, the PTAB concludes that this evidence indicates a reduction is warranted.

In determining the fair market value of the subject property, the PTAB looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the PTAB. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appraisal as hearsay. Therefore, the PTAB finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the PTAB will consider the raw sales data submitted by the parties.

The PTAB finds the parties submitted 10 sales comparables. The PTAB finds the appellant’s comparables similar to the subject and most reflective of the subject’s market value as of the lien date. These sales occurred from May 2010 to February 2011 for prices ranging from $130,000 to $219,000 or from $80.45 to $147.47 per square foot of living area. In comparison, the appellant's assessment reflects a market value of $157.71 per square foot of living area which is above the range established by the sales comparables. After considering adjustments and the differences in the comparables when compared to the subject, the PTAB finds the subject's per square foot assessment is not supported and a reduction 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.

Chairman

Member

Member

Member

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: May 21, 2014

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.