



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

APPELLANT: Maksym Ostapyshyn
DOCKET NO.: 12-29960.001-R-1
PARCEL NO.: 03-35-300-052-0000

The parties of record before the Property Tax Appeal Board are Maksym Ostapyshyn, the appellant(s); and the Cook County Board of Review.

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

LAND: \$ 719
IMPR.: \$ 20,356
TOTAL: \$ 21,075

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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, town-house dwelling of frame and masonry construction with 1,548 square feet of living area. The dwelling was constructed in 2006. Features of the home include a partial finished basement, a two-car garage, and two and one-half baths. The property has a 992

square foot site and is located in Mount Prospect, Wheeling Township, Cook County.

The appellant argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted an incomplete appraisal estimating the subject had a market value of \$183,000 as of November 23, 2011. The appraisal only included two of the six pages and did not include the appraiser's certification and signature page. In addition, the appellant submitted four sale comparables that sold from August 2012 to July 2013 for prices ranging from \$164,900 to \$205,000 or from \$99.94 to \$122.50 per square foot of living area. Lastly, the appellant's evidence indicates that the subject sold in December 2011 for \$180,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$21,750. The subject's assessment reflects a market value of \$224,458 or \$144.99 per square foot of living area, land included, when using the 2012 three year average median level of assessment for Cook County of 9.69% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted four equity comparables and sale data for each comparable.

At hearing, the appellant confirmed the sale of the subject in December 2011 for \$180,000 was pursuant to a foreclosure sale and involved realtors. The appellant distinguished the board of review's sale comparables based on sale date. The appellant further stated that foreclosure sales are reflective of the current market.

The board of review analyst objected to the appraisal, as the appraiser was not present at hearing, and was not available for cross examination. The board of review analyst also testified that the appraisal's sale comparables #2 is a compulsory sale and that comparable #3 is not located near the subject. Furthermore, the board of review analyst confirmed that the appellant's comparables #2 and #3 were compulsory sales. In support, the appellant offered into evidence a copy of the City of Chicago Department of Revenue EZ Doc regarding subject, comparable #2 and #3, and the multiple listing sheet for

comparable #2. The document was accepted into evidence and marked as Board of Review's Exhibit #1. The board of review analyst confirmed that board of review's comparable #1 is located within the subject's development.

Conclusion of Law

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of 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. 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.

The Board does not find the appraisal submitted by the appellant persuasive. At hearing, the board of review analyst argued that the appraisal was hearsay evidence because the appraiser was not able to testify. The Board finds this to be the case. For proceedings before the Board, "[t]he procedure, to the extent that the Board considers practicable, shall eliminate formal rules of pleading, practice and evidence,..."³⁵ ILCS 200/16180. However, 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. Thus, while the Board's rules allow for informal rules of evidence, the Board cannot repeal a basic rule of evidence under Supreme Court's holding in Novicki. Therefore, the Board finds that the appraisal is hearsay evidence for which no exception exists, and that the appraiser's adjustments shall not be considered as relevant evidence in this appeal.

The Board finds the best evidence of market value to be appellant's appraisal comparables #1 and #3 and the board of review's comparable #1. These similar comparables sold for prices ranging from \$103.03 to \$140.50 per square foot of

building area, including land. The subject's assessment reflects a market value of \$144.99 per square foot of living area, including land, which is above the range established by the best comparable sales in this 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

K. L. Fan

Member

[Signature]

Member

Mark Albino

Member

Jerry White

Acting 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: September 18, 2015

[Signature]

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.