



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

APPELLANT: Roger Wayman
DOCKET NO.: 12-30635.001-R-1
PARCEL NO.: 10-33-304-010-0000

The parties of record before the Property Tax Appeal Board are Roger Wayman, the appellant, by attorney Tracey Daniels in Winnetka; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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: \$ 7,440
IMPR.: \$31,918
TOTAL: \$39,358

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 70 years old, and consists of a two-story dwelling of frame and masonry construction containing 1,406 square feet of living area. Features of the home include a total of six rooms, two of which are bedrooms, 1.5 bathrooms, a fireplace and a 1.5-car garage. The property has a 6,200 square foot site and is located in Jefferson Township, Cook County. The subject is classified as a class 2-05 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation.

In support of the overvaluation argument the appellant disclosed in Section IV - Recent Sale Data of the PTAB1A appeal form that the subject property was purchased in May, 2009 for a price of \$177,500 from Howard Wayman Trust. The appellant further disclosed in Section IV that the sale was a transfer between family or related corporation, and that the property was not advertised for sale. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The appellant appended to the appeal an appraisal report prepared by Deborah L. Azpuru, wherein an opinion of indicated value of \$240,000 by the sales comparison approach was made as of December 28, 2012. The appraisal report contained raw data on four sales comparables. These sales occurred from May 2011 through December 2011 for prices that ranged from \$178,000 to \$285,000, or \$121.25 to \$193.48 per square foot of living area including land. Each sales comparable possessed physical characteristics similar to the subject. They ranged from 1,342 to 1,473 square feet of living area and in proximity to the subject from .73 to 1.70 miles. The appraisal report also disclosed the transfer of the subject on October 13, 2009 for the price of \$177,500.

The appellant did not submit information on suggested equity comparables as evidence prior to or at the hearing.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$39,358. The subject's assessment reflects a market value of \$406,171 or \$288.88 per square foot of living area, land included, when using the 2012 three-year median level of assessments for class 2 property of 9.69% as determined by the Illinois Department of Revenue. The subject property has an improvement assessment of \$31,918, or \$22.70 per square foot of living area.

In support of its contention of the correct assessment, the board of review submitted information on four comparable properties. The board of review provided data on equity assessments and recent sales for each comparable. These comparables possessed physical characteristics similar to the subject. They ranged from 1,419, to 1,591 of square feet of living area and in proximity to the subject within .25 miles. The board of review disclosed that these comparables ranged from \$24.05 to \$26.14 per square foot of living area in improvement assessment. The comparables sold from June 2010 through July 2012 for prices ranging from \$415,000 to \$515,400, or \$292.46 to \$323.95 per square foot of living area including land.

The appellant submitted a three-page brief as rebuttal evidence, wherein he argued the four comparables offered by the board of review varied in condition, improvement size, construction, basement and number of bedrooms from the subject. Two color photographs were attached to the brief.

At hearing, the appellant, through his attorney, argued that the board of review erred in assuming the appellant's appeal was based on a recent purchase. Rather, the appellant argued the basis of the appeal was unequal treatment in the assessment process. Consequently, the burden of proof should be clear and convincing evidence, not preponderance of the evidence. Further at hearing, the appellant's attorney offered into evidence a brief in rebuttal that had not previously been filed with the Board.

Board of review representative, Jose R. Rodriguez, testified on behalf of the board of review. He objected to the admission of the appraisal report as hearsay since the appraiser who prepared the report was not present at the hearing. Further, he stated the board of review submitted both equity and recent sales data in its comparables in its Notes on Appeal.

Analysis

Notwithstanding the appellant's argument at hearing that the basis of the appeal is assessment inequity, evidence submitted in the appeal and in rebuttal addressed an overvaluation argument. No evidence prior to hearing was submitted in support of an inequity argument. Nevertheless, the Board considers both the overvaluation argument presented in the appeal and the inequity argument asserted by the appellant at hearing.

Regarding the appellant's contention of assessment inequity as the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and holds a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be the board of review's comparables #1, #2, #3 and #4. These comparables had improvement assessments that ranged from \$24.05 to \$26.14 per square foot of living area. The subject's improvement assessment of \$22.70 per square foot of living area falls below the range established by the best comparables in this record. Based on this record, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and holds that a reduction in the subject's assessment based on the assessment equity argument is not justified.

Regarding the appellant's contention 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 appellant's evidence disclosed the subject was purchased from a family or related corporate entity named "Howard Wayman Trust" and that it was not advertised. This sale was in 2009, three years prior to the lien year. The appellant did not submit evidence to establish the transaction was at arm's-length. Therefore, the Board finds that the sale of the subject was not an arm's-length sales transaction and gives this sale no weight.

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

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. In Jackson, there was an objection 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 in the record to be the four comparable sales submitted by the appellant as raw data in the appraisal report and the four comparable sales

submitted by the board of review. These comparables were similar to the subject in location, style, construction, features, age, living area and land area. These properties also sold proximately in time to the assessment date at issue. The comparables sold for prices ranging from \$121.25 to \$323.95 per square foot of living area, including land. The subject's assessment reflects a market value of \$288.88 per square foot of living area, including land, which is within the range established by the best comparable sales in this record.

Based on this record, the Board finds the subject's assessment is reflective of market value and holds a reduction in the subject's assessment based on overvaluation is not 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Tracy A. Huff

Member

Marko M. Louie

Member

J. R.

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: February 20, 2015

A. Proctor

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.