



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

APPELLANT: M. Beckerman
DOCKET NO.: 11-01785.001-R-1
PARCEL NO.: 09-10-401-055

The parties of record before the Property Tax Appeal Board are M. Beckerman, the appellant, by attorney Joseph Spillane, of the Law Offices of Michael R. Davies, Ltd. in Oak Lawn; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$60,480
IMPR: \$62,400
TOTAL: \$122,880

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage 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 located at 401 Park Avenue consists of a bi-level dwelling of frame exterior construction with 1,194 square feet of living area.¹ The dwelling was constructed in

¹ The Board finds the best evidence of the subject's dwelling size was submitted by the board of review, which included the subject's property

1985.² Features of the home include a 552 square foot partially finished lower level, central air conditioning, a fireplace and a 576 square foot two-car garage.³ The property has a 7,950 square foot site and is located in Clarendon Hills, Downers Grove Township, DuPage County.

The appellant appeared through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal of the subject property prepared by David R. Brown, a State of Illinois Certified General Real Estate Appraiser. The appraiser was not present at the hearing. Using the cost approach to value and the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$308,000 as of November 26, 2011.

Under the cost approach the appraiser estimated the subject had a site value of \$235,000. The report indicated the appraiser estimated the replacement cost new of the improvements to be \$182,725 using Marshall and Swift Cost Data. The appraiser estimated the subject had an effective age of 20 years and an estimated remaining economic life of 40 years. Using the age-life method, physical depreciation was estimated to be approximately \$60,908. No deductions were made for functional and external obsolescence. The appraiser calculated the depreciated cost of the building improvements to be \$121,817. The appraiser then added \$5,500 for site improvements and the land value of \$235,000 to arrive at an estimated value under the cost approach of \$362,300.

Under the sales comparison approach the appraiser utilized five comparable sales and two listings located in Clarendon Hills, approximately .3-of a mile to 1.1 miles from the subject property. The comparables were described as being improved with split-level or ranch dwellings that ranged in size from 1,116 to 1,352 square feet of living area. The dwellings were of brick, frame or brick and frame exterior construction that ranged in age from 42 to 60 years old. Each comparable has central air conditioning and a one or two-car garage. Three comparables had

record card. The appellant's appraisal shows 1,212 square feet of living area but did not include a schematic drawing to support the reported dwelling size.

² The appraisal discloses the subject property is 56 years old. The board of review included a building permit issued to Pagemark Construction for construction of the subject dwelling, dated September 4, 1984.

³ The appraisal states the subject property has central air conditioning whereas, central air conditioning is not indicated on the board of review's property record card.

a full basement with two having finished area. Three comparables have partial finished lower levels. One comparable does not have a basement. Five comparables have one fireplace. Comparables #1 through #5 sold from August 2011 to November 2011 for prices ranging from \$285,000 to \$390,000 or from \$255.38 to \$340.01 per square foot of living area, land included. Comparables #6 and #7 were listed for sale for prices of \$339,900 and \$369,000 or \$266.38 and \$297.10 per square foot of living area, land included, respectively. After making adjustments for differences from the subject property, the appraiser concluded the comparables had adjusted prices ranging from \$305,600 to \$355,800. Using this data the appraiser estimated the subject had an estimated value under the sales comparison approach of \$308,000.

In reconciling the two approaches to value, the appraiser gave most emphasis to the sales comparison approach and estimated the subject property had a market value of \$308,000 as of November 26, 2011.

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

The appellant's attorney called no witnesses.

At the hearing the board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The board of review objected that the appraisal did not contain a sketch of the subject. The board of review also objected that the appraisal date was eleven months after the January 1, 2011 assessment date. The Board reserved ruling on the objections.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$122,880. The subject's assessment reflects a market value of \$370,679 or \$310.45 per square foot of living area, land included, when using the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

Representing the board of review was member Charles Van Slyke. Van Slyke called Downers Grove Chief Deputy Assessor Joni Gaddis as a witness.

The board of review submitted a narrative report detailing both parties' comparables which was prepared by Gaddis. Comparable #5 used by the board of review was also utilized by the

appellant's appraiser as comparable #4. Gaddis testified that comparable #4 was a vacant land sale. Comparable #1, #2, #3 and #5 were described as being improved with one-story dwellings that ranged in size from 1,144 to 1,296 square feet of living area. The dwellings were of frame or brick construction and were built from 1952 to 1969. Three of the comparables had effective ages ranging from 1957 to 1985. Each comparable has a full or partial basement with one comparable having finished area. The comparables had garages that range in size from 380 to 476 square feet of building area. Two comparables have a fireplace. Comparables #1 through #3 and #5 sold from June 2010 to December 2010 for prices ranging from \$285,000 to \$390,000 or from \$240.30 to \$340.91 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 Gaddis testified that split-level homes in Downers Grove Township are assessed as one-story homes with a below grade finish. Gaddis also testified that board of review comparables #1 through #3 are a true ranch type dwelling and board of review comparable #5 is a split-level dwelling.

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 support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$308,000 as of November 26, 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 provided 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 appellant's appraisal.

The Board finds the record contains ten improved comparables submitted by the parties in support of their respective positions. The Board gave no weight to board of review comparable #4 based on this comparable being comprised of vacant land when the subject is an improved property. The Board gave less weight to appellant's comparable #2. The Board takes notice in the grid analysis submitted by the board of review a notation was made that the sale was a "tear down", which represents its land value. The Board also gave less weight to the appellant's comparable #3, #6 and #7 along with board of review's comparable #1 through #3 due to their dissimilar ranch design when compared to the subject's split-level design. The Board finds the remaining three comparables are more similar to the subject in location, size, style and features. Due to these similarities the Board gave these three comparables more weight. These similar properties sold in November 2010 and October 2011 for prices ranging from \$365,500 to \$390,000 or from \$278.48 to \$340.91 per square foot of living area including land. The subject's assessment reflects a market value of \$370,679 or \$310.45 per square foot of living area including land, which falls within the range established by the most similar comparables in this record. 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.



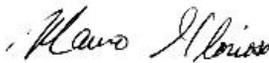
Chairman



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: March 20, 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.