



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

APPELLANT: Edmund Lowrie
DOCKET NO.: 11-02143.001-R-1
PARCEL NO.: 05-16-328-001

The parties of record before the Property Tax Appeal Board are Edmund Lowrie, the appellant, by attorney James F. Bishop in Crystal Lake; 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: \$21,592
IMPR.: \$89,563
TOTAL: \$111,155**

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 consists of a two-story two family dwelling of frame exterior construction with 2,193 square feet of living area.¹ The dwelling was constructed in 1887. Features of the home include a full unfinished basement and a two-car detached garage. The property has an 8,712 square foot site and is located in Wheaton, Milton Township, DuPage County.

¹The Property Tax Appeal Board finds the best evidence of size was presented by the appellant's appraisal which contained a schematic diagram and the calculations of the subject's size. The board of review's evidence did not include a diagram depicting the size of the subject and the related calculations.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted a Uniform Residential Appraisal Report of the subject property prepared by Robert R. Nieling, a State Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to provide testimony and be cross-examined regarding the appraisal methodology and the final value conclusion. Using only the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$260,000 as of January 1, 2011.

Under the sales comparison approach the appraiser utilized three comparable sales located in Wheaton. The comparables were located approximately .13 to .97 of a mile from the subject property. The comparables have lots that range in size from 7,658 to 12,600 square feet of land area. The comparables were described as being improved with a 1.5-story bungalow² or two-story single family dwelling that ranged in size from 1,600 to 2,120 square feet of living area. The dwellings were of brick, asbestos siding or frame exterior construction and were built from 1903 to 1928. Each comparable has a full unfinished basement. Each comparable has central air conditioning. One comparable has a fireplace and two comparables have a two-car garage. The comparables sold from April 2010 to October 2010 for prices ranging from \$236,000 to \$325,000 or from \$140.48 to \$168.75 per square foot of living area, land included. After making adjustments to the comparables for differences when compared to the subject property, the appraiser concluded the comparables had adjusted sale prices ranging from \$258,500 to \$287,200. Based on these adjusted sales, the appraiser estimated the subject had an estimated value of \$260,000 under the sales comparison approach to value.

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 page 1 of the appraisal stated "Interior was not inspected and was reported to be in fair condition with minor repairs needed". The board of review also objected that there were adjustment amounts for condition, but no interior inspection. 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 \$111,155. The subject's assessment reflects a market value of \$335,309 or \$152.90 per square foot of living area, land included, when using the 2011 three year average median level of

² The appraiser describes comparable #1 as a "ExpBung 2 flat". The photograph depicts a 1.5-story dwelling.

assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

Representing the board of review was Board of Review Chairman, Anthony A. Bonavolonta. Bonavolonta called Milton Township Deputy Assessor Debbie Hansen as a witness to testify regarding the evidence she prepared on behalf of the board of review.

In rebuttal of the appellant's appraisal, Hansen testified that the appellant's comparables #1 and #3 are located outside of the subject property's neighborhood.

In support of its contention of the correct assessment the board of review submitted information on four comparable sales located in the same neighborhood code assigned by the assessor as the subject property. The comparables are improved with two-story dwellings of frame exterior construction that were built from 1905 to 1917. Each comparable has a full or partial unfinished basement. One comparable has central air conditioning. Each comparable has a one or two-car detached garage. The comparables have lots that range in size from 4,522 to 9,006 square feet of land area. The comparables sold from March 2010 to October 2011 for prices ranging from \$290,000 to \$337,000 or from \$190.43 to \$219.70 per square foot of living area, land included.

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 \$260,000 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 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 seven improved comparables submitted by the parties in support of their respective positions. The Board gave less weight to the appellant's comparables #1 and #3 due to their location being outside of the subject's neighborhood. The Board gave less weight to board of review comparables #3 and #4 based on their considerably smaller dwelling size when compared to the subject. The Board finds the remaining three comparables are more similar to the subject in location, size and features. Due to these similarities the Board gave these three comparables more weight. These similar properties sold from October 2010 to October 2011 for prices ranging from \$325,000 to \$337,000 or from \$153.30 to \$206.62 per square foot of living area including land. The subject's assessment reflects a market value of \$335,309 or \$152.90 per square foot of living area including land, which falls below 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



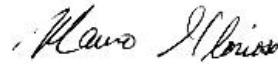
Member



Member



Member



Member



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: March 18, 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.