



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

APPELLANT: Frank Vlasak  
DOCKET NO.: 12-04002.001-R-1  
PARCEL NO.: 07-12-403-022

The parties of record before the Property Tax Appeal Board are Frank Vlasak, the appellant; and the DuPage County Board of Review.

Based on the facts and exhibits presented in this matter, 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:** \$82,130  
**IMPR.:** \$17,588  
**TOTAL:** \$99,718

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 converted duplex style dwelling of brick exterior construction with 1,609 square feet of living area. The dwelling was constructed in 1927. Features of the duplex include a 1,040 square foot basement and a two-car garage. The property has approximately 27,900 square foot site and is located in Naperville, Naperville Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal of the subject property prepared by Richard E. Palm, a State of Illinois Certified General 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 income approach and the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$260,000 as of January 17, 2012.

Vlasak testified that the subject property could not be easily be converted back to a single family residence because the staircase has been removed.

Under cross-examination, Vlasak testified that the subject property is in fair condition. Vlasak stated that the kitchens are from the fifties.

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 \$105,870. The subject's assessment reflects a market value of \$317,737 or \$197.47 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 Board Member Carl Peterson. Peterson called Naperville Township Chief Deputy Assessor Ken Jackson as a witness

In support of its contention of the correct assessment the board of review submitted information on three comparable sales. One comparable was also utilized by the appellant's appraiser. Jackson testified that the comparables are within a half of mile from the subject. Jackson testified that the comparables are improved with one two-story converted duplex style dwelling and two 1.5-story single family dwellings that ranged in size from 1,360 to 1,653 square feet of living area. The dwellings were of frame, brick or brick and frame exterior construction and were built from 1906 to 1946. Each comparable has a basement with one comparable having a finished area. Two comparables have central air conditioning and one comparable has a fireplace. One comparable has a one-car garage and one comparable has a two-car garage. The comparables have sites ranging from 5,940 to 7,200 square feet of land area. The comparables sold from February 2011 to March 2012 for prices ranging from \$235,000 to \$305,000 or from \$163.99 to \$186.76 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 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 met this burden of proof and a reduction in the subject's assessment is warranted.

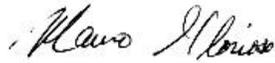
In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$260,000 as of January 17, 2012. The board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board hereby sustains the objection. The Board finds the appellant's appraiser was not present at the hearing to 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 (1<sup>st</sup> 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 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 (2<sup>nd</sup> 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. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5<sup>th</sup> Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. 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 appellant's appraisal.

The Board finds the record contains seven comparables submitted by the parties in support of their respective positions. The appraiser's comparable #1 is also board of review's comparable #1. The board gave less weight to the appraiser's comparable #5 along with the board of review comparables #2 and #3. The comparables are single family residences and not duplex properties like the subject. The Board gave less weight to the appraiser's comparables #2 and #4. The comparables are considerably larger than the subject property. The Board finds the best evidence of market value to be the appraiser's comparables #1 and #3, which also included board of review comparable #1. The Board finds that these comparables have varying degrees of similarity when compared to the subject in location, dwelling size and features. These comparable sales sold in February 2011 and January 2012 for prices of \$254,000 and \$135,000 or \$186.76 and \$90.97 per square foot of living area, including land, respectively. The subject's assessment reflects a market value of \$317,737 or \$197.47 per square foot of living area, including land, which is above the best 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



Member



Member



Member



Acting Member

DISSENTING: \_\_\_\_\_

CERTIFICATION

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: November 23, 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.