



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

APPELLANT: Kathleen Bennis
DOCKET NO.: 12-30077.001-R-1
PARCEL NO.: 07-23-103-007-1018

The parties of record before the Property Tax Appeal Board are Kathleen Bennis, the appellant; 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: \$ 5,267
IMPR.: \$ 7,733
TOTAL: \$13,000

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 is 36 years old, and consists of a two-story dwelling containing 1,368 square feet of living area. Features of the home include a full basement, air conditioning and a one-car garage. The property is located in Schaumburg

Township, Cook County. The property is a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The subject is a free-standing townhome called a "Fransesca" model and is contained in a condominium development called Dunbar Lakes. The entire development is made up of ten associations ("condos" as they are called in evidence submitted by the appellant) governed by one master board. The separate associations contain varying numbers of townhomes. The subject is part of Association #4, which contains 24 townhomes of various models and sizes.

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 \$130,000 as of December 31, 2012. The appraisal report contained data on three comparables that sold from March 2012 through October 2012 for prices ranging from \$125,000 to \$135,000, or \$90.00 to \$96.15 per square foot of living area including land, for improvements ranging from 1,300 to 1,500 square feet of living area. Each of these comparables was located within .26 miles of the subject and contained features similar to it.

The appellant submitted briefs wherein she argued her Fransesca townhome was 4.613% of the total ownership of Association #4. She further argued that other associations contained the Fransesca model townhome, but that the percentage of ownership of those models was less than the subject's for Association #4 because the other associations contained more townhomes. For instance, the Fransesca model townhome in Association #7 was 2.36% of ownership because that association contained 56 townhomes. The appellant further argued that the assessments for Fransesca model townhomes in other associations are less than the assessment for the subject. Therefore, the appellant argued that the assessment for her townhome should be the same as the same model townhome in other associations. The appellant submitted a print-out in which she disclosed the assessment for a Fransesca townhome in Association #3 was \$15,817. The appellant requested a total assessment of \$13,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$18,223. The subject's assessment reflects a market value of \$188,060, or \$137.47 per square foot of living area including land, when using the board of review's indicated size of 1,368

square feet and when using the 2012 three-year median level of assessment of 9.69% for class 2 property as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a condominium analysis with information on suggested comparable sales for two units in Association #4 that sold in 2008 at prices ranging from \$202,500 to \$290,000, for a total of \$492,500. The board of review disclosed the units sold consisted of 8.642% of all units in Association #4. The result was a full value of the units in Association #4 at \$5,698,912. Multiplied by the 4.613% of the appellant's ownership in Association #4, the board of review suggested the market value of the subject to be \$262,890. However, the board of review disclosed a total assessment of \$18,223 for the subject.

The appellant reaffirmed her argument of overvaluation at hearing and in appellant's Exhibit #1 (A Ex.1), a one-page brief entered into evidence without objection from the board of review.

The board of review objected at hearing to admission of the appellant's appraisal report because the appraiser who prepared the report did not appear and testify. The board of review offered a copy of the Board's decision in docket number 2010-27282.001-R-1 for the proposition that the adjustments and conclusions contained in the appraisal report were hearsay. The copy of the decision was entered into evidence as board of review Exhibit #1 (BOR Ex.1).

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.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined

by the board of review and the Board. 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 (1st 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 appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 objected to the appraisal as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the Board will consider the raw sales data submitted by the parties.

The Board finds the best evidence of market value to be appellant's raw data of comparable sales #1, #2, and #3 disclosed in the appraisal report. These comparables sold in 2012, the same tax lien year in this case, for prices ranging from \$90.00 to \$96.15 per square foot of living area, including land. The subject's assessment reflects a market value of \$137.47 per square foot of living area, including land, which is above the range established by the best comparable sales in this record. The data submitted by the board of review for its two sale comparables are given little weight by the Board. The data were raw and unadjusted. Each sale was from 2008 and, therefore, too distant in time from the tax lien year of 2012.

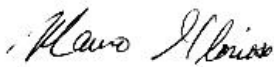
Based on this evidence, the Board finds a reduction in the subject's assessment commensurate with the appellant's request is appropriate.

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: April 24, 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.