



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

APPELLANT: Joseph & MaryLynn Zajdel
DOCKET NO.: 11-02686.001-R-1
PARCEL NO.: 08-04-104-007

The parties of record before the Property Tax Appeal Board are Joseph & MaryLynn Zajdel, the appellants; and the DuPage County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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: \$93,320
IMPR.: \$126,680
TOTAL: \$220,000**

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants 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 dwelling of brick construction with 3,686 square feet of living area.¹ The

¹The Property Tax Appeal Board finds the best evidence of size was presented by the appellants located in the 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.

dwelling was constructed in 1999. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a 660 square foot three-car attached garage. The property has a 15,766 square foot site and is located in Lisle, Lisle Township, DuPage County.

MaryLynn Zajdel appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellants submitted an appraisal of the subject property prepared by Margaret M. Kaczmariski, 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 \$650,000 as of January 1, 2011.

Zajdel called no witnesses.

Based on this evidence, the appellants 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 \$242,620. The subject's assessment reflects a market value of \$731,885 or \$198.56 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 Carl Peterson. Peterson called Lisle Township Deputy Assessor Jim Berg as a witness to testify regarding the evidence he prepared on behalf of the board of review.

In support of its contention of the correct assessment the board of review submitted information on four comparable sales. Comparables #2, #3 and #4 used by the board of review were also utilized by the appellants' appraiser. Comparable #1 is located on the same street as the subject. The comparables are improved with two-story single family dwellings that ranged in size from 3,410 to 4,489 square feet of living area. The dwellings were of frame, brick or brick and frame exterior construction and

were built from 1989 to 2005. The comparables have a full basement with three comparables having finished area.² Each comparable has central air conditioning, one or two fireplaces and garages that range in size from 707 to 783 square feet of building area. Comparables #2, #3 and #4 have sites that range in size from 11,040 to 20,044 square feet of land area. Land size was not disclosed for comparable #1. The comparables sold from September 2009 to September 2010 for prices ranging from \$680,000 to \$890,000 or from \$186.35 to \$205.33 per square foot of living area, land included.

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

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 \$650,000 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

² The subject's appraisal depicts a finished basement area for comparable #4/board of review comparable #2. The board of review's evidence depicts this comparable property has an unfinished basement.

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. 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 appellants' appraisal.

The Board finds the record contains six improved comparables submitted by the parties in support of their respective positions. The Board gave less weight to appellant's/board of review comparable #3. This sale occurred in September 2009 which is dated and less indicative of fair market value as of the subject's January 1, 2011 assessment date. The Board gave less weight to appellant's comparable #4/board of review comparable #2 and appellant's comparable #5 based on these comparables being newer in age and superior condition when compared to the subject. The Board gave less weight to the board of review comparable #1 due to its considerably larger dwelling size when compared to the subject. The Board finds the remaining two comparables have varying degrees of similarity when compared to the subject in location, age, dwelling size and features. The comparables sold for prices of \$590,000 or \$680,000 or \$161.51 or \$186.35 per square foot of living area, including land. The subject's assessment reflects a market value of \$731,885 or \$198.56 per square foot of living area, including land, which is above the most similar comparable sales in the record. Based on this evidence the Board finds a reduction in the subject's assessment is justified.

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

Klaus Albino

Member

[Signature]

Member

Member

Jerry White

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: July 24, 2015

[Signature]

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.