



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

APPELLANT: Edgar Devries
DOCKET NO.: 11-26497.001-R-1
PARCEL NO.: 18-25-206-019-0000

The parties of record before the Property Tax Appeal Board are Edgar 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: \$284
IMPR.: \$19,446
TOTAL: \$19,730

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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 an 874 square foot parcel of land improved with a 10-year old, two-story, frame and masonry, attached, single-family dwelling containing 1,540 square feet of living area. The property is located in Bridgeview, Lyons Township, Cook County. The property is a class 2-95 property

under the Cook County Real Property Assessment Classification Ordinance.

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 \$167,500 as of January 1, 2011. The appraisal report utilized the sales comparison approach to value to estimate the market value for the subject property.

Under the sales comparison approach, the appraiser analyzed the sales of seven properties described as single-family, attached dwellings between 4 and 20 years old and located within a two-mile radius of the subject. They sold from February, 2010, to February 2011, for prices ranging from \$130,000 to \$205,000 or from \$80.45 to \$141.75 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 \$167,500.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$22,085 was disclosed. The subject's final assessment reflects a fair market value of \$232.719 or \$151.12 per square foot 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.

In support of the subject's assessment, the board of review presented descriptions, assessment and sales data on four properties suggested as comparable. The properties are described as two-story, frame and masonry, attached, single-family dwellings. The properties are 10 years old and contain 1,540 square feet of living area. They sold from December, 2007 to June, 2009, for prices that ranged from \$220,000 to \$230,000 or from \$142.86 to \$149.35 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted information on a subsequent sale on the board of review's comparable #2 as well as a new appraisal and sales information on additional comparables. The Official Rules of the Property Tax Appeal Board prohibit the submission of new evidence as rebuttal and, therefore, the

evidence in regards to the new appraisal and the additional comparables cannot be considered by the Board. 86 Ill.Admin.Code 1910.66. The evidence concerning the subsequent sale of the board of review's comparable #2 can be considered by the Board and is marked as *Appellant's Hearing Exhibit #1*.

At hearing, the Board addressed a preliminary issue as to standing. The petition in the instant appeal lists the appellant as Edgar DeVries with an address in Oak Lawn; this petition is signed by Edgar DeVries. Mr. Kenneth DeVries, the appellant's son, appeared at hearing. He testified that he has a vested interest in the subject property. Upon questioning by the administrative law judge, Mr. Kenneth DeVries, testified he is co-owner of the property because he gave his father money to secure the loan for the property. He acknowledged that he was not named on the deed, but that he has an equitable interest because of a written agreement from his father concerning the loan by Kenneth DeVries to Edgar DeVries. Mr. Kenneth DeVries also testified there is a second mortgage on the property in which he is named on the documentation. Mr. Kenneth DeVries was given two weeks to produce documentation to show he has standing as the owner or responsible taxpayer to appear before the Board at this hearing.

As to the substantive evidence, Mr. Kenneth DeVries argued that the collapse of the real estate market supports a reduction in the subject's assessment. In addition, he asserted that the appraisal also supports a reduction. He argued the appraiser was certified and made appropriate adjustments to the comparables.

Mr. Kenneth DeVries testified that the board of review's comparable #1 is the refinancing of the subject property and does not reflect a sale. He testified he is a builder and was the contracted builder for all of the board of review's comparables. He argued the subject property has two bedrooms, not three. He argued the board of review's comparable #2 had a subsequent sale for much less than the sale used by the board of review. He argued that comparables #3 and #4 sold in 2007 which is too far removed to reflect the market after the housing collapse.

The board of review's representative, Joseph Power, rested on the evidence previously submitted. The board of review raised an objection to the appellant's appraisal because the appraiser was not present at the hearing to testify or be cross-examined; and therefore, he argued that the appraisal is hearsay. Based upon

this evidence, the board of review requested confirmation of the assessment.

Mr. Kenneth DeVries timely submitted to the Board, after the close of hearing, documentation showing that he has an unrecorded 25% interest in the subject property. Mr. DeVries also submitted color photographs. However, these documents were not requested by the Board and are untimely and therefore, cannot be considered by the board.

Conclusion of Law

As to Mr. Kenneth DeVries standing to appear at hearing, the Board finds Mr. Kenneth DeVries has a limited interest in the subject property along with the named appellant Edgar DeVries, who resides in the home. Therefore, the Board finds Mr. Kenneth DeVries has standing to appear at hearing in regards to this property.

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 Board finds that the appellant did meet this burden and that a reduction is warranted.

In determining the fair market value of the subject property, the Board 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 Board. 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 objected to the appraisal as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the Board will consider the raw sales data submitted by the parties.

In totality, the parties submitted sales data on 11 suggested comparables. The Board finds appellant's sales as well as the subsequent sale of the board of review's comparable #2 the most probative. These sales occurred from February, 2010, to September, 2013, for unadjusted prices ranging from \$71.43 to \$141.75 per square foot of living area. In comparison, the appellant's assessment reflects a market value of \$151.12 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 Board 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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: December 19, 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.