FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Thomas Kus
DOCKET NO.: 11-28989.001-R-1
PARCEL NO.: 15-11-125-006-0000

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

LAND:	$3,948
IMPR.:	$20,552
TOTAL:	$24,500

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a parcel of land improved with a 118-year old, multi-story, masonry, single-family dwelling two and one-half baths, a fireplace, and a full, 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 David R. Brown of Brown & Brown Appraisals Co. The appraiser estimated a market value of $194,000 as of January 20, 2011. 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 appraiser lists the subject’s size at 5,057 square feet of living area.

Under the sales comparison approach, the appraiser analyzed the sales of three properties and two listed properties. The sale properties are described as one or one and one-half story, masonry, single-family dwellings located within the subject's

market. The properties range in age from 55 to 91 years and in size from 1,592 to 2,026 square feet of living area. They sold in May 2010 for prices ranging from $175,000 to $229,000 or from $86.36 to $143.84 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 $194,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $24,500 was disclosed. The subject's final assessment reflects a fair market value of $258,166 when the Illinois Department of Revenue's 2011 three-year median level of assessment for Cook County Class 2 properties of 9.49%. The board of review listed the subject’s size as 4,345 square feet of living area without further explanation.

In support of the subject's assessment, the board of review presented descriptions and sales information on eight properties suggested as comparable. The properties are described as two-story, masonry, frame or stucco, single family dwellings. The properties range in age from 4 to 128 years and in size from 3,976 to 5,353 square feet of living area. They sold from March 2009 to October 2011 for prices ranging from $820,000 to $2,050,000 or $202.43 to $382.96 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 a appraisal review. This review is dated February 28, 2011 and is a review of the Brown appraisal. The appraiser, Konstatin Minnikov with Prime Appraisal Services, Inc., opines that the Brown appraisal’s final opinion of market value is reasonable as of the effective date of the appraisal report.

At hearing, the appellant testified that he was unable to get a mortgage from his own bank for the subject based on the appraisal submitted into evidence. He testified that he was unable to get the appraiser or the bank to find a higher estimate of market value for the subject. He testified the appraisal is signed and the license of the appraiser is included. He argued that the comparables’ within the appraisal are located within a few blocks of the subject.

Mr. Kus testified that he did observe the appraiser measure the house, but does not recall how he did it. He opined that the appraisal was not accurate as to the size of the subject.

Under cross-examination, Mr. Kus testified that he does have one of the largest homes in the community. He testified that large homes have not sold within Maywood. Mr. Kus testified his appraiser was not present to testify to the validity of the comparables.

Mr. Kus testified that the board of review's comparables are not located in the same town as the subject, but are in superior locations which are much more affluent. He opined that Maywood, the subject's town, is a depressed community.

The board of review's representative, Joe Power, testified that the county submitted comparables that are more similar in size to the subject than the appraisal's comparables. He acknowledged that Maywood is a depressed area, but argues that the assessed values of the comparables are higher which takes into consideration the location differences.

Mr. Power argues that the appraisal's comparables are much smaller in size than the subject, but the appraiser made minimal adjustments to them due to the difference in size from the subject and these comparables. He then motioned for the appraisal to be stricken from the record because the appraiser was not present to testify and that the appraisal was hearsay. The motion to strike was denied, but the objection to the appraisal due to the lack of testimony was noted for the record. Mr. Kus testifed that the appraiser is licensed and that this license was included in the appraisal. He argued that the lack of the appraiser's testimony was irrelevant to determining the appraisal as accurate.

After reviewing the testimony and considering the evidence, the Property Tax Appeal Board (Board) finds that it has jurisdiction over the parties and the subject matter of this appeal.

As to the subject's size, the appellant disagreed with the appraiser's calculations and does not have personal knowledge as to how he measured the subject. In addition, the appraisal did not include any diagram or sketch establishing how the appraiser arrived at his calculations. Therefore, the Board finds the appellant failed to submit sufficient evidence to show the county incorrectly listed the subject's size and finds the subject contains 4,345 square feet of living area which reflects a market value of $59.42 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).

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 Ill.2d at 509. In the instant case, the board of review has objected to the appraisal as the appraiser was not present. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. Moreover, the Board finds the appellant also disagreed with an item in the appraisal: the appraiser’s finding of size for the subject. However, the Board will consider the raw sales data submitted by the parties.

The Board finds the parties submitted sales data on seven properties that completed their sales transaction. The Board finds the appellant’s comparables within the appraiser most similar to the subject. These sales occurred in May 2010 for prices ranging from $175,000 to $229,000 or from $86.36 to $143.84 per square foot of living area. In comparison, the appellant's assessment reflects a market value of $59.42 per square foot of living area which is within 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 supported and a reduction is not 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: October 24, 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.