



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

APPELLANT: Larry Beard
DOCKET NO.: 12-04265.001-R-1
PARCEL NO.: 15-21-151-019

The parties of record before the Property Tax Appeal Board are Larry Beard, the appellant, by attorney R. Brian Harvey of The Beard Law Firm in Carbondale; and the Jackson County Board of Review by Assistant State's Attorneys Patrick Brewster and Daniel Brenner.

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 **Jackson** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$13,847
IMPR.: \$16,653
TOTAL: \$30,500

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Jackson 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 is improved as a 1.5-story dwelling with 2,495 square feet of living area. The dwelling is approximately 69 years old. Features of the building include a full basement and a one-car attached garage. The property has a site with approximately 17,704 square feet of land area and is located at

803 West Main Street, Carbondale, Carbondale Township, Jackson County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Penny Murden of Murden Appraisal and Real Estate, Inc, estimating the subject property had a market value of \$74,500 as of February 22, 2013.¹

As preliminary matters the board of review filed a Motion to Strike the appellant's appraisal, marked as Appellant's Exhibit C, because the appraiser indicated the property was an office and her designation as a certified residential real estate appraiser did not allow her to appraise office buildings. The Property Tax Appeal Board denies the Motion to Strike finding it goes to the weight to be given the appraisal report not the admissibility. Furthermore, the evidence demonstrated the property is actually a dwelling and both the appellant's appraiser and the board of review had valued the subject as a dwelling.

The board of review also made a Motion to Strike the appellant's appraisal marked as Appellant's Exhibit E, submitted in rebuttal, which included a signature of certified general real estate appraiser G. Larry Havens. The report also had a revised estimate of value under the sales comparison approach. The Board sustains the objection finding the new appraisal was inappropriate rebuttal evidence. Section 1910.66(c) of the rules of the Property Tax Appeal Board provides:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. (86 Ill.Admin.Code §1910.66(c)).

The Board finds the revised report is a new appraisal which is inadmissible as rebuttal evidence.

The Board did overrule the Motion to Strike with respect to Appellant's Exhibits #1 through #23, putative photographs of the subject property, but no testimony was provided establishing the

¹ The appraisal contained the incorrect address of the subject property. The subject property is located at 803 West Main Street, Carbondale, Illinois. The appraisal cites the address as 813 West Main Street, Carbondale, Illinois. The appraisal, however, does cite the correct parcel number (PIN) of the property as PIN 15-21-151-019.

foundation that these photographs were representative of the subject property as of the assessment date at issue. Therefore, no weight was given these exhibits.

The first witness called was the appellant, Larry Beard, who testified he resides at 803 West Main Street, Carbondale. He testified he claims this property as his homestead exemption. He explained that he had used the building as his office but sleeps in the back of the building.

Under cross-examination he explained that he had used the front of the building as an office. He thought the property was last used as an office in 2010 when a chiropractor was in the building for four months.

Beard explained he began using the property as a residence in August 2001 and has used it as such through 2012. He also testified he used the front of the building as his office in 2005 to 2007 when he purchased the adjacent property at 801 Main Street.

The next witness called on behalf of the appellant was Penny Murden. Murden has been a real estate appraiser for 33 years. She testified that she has been appraising properties primarily in six counties in Southern Illinois, including Carbondale. She testified that she appraised properties located at 803 West Main Street and 812 West Main Street on behalf of Larry Beard. She estimated the property at 803 West Main Street had a market value of \$74,500.

She testified that problems found at the subject property included a lot of moisture in the basement and cracked plaster, indicating settlement.

Murden identified Appellant's Exhibit C as the appraisal of the subject property located at 803 West Main Street. She conceded the address on the report was incorrect. A second error had to do with the zoning classification as it should have read "PAR" not "PA" as stated in the report.

Murden testified she is a certified residential real estate appraiser. She also agreed that she indicated on the report that the actual use as of the effective date was "office use." She also stated in the report that the use as appraised in the report was "office use." She testified that she did not need another signature on the report because this was a home that could be used as an office. Murden was questioned with respect

to Section 10-5(c) of the Real Estate Appraiser Licensing Act of 2002 which provides:

A State certified residential real estate appraiser must have a State certified general real estate appraiser who holds a valid license under this Act co-sign all appraisal reports on properties other than one to 4 units of residential real property without regard to transaction value or complexity. (225 ILCS 458/10-5(c)).

The witness testified the property is a house, a residential structure. She acknowledged that her appraisal does not have the signature of a certified general real estate appraiser.

Murden also agreed she stated in the report that, "The usual physical depreciation is taken for age and wear and tear. I did not observe any functional or economic obsolescence."

In estimating the market value of the subject property the appraiser developed the sales comparison approach to value using two sales. She did not believe the income approach was applicable and did not develop the cost approach due to age and extreme condition. She did state in the report that there was an oil tank in the basement and that termite damage and extreme dampness was observed in the basement. The appraiser described the subject property as being in fair condition.

In developing the sales comparison approach the appraiser used two comparable sales. She testified only two sales were used because there were not many sales. In describing the subject property in the report she explained she made an error stating the subject had central air conditioning when it actually has window units. She testified that because the comparables have central air conditioning a negative \$2,000 adjustment would need to be made which would change the estimate of value to \$72,500.

The two comparables used by Murden were composed of a bungalow style dwelling and a 1.5-story dwelling that had 2,162 and 1,650 square feet of living area, respectively. She indicated the comparables had actual ages of 93 and 79 years with effective ages of 35 and 45 years, respectively. Each was described as being in superior condition, each comparable had an unfinished basement, each comparable had central air conditioning and one comparable had a detached one-car garage. The sales occurred in July 2012 and August 2012 for prices of \$91,900 and \$50,500 or \$42.51 and \$30.61 per square foot of living area, respectively.

Both comparables were located in Carbondale from .24 and .64 miles from the subject property.

The appraiser was of the opinion the value of the property would not have changed from January 1, 2012 to February 22, 2013. When she inspected the property the home was being used as the appellant's residence. She also explained that the subject's PAR zoning is to provide a buffer between residential districts and non-residential districts. The zoning is designed to preserve the residential appearance and character of the neighborhood.

In the report Murden stated, "I chose to appraise the subject property as a residence due to it (sic) architectural design and floor plan as a residence." She explained the property was appraised in this manner as opposed to any commercial use. The appraiser valued the subject as a home which has the flexibility for its usage to be residential or commercial in nature. She indicated neither of her comparables had this flexibility. Murden testified she had no measurement to see how this difference in flexibility would impact value.

Murden also testified the effective ages of the comparables was based on MLS photographs and comments; she did not inspect either property.

Based on this evidence the appellant requested the subject's assessment be reduced to \$24,833.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$35,692. The subject's assessment reflects a market value of \$106,734 or \$42.78 per square foot of living area, land included, when using the 2012 three year average median level of assessment for Jackson County of 33.44% as determined by the Illinois Department of Revenue.

The first witness called on behalf of the board of review was Maureen Berkowitz, Jackson County Supervisor of Assessments, a position she has had for twelve years. Berkowitz explained that 2012 was a reassessment year for Carbondale Township. She testified that Jackson County is divided into quadrants meaning that $\frac{1}{4}$ of the county is reassessed each year. She testified that a mass appraisal of Carbondale Township was performed in 2012 using a computer assisted software program known as Illinois Computer Appraisal System provided by the Illinois Department of Revenue. She explained that three years of sales

are used to develop a value. Using the mass appraisal technique they arrived at a value for the subject property. She testified the subject had an assessed value of \$32,792 and that the assessed value is 33 1/3% of market value.

She testified that she has been by the subject property and that there is a sign in front of the subject property. She also testified that in 2001 Mr. Beard paid \$55,000 for the subject property.

She testified that properties surrounding the subject property are all unique; older homes some are two-story, one and one-half story and one story homes, and used as offices with a commercial use. She also testified that Main Street is a main thoroughfare in Carbondale. She also testified the appellant owns three properties in the area.

Under cross-examination Berkowitz testified it was possible buildings in the area contained residences and that she had not been inside any of them. She further testified the large sign in front of the dwelling just states the address, "803."

Berkowitz also agreed that she did not perform an actual physical appraisal of the subject property as it would have been not physically possible or financially feasible to check all 9,000 parcels in the township.

Under cross-examination she also agreed the total assessment of the subject property was \$35,692, which would reflect a market value of \$107,886. She also identified BOR Ex. #2 as the property record card for the subject property. She noted on page two of the exhibit that under "Occupancy" item 2 was circle which references dwelling. The witness indicated page 3 of the exhibit was the property record card with the calculations for the 2012 tax year.² On page 3 of the exhibit next to the word "Occupancy" the word "dwelling" was entered. She asserted the property was valued as a residential structure. The property record card indicate the subject land was valued at \$41,415. The dwelling was calculated at a market value of \$65,543. Adding the components resulted in a market value of \$106,958 and an assessed value of \$35,649.

The next witness called on behalf of the board of review was James Pribble, member of the Jackson County Board of Review. The witness has been a member of the board of review for 7½ years. Pribble had reviewed the appraisal submitted by the

² Page 3 of the BOR Ex. #2 actually indicated the assessment year was 2013.

appellant and reviewed the comparables used in the report. With respect to comparable sale #1 located at 804 Pecan, Pribble testified this property is not located on the same street as the subject property but is located in a residential neighborhood. With respect to comparable #2 located at 1000 W. Walkup, the witness indicated this property was located in a residential area on a side artery. Pribble was of the opinion the subject was commercial and the comparables were residential. He was of the opinion the subject should be valued as its best and highest use as commercial. Pribble was of the opinion the appraisal was not done correctly. He was of the opinion the qualifications of the appraiser were not appropriate and the report should have been signed by a certified general real estate appraiser.

Under cross-examination Pribble testified the he has been by the subject property but has not been inside the subject dwelling. Pribble was also shown BOR Ex. #2 and identified the exhibit as the property record card for the subject property. He also acknowledged that an appraiser could go outside the neighborhood if they can't find comparables that are good. In reviewing page 3 of the exhibit he acknowledged the calculations were for the 2013 tax year. He also acknowledged the subject was valued as a dwelling, not an office building.

In rebuttal Beard testified that he was receiving the homestead exemption on the property from the time he purchased the home. He further testified that in 2013 he received notice that the homestead exemption had been cancelled and he had to reapply for the exemption.

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 evidence in the record supports a reduction in the subject's assessment.

Initially, the Board finds the evidence submitted by the parties to support their respective positions both had errors. The appellant's appraisal referenced an incorrect address and also referenced the subject was being used as an office when the testimony provided by Mr. Beard disclosed, although at one time

a portion of the building was used as an office, the building was used as his residence. The appraisal also had an error with respect to the zoning and had an error in describing the subject dwelling as having central air conditioning when in fact the home did not have central air conditioning.

The appraiser also utilized only two sales to support her opinion of value. The comparables sold for prices of \$91,900 and \$50,500 or for \$42.51 and \$30.61 per square foot of living area, including land. The subject's assessment reflects a market value of \$106,734 or \$42.78 square foot of living area, including land, which is above the range established by the only sales in the record.

With respect to the board of review submission, the property record card submitted contained calculations for the 2013 tax year rather than the 2012 tax year. The property record card reflected a market value for the subject property of \$106,958. Furthermore, the cost calculations included \$4,650 for central air conditioning, which the property did not have. Making the correction for the lack of central air conditioning results in a total market value for the subject of \$105,020, which is below the value reflected by the assessment.

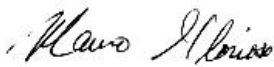
In conclusion, after considering the sales contained in the appraisal and the revision to the data contained on the property record card presented by the board of review, the Board finds a reduction in the subject's assessment is justified.

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



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.