



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

APPELLANT: Michael Phifer
DOCKET NO.: 09-31516.001-R-1
PARCEL NO.: 32-05-413-015-0000

The parties of record before the Property Tax Appeal Board are Michael Phifer, the appellant, by attorney Ronald M. Justin, of RMR Property Tax Solutions in Hawthorn Woods; 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: \$ 3,087
IMPR.: \$ 18,483
TOTAL: \$ 21,570

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 40-year old, two-story, single-family dwelling with 1,749 square feet of living area with frame and masonry exterior construction. The dwelling was constructed in 1970. Features of the home include a partial basement, central air conditioning, three baths and a two-car

garage. The property has an 8,820 square foot site and is located in Bloom Township, Cook County. The subject is classified as a class 2, residential property under the Cook County Real Property Assessment Classification Ordinance.

Procedurally, the Board notes that the appellant filed a pro se appeal in this matter listing a different appellant mailing address than that of the subject property. Thereafter, the Board received a motion to substitute attorneys on RMR Property Tax Solutions letterhead which was signed solely by Ron Justin, while listing the same address that was listed by the appellant. Without a signature from the taxpayer, the Board mailed copies of the hearing notice to both the consultant corporation as well as the appellant at the subject property's address. The notices were dated and mailed on May 5, 2015. Neither mailing was returned to the Board as undeliverable. This appeal was scheduled for hearing on July 1, 2015. On the hearing date, attorney Ron Justin appeared verbally indicating that he was representing the appellant. However, when the Board requested a copy of the appellant's retainer signed by the appellant of Mr. Justin, he indicated that he did not have that at the hearing. Moreover, attorney Justin stated that he had left his prior agency's affiliation where his office had been previously located.

In response, the board of review's representative moved for a dismissal of this appeal due to the absence of proper representation on the scheduled hearing date. The Board denied the board of review's motion for dismissal, while leaving the record open for 24 hours in order for Mr. Justin to submit a copy of a retainer or an appearance form with the appellant's signature thereon reflecting that Mr. Justin was hired to represent this appellant in this proceeding. The Board stated that this was especially relevant due to attorney Justin's verbal statement that he separated from a prior agency's affiliation and a total absence of the appellant's signature on any document actually hiring attorney Justin.

Procedurally, the hearing continued with this proviso wherein Mr. Justin did not call the preparer of the evidence as a witness in this proceeding. Thereafter, attorney Justin submitted a document signed by the appellant hiring Mr. Justin with a 'limited power of attorney' which was received within the allocated time period.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a grid

sheet identified as a 'Property Comparison Analyzer' prepared by Rick Robin of RMR Property Tax Solutions. The grid sheet reflected information on three comparable sales. The properties sold from April, 2008, to March, 2009, for prices that ranged from \$19.99 to \$96.60 per square foot. The properties contained improvements that were built from 1957 to 1980 and ranged in size from 1,750 to 2,334 square feet of living area. The Analyzer estimated a market value for the subject of \$146,776.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$21,570. The subject's assessment reflects a market value of \$242,360 or \$138.57 per square foot of living area, including land, when applying the 2009 three year average median level of assessment 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 descriptive and assessment information on four suggested equity comparables. Sales data was provided on comparable #2 reflecting a sale in November, 2007, for a price of \$278,000 or \$170.87 per square foot of living area.

At hearing, the board of review's representative initially moved for the Board to take Judicial Notice of a decision from the Illinois Department of Financial and Professional Regulation, identified for the record as CCBOR Hearing Exhibit #1. He argued that the preparer of the appellant's evidence, Rick Robin, had been sanctioned by the State of Illinois for failing to hold a license as a real estate appraiser, while performing such services. The State found that Rick Robin had engaged in this unlicensed practice while ordering a civil penalty be paid based upon the severity of his conduct. Secondly, the board of review's representative moved for the Board to consider the appellant's evidence hearsay due to the absence of the preparer to testify at hearing regarding the methodology used therein, while objecting to the appellant's evidence. Upon considering the parties' positions, the Board granted the board of review's request to take judicial notice of the State's findings regarding Rick Robin as well as granting the board of review's hearsay objection.

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*.

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

The appellant submitted documentation of a 'Comparison Analyzer'; however, the appellant's appraiser or preparer 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.

In totality, the parties submitted raw, unadjusted sales data on four suggested comparables, which the Board finds most

probative. These sales occurred from November, 2007, to March, 2009, for unadjusted prices ranging from \$19.99 to \$170.87 per square foot of living area. In comparison, the appellant's assessment reflects a market value of \$138.57 per square foot of living area which is within the range established by the sale 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

K. L. Fan

Klaus Albrecht

Member

Member

JR

Jerry White

Member

Acting Member

Robert Steffen

Acting 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 18, 2015

A. Proctor

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.