



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

APPELLANT: Thomas E. & Mary J. Carney
DOCKET NO.: 11-01478.001-R-1
PARCEL NO.: 14-23-376-001

The parties of record before the Property Tax Appeal Board are Thomas E. & Mary J. Carney, the appellant, by attorney Thomas E. Davies, of Thomas E. Davies, P.C. in Morton; and the Peoria County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction** in the assessment of the property as established by the **Peoria** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$105,300
IMPR.: \$19,700
TOTAL: \$125,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the Peoria 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 is improved with a 96 year-old, part one-story and part two-story masonry dwelling that contains approximately 9,457 square feet of living area. Features of the home include a partial unfinished basement, three fireplaces, a 1,118 square foot four-car garage and an indoor pool. The property has a 96,049 square foot site and is located in Peoria Heights, Richwoods Township, Peoria County.

Through counsel, the appellants appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellants submitted an appraisal prepared by James W. Klopfenstein. He is an Illinois Certified General Real Estate Appraiser and holds the Member of the Appraisal Institute (MAI) and SRA designations. The appraiser was not present at the hearing to provide testimony and be cross examined regarding

his preparation of the report. The appraiser, using only the sales comparison approach, estimated the subject's market value as of January 1, 2011 to be \$375,000. His report explained that, "the cost approach has not been pursued due to the fact that the improvements have reached the end of their economic life and have no contributory value to the underlying site." The appraiser also did not prepare an income approach because, "the majority of properties similar to the subject are typically owner-occupied and used, and seldom, if ever, rented in this market."

Regarding the subject's condition, the appraiser cited numerous deficiencies that include:

Foundation wall cracks, substantial rust on steel beams in the basement, crumbling footings, moisture and condensation in basement with one room having water dripping from ceiling, original heating system which is outdated and inefficient, asbestos on majority of heat distribution pipes and boiler, evidence of water damage and mold in basement and first floor, original kitchen which is considered outdated, moisture and condensation in pool room due to lack of adequate ventilation and roof in need of replacement.

The appraiser noted additional items of deferred maintenance, such as cracked and bowed French doors, indicating settling and cracks and settling in the drive and parking areas.

The appraiser listed functional depreciation items that consisted of, but not limited to: an original kitchen which is considered outdated by today's market standards, lack of central air conditioning, light switches on floors instead of walls, original and outdated plumbing, bedrooms are small in terms of current standards and an enclosed indoor pool which is considered to be a super-adequacy.

Included in the report, the appraiser stated that "it is the appraiser's opinion that the deferred maintenance, physical inadequacies, functional obsolescence and presence of asbestos substantially limits the marketability of the subject as an improved property, and results in the improvements having reached the end of their economic life and having no contributory value to the underlying site. Also stated was "it is the appraiser's opinion that the improvements should be razed, removed and the site made ready to accept new building improvements."

In the sales comparison approach, the appraiser considered three vacant land sales. The comparables range in size from 20,519 to 51,531 square feet of land area. The comparables sold from September 2009 to March 2010 for prices ranging from \$110,000 to \$221,000 or from \$4.29 to \$7.57 per square foot of land area. The appraisal report stated comparables #1 and #3 are considered to be inferior to the subject. Comparable #2 is superior to the subject. The appraiser, based upon an analysis of the sales and after giving consideration to differences in date of sale, location, site size and physical characteristics, arrived at an indicated value, prior to giving consideration to the razing, removal and make ready costs, a value of \$5.00 per square foot or \$480,245. The appraiser then estimated the razing and removal of the building improvements, remediation of the asbestos, and site preparation to accept building improvements would cost \$10.00 per square foot of first and second floor dwelling and garage area or \$105,750. This cost is deducted from the estimated site value, presuming a vacant site available to accept building improvements, in order to arrive at an estimated market value of the property as follows: \$480,000 estimated site value – \$105,750 estimated removal, razing and remediation

= \$374,250 estimated value of property via the sales comparison approach, rounded to \$375,000. Through this analysis, the appraiser estimated the subject's market value by the sales comparison approach at \$375,000.

The appellants' attorney called the appellant, Dr. Thomas Carney, as a witness to answer questions pertaining to the condition of the subject property. Carney acknowledged that he resided at the subject property. Carney testified that the house has not been updated.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$153,320. The subject's assessment reflects a market value of \$465,029 or \$49.17 per square foot of living area, land included, or \$4.84 per square foot of land area, when using the 2011 three year average median level of assessment for Peoria County of 32.97% as determined by the Illinois Department of Revenue.

Representing the board of review was board member Rick Salisbury.

The board of review submitted a letter addressed to the appellants' as a response to their appeal. The letter states that the board of review strongly disagrees with the appraisal and information within. Also, that the property is a unique, premier location with a river view and a golf course view. The appraisal indicates that the subject has reached the end of its economic life, should be demolished and valued as vacant land. The letter also states that, "The Board of Review has no disagreement with this philosophy towards value, but does disagree with the choice of comparables used in the report as they do not share any of the amenities as the subject's lot has." Therefore, the board of review feels the current assessment is fair and equitable.

In support of its contention of the correct assessment the board of review submitted information on three tear-down sales with two comparables located on the same street as the subject. The comparable parcels range in size from 11,761 to 66,789 square feet of land area. The comparables sold from May 1996 to October 2008 for prices ranging from \$148,000 to \$545,000 or from \$8.16 to \$13.15 per square foot of land area. The board of review requested that the assessment be confirmed.

In written rebuttal, the appellants submitted a letter from James W. Klopfenstein, critiquing the board of review's evidence. The appellants also submitted correspondence regarding the topography of the subject property with exhibits.

Conclusion of Law

The appellants contend 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

In support of the overvaluation argument the appellants submitted an appraisal estimating the subject had a market value of \$375,000 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 appellants' 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. 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. However, the Board will examine the raw sales data contained in this record, including the sales in the appellants' appraisal.

The parties submitted six comparable land sales for the Board's consideration. The Board gave less weight to the appellants' comparable #3 along with the board of review comparables. These comparables sold from May 1996 to September 2009, which is less indicative of fair market value as of the subject's January 1, 2011 assessment date. The Board finds the best evidence of market value to be the appellants' comparables #1 and #2. These comparable sales sold for prices of \$4.29 and \$5.36 per square foot of land area. The subject's assessment reflects a market value of \$4.84 per square foot of land area, which is within the range established by the comparable sales in the record. The Board finds that these two comparables are considerably smaller than the subject property. Furthermore due to economies of scale, accepted real estate valuation theory provides, all other factors being equal, as the size of a property increases, its per unit value decreases. Likewise, as the size of a property decreases, its per unit value increases. Due to its larger size, the subject's estimated market value as reflected by its assessment is not supported by a preponderance of the market evidence contained in this record. The Board also finds that the board of review did not refute the condition of the subject property. The Board finds 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.



Chairman



Member

Member



Member

Member

DISSENTING: _____

CERTIFICATION

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: June 24, 2016



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.