



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

APPELLANT: Emad Toma
DOCKET NO.: 13-20377.001-R-1
PARCEL NO.: 10-24-106-031-0000

The parties of record before the Property Tax Appeal Board are Emad Toma, 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: \$ 4,600
IMPR.: \$ 14,313
TOTAL: \$ 18,913

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 2013 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 consists of a two-story, two-unit, masonry building that is 51 years old. It contains 2,916 square feet of living area and is situated on a 7,667 square foot site. The property is located in North Chicago Township, Cook County, and is a

class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

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 \$170,000 as of January 1, 2013. The appellant also indicated that he purchased the subject property on September 27, 2010 for \$112,500 from Lester B. Crooks, Administrator of the Estate of Violet D. Crooks. The appellant indicated on the petition that \$15,000 was spent renovating the property. As evidence of the sale, the taxpayer included: a disbursement statement, a bill of sale, an administrator's deed; and an affidavit of title. The appraiser noted that the subject sold with the aid of "contract" type financing. The appellant also submitted a market analysis summary of properties that have sold in the subject's neighborhood, listing a suggested market price of \$188,285 for the subject property.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$28,186 was disclosed. This assessment yields a fair market value of \$280,179, or \$96.08 per square foot of building area when applying the 2013 three year average median level of assessments for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10.06% as determined by the Illinois Department of Revenue.

In support of the subject's assessment, the board of review submitted four equity and sales comparables for the subject's incorrectly listed square footage of living area of 2,190 square feet, as well as four equity and sales comparables for the subject's correct square footage of living area of 2,916 square feet. The second set of comparables range: in size from 2,598 to 3,821 square feet of living area; in sale date from June 2012 through November 2012; and in sale price from 420,000 to \$612,000, or from \$139.72 to \$183.22 per square foot, including land.

In written rebuttal, the appellant distinguished the board of review's comparables from the subject property.

At hearing, the appellant offered his appraisal as evidence that the subject is overvalued. The appellant argued that the appraisal's sale comparables are similar in size and proximity to the subject, with comparable #1 being almost identical to the subject. He also noted the comparables' sale dates were all 2011

or 2012. The appellant further testified that the subject property was "in bad shape" when he purchased it and he spent "a lot of money" renovating it.

The board of review's representative objected to the valuation contained in the appraisal as the appraiser was not present at the hearing to offer testimony. The board of review representative then rested on their written submission.

In rebuttal, the appellant testified that the board of review's comparables are not located in the subject's area.

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 did meet this burden of proof and a reduction in the subject's assessment is warranted.

The appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. 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 court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Therefore, the appraiser's conclusion of value is given no weight.

Additionally, as the subject was purchased as an estate sale transaction with creative financing and renovations, no weight was given to the 2010 purchase price.

The Board also gives no weight to the sale comparables submitted by the board of review, due to the following considerations: the first set of comparables are not similar in square footage of living area to the subject property, as admitted by the board of review at hearing; and the second set of comparables varies greatly in location, exterior construction, size and amenities from the subject property.

The board will, however, examine the unadjusted sales comparables submitted by the appellant. The appellant submitted five unadjusted sales comparables in the appraisal. No weight was given to the appellant's comparable #4 as it varied greatly in building size from the subject property. Therefore, the Board finds the best comparables contained in the record are the appellant's comparables #1 through #3 and #5. These unadjusted sales comparables range in value from \$52.44 to \$73.03 per square foot, including land. The subject's current assessment reflects a market value of \$96.08 per square foot, including land, which is above the range of these comparables. Accordingly, after considering the similarities and differences between the subject and the best comparables contained in the record, the Board finds that the appellant has met its burden by a preponderance of the evidence and that the subject does warrant a reduction based upon the market data submitted into evidence.

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

Klaus Albrecht

Member

Member

JR

Jerry White

Member

Acting Member

Robert Steffen

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: December 18, 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.