



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

APPELLANT: Larry Beard
DOCKET NO.: 12-04268.001-R-1
PARCEL NO.: 15-21-107-013

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: \$11,184
IMPR.: \$16,436
TOTAL: \$27,620

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 with a one-story dwelling of brick veneer exterior construction with approximately 1,530 square feet of living area. The dwelling is approximately 75 years old. Features of the home include an unfinished basement and a fireplace. The property has a 13,275 square foot site and

is located 812 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 estimating the subject property had a market value of \$80,500 as of February 22, 2013. The appraisal was prepared by Penny Murden, certified residential real estate appraiser, of Murden Appraisal & Real Estate, Inc. The appraisal was marked as Appellant's Exhibit #1.

As a preliminary matter the board of review filed a Motion to Strike the appellant's appraisal, marked as Appellant's Exhibit #1, 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 board of review argued the appraisal should have been signed by a certified general real estate appraiser in accordance with section 10-5(c) of the Real Estate Appraiser Licensing Act of 2002. (225 ILCS 458/10-5(c)).¹ 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 being used as an office 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 C, submitted in rebuttal, which included a signature of certified general real estate appraiser G. Larry Havens. Also attached to the revised report were a copy of a zoning ordinance and additional comparable sales (marked as Exhibit A). 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

¹ Section 10-5(c) of the Real Estate Appraiser Licensing Act of 2002 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)).

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 inadmissible as rebuttal evidence. Furthermore, the Board finds the new comparable sales are inadmissible rebuttal evidence.

The first witness called was the appellant, Larry Beard. Beard testified he has had the property for approximately 20 years. He testified he had an appraisal prepared of the subject by Penny Murden, who estimated the subject property had a market value of \$80,500.

Under cross-examination Beard testified the subject property is a residential dwelling being used as an office. He asserted the building has not been converted into a business.

The next witness called on behalf of the appellant was real estate appraiser Penny Murden. She testified the appraised value of the property was \$80,500. Murden testified the home has not been maintained very well and it had moisture in the basement. She also testified the subject has no central air conditioning but window units. The appraiser testified the subject building can be used as a residence and asserted that nothing has changed since the home was built. She testified the subject has a full kitchen and the property is an old home.

Under cross-examination Murden identified Appellant's Exhibit #1 as the appraisal of the subject property she prepared.

Murden also testified the home was used as an office.² She also testified she is a certified residential real estate appraiser and agreed that she did not obtain the signature of a certified general real estate appraiser on the report.

Using BOR Ex. #3, Murden identified the location of the subject property and agreed there was a parking lot on the north side of the property. She also testified she did not know the actual age of the subject property but gave the home an effective age of 45 years.

² In the additional comments section of the appraisal Murden stated that, "The subject property, in fact, is being used by Attorney Larry Beard as his law office. . . I chose to appraise the subject as a residence due to it (sic) architectural design and floor plan as a residence. To appraise these residences as offices would create considerable functional obsolescence."

Murden testified all three comparable sales used in the report were located in a residential area. She also agreed the comparables had central air conditioning while the subject had window units.

In appraising the subject property she conducted an interior and exterior inspection. In estimating the market value of the subject property she developed the sales comparison approach to value using three comparable sales. The comparables were located in Carbondale from .24 to .34 miles from the subject property. The properties were improved with two 1.5-story dwellings and one ranch style dwelling that ranged in size from 1,326 to 1,612 square feet of living area. The dwellings ranged in age from 57 to 83 years old and she estimated their effective ages as being 30 and 35 years old. The sales occurred from May 2012 to August 2012 for prices ranging from \$76,400 to \$106,500 or from \$57.62 to \$70.67 per square foot of living area, including land. After making adjustments for differences from the subject she arrived at adjusted prices ranging from \$72,660 to \$87,985.

The witness testified the information from the comparables was derived from the Multiple Listing Service (MLS) and she also did a drive-by of the comparables but did no interior inspection. Murden testified the adjustments were made based on an analysis of sales. She also testified the comparables were not being used as offices.

The witness also stated the subject property has a kitchen, two bedrooms and one bathroom. She asserted the property is a residence being used as an office.

Murden further testified the zoning classification in the report as "PA" was in error and the correct zoning classification is "PAR", which is located on both sides of Main Street. The witness also was of the opinion the value conclusion in the report would be reflective of the market value of the property as of January 1, 2012.

The appellant requested the subject's assessment be reduced to \$26,833.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$32,792. The subject's assessment reflects a market value of \$98,062 or \$64.09 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 board of review called as its witness Maureen Berkowitz. Berkowitz is the Jackson County Supervisor of Assessments, a position she has had for 12 years. She testified she was involved in establishing the assessment of the subject property. She explained that 2012 was a reassessment year so a mass appraisal was performed in Carbondale Township. Berkowitz testified that the assessment was calculated on a computer software system called Illinois Computer Assisted Appraisal System (ICAAS) provided by the Illinois Department of Revenue. She explained that because it is not physically possible or financially feasible to visit all property in any township they do a mass appraisal on a computer. She thought she had 208 useable sales for Carbondale Township. The witness testified that the subject's full market value full was calculated to be \$98,376 resulting in an assessed value of \$32,792.

Under cross-examination Berkowitz did not know if any of the 208 useable sales were on the subject's block. She agreed that an appraisal would provide the most accurate estimate of value.

Berkowitz identified BOR Ex. #2 as the property record card for the subject property. The witness stated the second page of the exhibit was the ICAAS sheet. Page 2 of the exhibit indicated the occupancy as a "dwelling." Although the sheet said dwelling, Berkowitz testified the only other choice was mobile home or other buildings only; therefore, the property was valued as a home. The property record card also reflected that the building was being assessed as having central air conditioning.

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.

The Board finds that both the appellant's appraiser and the board of review valued the subject property as a dwelling or residential property even though it was being used as an office.

This appears to be appropriate in light of the fact the building was constructed as a single family dwelling and has not been changed or remodeled for a commercial use.

With respect to the board of review submission, the property record card submitted contained calculations for the 2012 tax year. The property record card reflected a market value for the subject property of \$98,385. However, the cost calculations included \$2,900 for central air conditioning, which the property does not have. Making the correction for the lack of central air conditioning results in a total market value for the subject of \$96,685, which is below the full market value reflected by the assessment.

The appraiser developed the sales comparison approach to value using three comparable sales of residential properties. The appraiser testified these comparables were not being used as offices and were located in residential neighborhoods. The appraiser made adjustments to the comparables for differences from the subject for such items as the site, age, condition, living area, lack of central air conditioning and fireplace. She arrived at adjusted prices ranging from \$72,660 to \$87,985 or from \$53.06 to \$54.80 per square foot of living area, including land. Using this data Murden estimated the subject had market value of \$80,500 or \$52.61 per square foot of living area, including land, which is slightly below the adjusted price range on a square foot basis. The appraised value is also below the market value reflected by the subject's assessment.

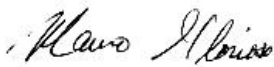
In conclusion, after considering the appraisal submitted by the appellant and the corrections to the data contained on the property record card presented by the board of review, the Board finds a reduction in the subject's assessment is justified.

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.