



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

APPELLANT: James F Smetana
DOCKET NO.: 13-20675.001-R-1
PARCEL NO.: 16-29-128-021-0000

The parties of record before the Property Tax Appeal Board are James F Smetana, the appellant(s), by attorney Nancy Pina-Campos, Attorney at Law in Broadview; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, 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: \$2,835
IMPR.: \$10,489
TOTAL: \$13,324

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 property consists of a 3,780 square foot parcel of land improved with a 92-year old, one-story, frame and masonry, single-family dwelling containing 2,143 square feet of living area. The property is located in Cicero Township, Cook County and is a class 2 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 submitted a grid listing four sales comparables and equalization information. These properties sold from June 2012 to January 2013 for prices ranging from \$26.74 to \$39.03 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$13,324. The subject's assessment reflects a market value of

\$133,240 or \$62.17 per square foot of building area using the Cook County Ordinance Real Estate Classification Ordinance level of assessment for class 2 property of 10%.

In support of the assessment, the board of review submitted a grid listing four sales comparables and copies of the Cook County Recorder of Deed's website printouts for each comparable. These properties sold from May to November 2010 for prices ranging from \$63.54 to \$120.34 per square foot of living area.

In addition, the board of review submitted a brief asserting that the creator of the database system which generates the market value comparables submitted by the appellant has been cited and fined by the Illinois Department of Financial and Professional Regulations for engaging in unlicensed appraisal practice and that, therefore, the evidence before the Board is improper.

In written rebuttal, the appellant submitted a brief asserting that the appellant has met the burden of proof and that the board of review's comparables are insufficient.

At hearing, the appellant's attorney called Mr. Rick Robin as a witness. Mr. Robin testified that he has an engineering degree and license. He testified that he is a general contractor.

On voir dire by the board of review, Mr. Robin testified that his highest level of education was a bachelor's of science in electrical engineering. He testified he is not a licensed appraiser and has never been one. He acknowledged that he is the sole owner of Pro Tax Appeal LLC which is incorporated in the State of Illinois. Mr. Robin testified that he retains attorneys on an as needed basis as independent contractors and are paid a monthly flat fee.

Mr. Robin refused to answer if the Pro Tax Appeal receives a contingency fee if the appellant receives a favorable decision by the board of review or the Property Tax Appeal Board. He denied that the attorneys receive a contingency fee. Mr. Robin testified that the client signs the engagement letter allowing Pro Tax Appeal to represent the taxpayer. He testified that Pro Tax Appeal gathers the information in the grid submitted by the appellant. Mr. Robin testified that it is an automated system that generates the information. He testified that he enters the property identification number into the system and the computer generates the information. He testified he developed the automated system and software. Mr. Robin testified that the computer system determines the basis of the appeal. He testified that everything is done by automation.

The board of review subsequently asked further foundational questions. Mr. Robin acknowledged that the data sources for the comparables grid are listed at the bottom of the grid page and are the assessor, MLS, Realist, Marshall & Swift, and IRPAM. He testified that the sales information is combined from a number of sources and that one of the sources is the MLS (multiple listing service database). He testified that he is an authorized MLS user as a personal assistant through Three Rivers Realtor Association. Mr. Robin refused to answer what realtor he was authorized through.

In a later hearing, Mr. Israel Smith of the board of review asked that the record reflect that the witness made a profane hand gesture to him while the administrative law judge was looking down at her notes.

The board of review objected to the appellant's evidence as improper based on it rendering an opinion of value when it is not an appraisal prepared by an appraiser licensed by the State of Illinois. In support, the board of review submitted a copy of an Order by the Illinois Department of Financial and Professional Regulation levying against Rick Robin of Pro Tax Appeal a \$30,000 fine for engaging in unlicensed appraisal practice. In response, the appellant's attorney stated the appellant's evidence is not an appraisal but agreed to withdraw analysis portion of the grid and solely focus on the informational data submitted regarding each comparable sales.

Lastly, the board of review objected to the appellant's evidence based on the fact no additional or supporting data was submitted to show that the evidence includes arm's length and noncompulsory sales. In response, the appellant's attorney stated that no such supporting evidence was submitted regarding the board of review's evidence. The administrative law judge overruled the board of review's objection and admitted the sales data portion of the appellant's sale comparables into evidence.

In regards to the appellant's appeal, the parties rested on the evidence previously submitted. In rebuttal, the appellant's attorney distinguished that the board of review's comparables based on date of sale, size, and location.

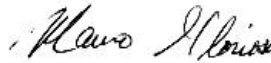
Conclusion of Law

The appellants 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).

As to the appellant's grid of comparables, the testimony revealed no human analysis of the subject compared to the comparables and no human determination of the basis of the appeal. Moreover, there was no testimony as to the architecture of the automated system to establish the accuracy and veracity of the information contained in the database system and no testimony that the information generated was reviewed for correctness. Furthermore, the Board finds the appellant's witness who created the database system that makes the adjustments to the comparables is not an appraiser or an expert in real estate valuation, but merely an engineer who created a computer system. Additionally, the witness refused to testify as to whether he has a vested interest in the outcome of the appeal. The Board finds the witness's demeanor unprofessional, contentious, and disingenuous. Therefore, the Board finds the witness not credible and the written evidence tainted based upon this testimony. Therefore, the Board gives no weight to the appellant's comparables.

The Board finds the best evidence of market value to be the board of review's comparables which sold from May to November 2010 for prices ranging \$63.54 to \$120.34 from per square foot of living area. In comparison, the appellant's assessment reflects a market value of \$62.17 per square foot of living area which is below the range established by the comparables. Based on the record and after adjustments to the comparables, the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction 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.



Chairman



Member



Member



Member



Acting Member

DISSENTING: _____

CERTIFICATION

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 24, 2017



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.