



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

APPELLANT: Kevin Fryer
DOCKET NO.: 12-03389.001-R-1
PARCEL NO.: 14-18-376-003

The parties of record before the Property Tax Appeal Board are Kevin Fryer, the appellant, by attorney James F. Bishop in Crystal Lake, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$44,086
IMPR: \$133,994
TOTAL: \$178,080

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the McHenry 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 and brick construction with 4,524 square feet of living area. The dwelling was constructed in 2004. Features of the home

include an unfinished walkout basement, central air conditioning, a fireplace and a four-car garage. The subject parcel has 3.55 acres of land area and is located in Crystal Lake, Nunda Township, McHenry County.

The appellant appeared, through counsel, before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$480,000 as of January 1, 2012. The appraiser, Michael Bergen, was not present at the hearing for direct and cross-examination regarding the appraisal process and final value conclusion. The appraiser developed the sales comparison approach using three sales to indicate an estimated value range for the subject property from \$439,160 to \$553,750.

The appellant's counsel stated that the appraisal comparables are located in the immediate vicinity of the home in question.

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

At the hearing, the board of review's representative objected to consideration of the appraisal since the appraiser was not present to provide testimony and/or be cross-examined with regard to the report. Appellant's counsel responded that the appraiser was ill. The Administrative Law Judge took the objection under advisement.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$178,080. The subject's assessment reflects a market value of \$547,265 or \$120.97 per square foot of living area, land included, when using the 2012 three year average median level of assessment for McHenry County of 32.54% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a grid analysis of two comparable sales, as well as the appellant's appraisal comparables. In addition, the board of review's evidence included a Multiple Listing Service sheet for the appellant's appraisal comparable #2 which disclosed that the "Home Does Need Work..."

The board of review's representative argued that the board of review's comparable #1 was located in the Colonel Holcomb

neighborhood and includes an unfinished walkout basement, like the subject.

The board of review's witness, Nunda Township Deputy Assessor Vic Pearson, testified that the appellant's appraisal comparable #2 was located in Dorr Township in Bull Run Illinois, which is in a different school district, and was a foreclosure sale. Pearson explained that the appellant's comparables were located in the Hazelwood, Stickney Woods and Colonel Holcomb neighborhoods, respectively. Pearson further testified that of the three neighborhoods, the appellant's appraisal comparable #3 in the Colonel Holcomb neighborhood would be considered most similar to the subject's neighborhood of Surini at the Oak Ridge neighborhood.

During cross-examination, Pearson testified that the board of review's comparable #2 was located 4.5 miles from the subject.

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

Conclusion of Law

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds a reduction in the subject's assessment is not warranted.

For this appeal, 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); 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 best sales in this record support the subject's assessment.

As an initial matter, the Property Tax Appeal Board hereby sustains the objection of the board of review as to hearsay. The Board finds that in the absence of the appraiser at the hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value

conclusion made by the appraiser. The Board finds the appraisal report is tantamount to hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2nd Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1st Dist. 1971). In the absence of the appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusion of \$480,000 as of January 1, 2012 has been significantly diminished.

The parties submitted a total of five sales for the Board's consideration. The Board finds the best comparable sales in this record are the appellant's appraisal comparable #3 and the board of review's comparable #1. These properties were most similar to the subject in location, style, age, size and features. The comparables sold in May and November of 2011 for prices of \$800,000 and \$600,000 or \$171.38 and \$146.66 per square foot of living area including land, respectively. The subject's assessment reflects a market value of \$547,265 or \$120.97 per square foot of living area including land, which is below the market values of the best comparables in this record. After considering adjustments to the comparables for differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is justified and no reduction in the subject's assessment is warranted. The Board gave reduced weight to the remaining three comparables due to their dissimilar locations, age and/or condition.

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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

Member

J. R.

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: January 23, 2015

Allen Castrovillari

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.