



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

APPELLANT: Gregory Dennis
DOCKET NO.: 12-30807.001-R-1
PARCEL NO.: 10-31-100-014-1025

The parties of record before the Property Tax Appeal Board are Gregory Dennis, the appellant; 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: \$ 367
IMPR.: \$12,721
TOTAL: \$13,088**

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 2009 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 a condominium unit with two-bedrooms and a garage space. The property is located in Niles Township, Cook County. The subject is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on April 3, 2012 for a price of \$90,000. The appellant also submitted the listing agreement, real estate purchase contract, and an inspection of the subject property.

In addition, the appellant submitted an appraisal estimating the subject property had a market value of \$125,000 as of October 3, 2011. The appraisal utilized the sales comparison approach to value to estimate the market value with the income approach to value considered as a supportive approach to estimating the market value for the subject property.

Under the sales comparison approach, the appraiser analyzed the sales of six properties described as condominium units located within the same building complex as the subject property. The comparable units sold from November, 2010 to May, 2011, for prices ranging from \$130,000 to \$210,000. 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 \$125,000.

At hearing, the appellant testified that he owns and occupies the subject property. He asserted that the property was purchased in an arm's length transaction from the estate of his mother. He also stated that he had been estranged from his sister, who was the executor of his mother's estate, for many years. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$13,088. The subject's assessment reflects a market value of \$147,056 when using the 2009 three year median level of assessments for class 2 property of 8.90% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted a report estimating the value of the subject unit by using recent sales of other units within the same building. The board of review's report used six sales comparables that sold from July, 1998 to June, 2012 for prices

ranging from \$110,000 to \$218,000. Two of those six sales were also used by the appellant's appraisal.

At hearing, the board of review's representative Fredrick Agustin (Mr. Agustin) objected to the appellant's appraisal for failure of the appraiser to appear and testify. Mr. Agustin requested that the Board take judicial notice of case #10-27282 while tendering a courtesy copy of this decision, which was marked as Hearing Exhibit #2. Mr. Agustin argued that the failure of the appraiser to appear and testify at the hearing renders the appraisal hearsay.

Conclusion of Law

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. 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds that the subject's 2012 sale to the appellant was not an arm's length transaction. The appellant was purchasing a property from a related party. The listing agreement itself provided for a modified transaction if the property is sold to the appellant. Finally, the subject property was listed at \$120,000 and less than a month later was substantially reduced and sold to the appellant for \$90,000.

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 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.

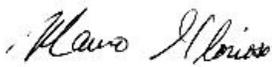
The record contains evidence provided by both the appellant and the board of review of six sales of units in the same building as the subject property. The Board finds the six sales had a total consideration of \$1,101,000. The board of review made a deduction in its analysis for a certain percentage of personal property. The Board finds that there was no support for this deduction. Dividing the total consideration of these sales by the percentage of interest of ownership in the condominium for the units that sold of 12.79% indicates a full value for the condominium building of approximately \$8,605,596. In applying the subject's percentage of ownership and making pertinent adjustments for ownership variance, the Board finds that current market value is supported. Based on this record the Board finds a reduction in the subject's assessment is not justified.

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 22, 2015



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.