FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Geary Depue
DOCKET NO.: 11-33059.001-R-1
PARCEL NO.: 30-17-108-053-0000

The parties of record before the Property Tax Appeal Board are Geary Depue, the appellant(s); and the Cook 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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$1,825
IMPR.:	$1,884
TOTAL:	$3,709

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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 parcel of land improved with a 118-year old, one-story, frame, non-owner occupied, multi-family dwelling. The property is located in Thornton Township, Cook County. The property is a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

In support of the market value argument, the appellant submitted an appraisal undertaken by Peter Babic of R&R Appraisals. The report indicates Babic is a State of Illinois certified residential appraiser. The appraiser indicated an estimated market value of $15,000 as of February 28, 2010. The appraisal

report utilized the sales comparison approach to value to estimate the market value for the subject property. The appraisal lists the subject's size as 1,954 square feet of living area. The appraisal included a copy of the plat of survey.

Under the sales comparison approach, the appraiser analyzed the sales of three properties described as two-story, frame or masonry, multi-family dwellings between 86 and 111 years old and located within a half-mile radius of the subject. They contain between 2,012 and 2,242 square feet of living area and sold from November to December 2009 for prices ranging from $6.24 to $20.38 per square foot of living area. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of $15,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $12,898 was disclosed. The subject's final assessment reflects a fair market value of $135,911 when the Illinois Department of Revenue's 2011 three-year median level of assessment of 9.49% for Cook County Class 2 properties is applied. The board of review lists the subject as containing 1,924 square feet of living area.

In support of the subject's assessment, the board of review presented descriptions, assessment and sales data on four properties suggested as comparable. The properties are described as two-story, frame or masonry, multi-family dwellings between 44 and 103 years old. They contain between 1,560 and 1,955 square feet square feet of living area and sold from February 2008 to October 2009 for prices that ranged from $68.38 to $134.62 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant, Geary Depue, opined that the market values in Calumet City, where the subject is located, have decreased. He did not present the appraiser as a witness.

Mr. Depue testified that he is familiar with the properties analyzed by the appraiser in the subject's appraisal. As to the appraisal's comparable #1, the appellant testified that this property is similar to the subject and is located five houses down from the subject. As to comparable #2, he testified that he does not know how many units are in this house, but that this house is about one and one-half blocks away from the subject within the same neighborhood market. As to comparable #3, he testified that this property is two blocks from the subject and located within the same market. Mr. Depue testified that comparables #2 and #3 are brick homes. Mr. Depue opined that the area the subject is located in has the lowest income and housing values in Calumet City.

The board of review's representative, Joseph Power, raised an objection to the appellant’s appraisal because the appraiser was

not present at the hearing to testify or be cross-examined; and therefore, he argued that the appraisal is hearsay. Mr. Power testified that the four sale comparables submitted by the board of review support the subject's market value and current assessment. Based upon this evidence, the board of review requested confirmation of the assessment.

In rebuttal, Mr. Depue testified that three of the comparables sold in 2008 prior to the real estate crash. He testified that comparable #3 is within three-fourths of a mile from the subject and that comparable #4 is in Harvey, IL which is seven or eight miles away from the subject.

Conclusion of Law

As to the subject's size, the board finds the appellant submitted sufficient evidence in the form of the plat of survey to support the subject's size at 1,954 square feet of living area. This reflects a market value based on the assessment of $69.55 per square foot of living area.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm’s length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c).

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the Board. 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 appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. The board of review objected to the appraisal as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the Board will consider the raw sales data submitted by the parties.

In totality, the parties submitted sales data on seven suggested comparables. The Board finds the appellant’s sale comparables the most probative. These sales occurred from November 2009 to December 2009 for unadjusted prices ranging from $6.24 to $20.38 per square foot of living area. In comparison, the appellant's assessment reflects a market value of $69.55 per square foot of living area which is above the range established by the sales comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot assessment is not supported and 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

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: August 21, 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.