



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

APPELLANT: Patricia Gallagher
DOCKET NO.: 12-02976.001-R-1
PARCEL NO.: 03-35-402-005

The parties of record before the Property Tax Appeal Board are Patricia Gallagher, the appellant, by attorney Joe Lee Huang, of Law Offices of Terrence Kennedy Jr. in Chicago; 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: \$38,350
IMPR.: \$100,750
TOTAL: \$139,100

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 2012 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 frame exterior construction with 2,748 square feet of living area. The dwelling was constructed in 1947. Features of the home include a full basement with 75% finished area, central air conditioning and a 484 square foot detached garage. The

property has a 9,700 square foot site and is located in Elmhurst, Addison 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 Mitch Ramski, a State of Illinois Certified Residential 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 \$390,000 as of May 10, 2011.

Under the cost approach the appraiser estimated the subject had a site value of \$90,000. The report indicated the appraiser estimated the replacement cost new of the improvements to be \$341,570 using Marshall and Swift Cost Data. The appraiser estimated the subject had an effective age of 8 years and an estimated remaining economic life of 52 years. Using the age-life method, physical depreciation was estimated to be approximately \$45,531. No deductions were made for functional and external obsolescence. The appraiser calculated the depreciated cost of the building improvements to be \$296,039. The appraiser then added \$16,000 for site improvements and the land value of \$90,000 to arrive at an estimated value under the cost approach of \$402,039.

Under the sales comparison approach the appraiser utilized three comparable sales and two listings located in Elmhurst, approximately .05-of a mile to 1.60 miles from the subject property. The comparables were described as being improved with two-story or ranch dwellings that ranged in size from 2,270 to 3,077 square feet of living area. The dwellings were of frame exterior construction that ranged in age from 12 to 87 years old. Each comparable has a full or partial basement with four comparables having finished area, central air conditioning and a one or two-car garage. Four comparables have one or two fireplaces. The comparables have sites ranging in size from 7,000 to 9,200 square feet of land area. Comparables #1 through #3 sold from September 2010 to February 2011 for prices ranging from \$375,000 to \$395,000 or from \$123.50 to \$163.33 per square foot of living area, land included. Comparables #4 and #5 were listed for sale for prices of \$449,000 and \$450,000 or \$185.08 and \$198.24 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 \$350,000 to \$422,000. Using this

data the appraiser estimated the subject had an estimated value under the sales comparison approach of \$390,000.

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 \$390,000 as of May 10, 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 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 \$139,100. The subject's assessment reflects a market value of \$417,467 or \$151.92 per square foot of living area, land included, when using the 2012 three year average median level of assessment for DuPage County of 33.32% as determined by the Illinois Department of Revenue.

Representing the board of review was Chairman Anthony Bonavolonta. Bonavolonta called Addison Township Residential Division Manager, Dawn Aderholt, as a witness.

In support of its contention of the correct assessment the board of review submitted information on four comparable sales located in the same neighborhood as the subject property. Aderholt testified that the comparables are improved with two-story dwellings of brick and frame or frame exterior construction that ranged in size from 2,404 to 2,660 square feet of living area. The dwellings were constructed from 1922 to 1963. Features include unfinished basements ranging in size from 686 to 1,554 square feet and garages that range in size from 387 to 720 square feet of building area. Three comparables have central air conditioning. Two comparables have one fireplace. The comparables have sites ranging in size from 8,400 to 11,690 square feet of land area. The comparables sold from June 2011 to April 2012 for prices ranging from \$338,000 to \$470,000 or from \$140.48 to \$186.69 per square foot of living area, including land.

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

Under cross-examination, Aderholt testified that there were no adjustments made to the sale prices of the board of review comparables for differences when compared to the subject property.

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 \$390,000 as of May 10, 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/listings in the appellant's appraisal.

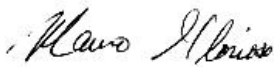
The Board finds the record contains nine improved comparables submitted by the parties in support of their respective positions. The Board gave less weight to appellant's comparables #2 and #3. These sales occurred in September 2010 and November 2010 which are dated and less indicative of fair market value as of the subject's January 1, 2012 assessment date. The Board gave less weight to appellant's comparable #4 due to its dissimilar ranch design when compared to the subject's two-story design. The Board finds the remaining six comparables are more similar to the subject in location, size, style and features. Due to these similarities the Board gave these six comparables more weight. These similar properties sold and were listed for sale, which sets the upper limit of value, from February 2011 to April 2012 for prices ranging from \$338,000 to \$470,000 or from \$140.48 to \$186.69 per square foot of living area including land. The subject's assessment reflects a market value of \$417,467 or \$151.92 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: May 22, 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.