



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

APPELLANT: Jeffrey Stomberg
DOCKET NO.: 10-02958.001-R-1
PARCEL NO.: 14-22-309-057

The parties of record before the Property Tax Appeal Board are Jeffrey Stomberg, the appellant; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$66,900
IMPR.: \$267,986
TOTAL: \$334,886

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Lake County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 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 two-story dwelling of brick exterior construction with 5,122 square feet of living area. The dwelling was constructed in 2005. Features of the home include a full basement with 75% finished area,¹ central air

¹ The subject's appraisal depicts a partially finished basement. The board of review's evidence depicts the subject property has an unfinished basement.

conditioning, three fireplaces and a 732 square foot three-car garage. The property has a 22,216 square foot site and is located in Kildeer, Ela Township, Lake County.

Jeffrey Stomberg appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal of the subject property prepared by Grant M. Stewart, a State of Illinois Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$940,000 as of January 1, 2010.

During the hearing, the appellant submitted an additional three suggested comparable sales for his rebuttal evidence. The appellant felt that these sales were more indicative of what should be the value of his home. The board of review objected to the new evidence and the Administrative Law Judge took the objection under advisement.

The appellant called no witnesses.

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

At the hearing the board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board reserved ruling on the objection.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$334,886. The subject's assessment reflects a market value of \$1,024,743 or \$200.07 per square foot of living area, land included, when using the 2010 three year average median level of assessment for Lake County of 32.68% as determined by the Illinois Department of Revenue.

Representing the board of review was John Paslawsky. Paslawsky called Ela Township Deputy Assessor Penny Herr as a witness.

Herr described the subject property and its neighborhood.

In support of its contention of the correct assessment the board of review submitted information on five comparable sales located

in the same neighborhood code as assigned by the assessor with four of the comparables located on the same street as the subject. Two comparables used by the board of review were also utilized by the appellant's appraiser. The comparables are improved with two-story single family dwellings that ranged in size from 4,393 to 5,941 square feet of living area. The dwellings were of frame, brick or brick and frame exterior construction and were built from 2002 to 2007. The comparables have full unfinished basements, central air conditioning, one to four fireplaces and three-car attached garages that range in size from 764 to 977 square feet of building area. The comparables have sites that range in size from 22,216 to 24,829 square feet of land area. The comparables sold from January 2009 to September 2011 for prices ranging from \$837,500 to \$1,200,000 or from \$190.64 to \$221.40 per square foot of living area, land included.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination, Paslawsky testified that the county looks at sales six months prior to the assessment date and six months after the assessment date.

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.

As an initial matter, the appellant submitted three additional comparables at the hearing as rebuttal evidence. The board of review objected to the new evidence. The Board sustains the objection. The Property Tax Appeal Board finds that rebuttal evidence shall not consist of new evidence such as an appraisal or **newly discovered comparable properties**. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. This evidence constitutes a new overvaluation argument and shall not be considered. (86 Ill.Admin.Code §1910.66c).

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$550,000 as of January 1, 2011. The board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board hereby sustains the objection. The Board finds the appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. 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 court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Based on this case law, the Board gives the conclusion of value contained in the appraisal no weight since the appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value.

The courts have also stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. The Board finds there are credible market sales contained in this record, and therefore, the Board will examine the raw sales data contained in this record, including the sales in the appellant's appraisal.

The parties submitted six comparable sales for the Board's consideration. The Board gave less weight to the board of review comparables #4 and #5. These properties sold in August and September 2012, which are 20 and 21 months after the January 1, 2011 assessment date. The Board gave less weight to the board of review comparable #1 due to this property being built in 2006 and sold as new construction in January 2009. The Board finds the remaining three comparables are more similar to the subject in location, land size, dwelling size, age, design and features. Due to these similarities the Board gave these three comparables more weight. These similar properties sold in June and July 2009 for prices ranging from \$837,500 to \$925,000 or from \$190.64 to \$207.70 per square foot of living area including land. The subject's assessment reflects a market value of \$1,024,743 or \$200.07 per square foot of living area including land, which falls within the range established by the most similar comparables in this record on a per-square-foot basis. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction in the subject's assessment 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

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: November 20, 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.