



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

APPELLANT: John Berger
DOCKET NO.: 14-02982.001-R-1
PARCEL NO.: 09-13-207-044

The parties of record before the Property Tax Appeal Board are John Berger, the appellant, by attorney George J. Relias, of Relias & Tsonis, LLC in Chicago, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$158,050
IMPR.: \$25,260
TOTAL: \$183,310

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 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 one-story dwelling of frame construction with approximately 2,229 square feet of living area. The dwelling was constructed in 1965. Features of the home include a partial unfinished basement, a fireplace and a 520 square foot garage. The property has a 22,220 square foot site and is located in Hinsdale, Downers Grove Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by attorney George J. Relias contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by James R. Gargano of Bomba Gargano Valuation, Inc. estimating the subject property had a market value of \$480,000 as of October 29, 2013. The appraiser was not present at the hearing. The purpose of the appraisal was for a purchase transaction and the client was identified as Heartland Bank and Trust Company. The appraiser developed the sales comparison approach to value using three sales and two listings. The sales

occurred between December 2012 and March 2013 for prices ranging from \$450,000 to \$540,000 or from \$157.62 to \$245.12 per square foot of living area, including land. The listings had asking prices of \$529,000 and \$619,000 respectively, or \$242.88 and \$380.45 per square foot of living area, including land.

At the hearing and in a brief, counsel for the appellant contended that the appellant overpaid for the subject property. The appellant was faced with the end of a lease on his rental residence; with two children in the local school district, the appellant sought out and purchased the subject property nearby, which was in bad shape, to remain within the school district. While the subject property never appraised out for the purchase price, the appellant went forward with the purchase regardless.

While the appellant reported the purchase of the subject for \$550,000 as of March 13, 2014 in Section IV – Recent Sale Data of the appeal petition, the appellant contends the sale price is not a good indication of market value due to the poor condition of the property and the extenuating circumstances of the buyer (appellant).

In the addendum to the appraisal report, the appellant's appraiser summarized inspection reports that were provided. The home inspection indicated various "minor items typical of a home possessing the subject vintage" and there were various items that would require more immediate attention and/or repair-replacement including NE corner soffit damage; powder room needs an electrical outlet; east chimney requires repair; water shut-off valves require repair; toilet fixtures require replacement; and shower in hall bathroom requires repair. (A copy of a 27 page home inspection report was also submitted in this appeal by the appellant.) According to the appraiser, the radon inspection indicated levels of radon in excess of acceptable levels throughout the home which would require a radon mitigation system to remediate the situation. Furthermore, the appraiser stated that a mold inspection report indicated the "existence of 'light visual mold and oxidation' in the attic, basement, and crawl space areas throughout the residence." The appellant's appraiser further stated, "The aforementioned items do have an impact on the subject current marketability, as well as the overall classification of the subject condition rating."

The appellant called no witnesses and presented no testimony in support their overvaluation argument as counsel merely orally outlined the argument and evidence in support of the request for a reduced assessment reflective of the appraised value.

The board of review objected to the submission of the appraisal due to the ex parte nature of not having the appraiser present at the hearing to be cross-examined. The board of review also objected to the submission of the home inspection report as it is hearsay and the inspector is not available for cross-examination. In response, counsel acknowledged that both the appraiser and the inspector were not available for cross-examination, but further contended that if the matter were to be decided on the written record, those witnesses also would not be available for cross-examination. As to the latter assertion, the Administrative Law Judge noted that it was appellant who requested an in-person hearing, not the board of review. Counsel for the appellant replied the hearing request was merely to explain the circumstances regarding the purchase. The Property Tax Appeal Board hereby sustains both objections.

The board of review representative, Charles Van Slyke, made further inquiry of Attorney Relias regarding the previous residential lease the appellant was a party to; counsel did not have a copy of that previous lease. As a friend of the family, Attorney Relias further related that a long-time lease was broken after that property was sold and the appellant was forced to find another home within the school district for the appellant's high school age children.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject parcels of \$183,310. The subject's assessment reflects a market value of \$550,150 or \$246.81 per square foot of living area, land included, when using the 2014 three year average median level of assessment for DuPage County of 33.32% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted documentation prepared by the Downers Grove Township Assessor's Office which included a narrative discussing the subject property and its recent arm's length sale transaction of \$550,000 that occurred in March 2014 along with a copy of the applicable Illinois Real Estate Transfer Declaration (PTAX-203). As to the comparable sales and listings in the appellant's appraisal report, the narrative reported that sales #1 and #2 were each located in Cook County and listings #4 and #5 never sold and were no longer on the market.

The board of review called as its witness Joni Gaddis, Chief Deputy Assessor of Downers Grove Township, who has more than 30 years of experience in the assessment field. Gaddis testified to the board of review's submission of three comparable sales of parcels that range in size from 14,047 to 23,753 square feet of land area which are improved with a part two-story and part one-story dwelling and two, one-story dwellings of frame or frame and brick exterior construction. The homes were built between 1955 and 1971 with one property having been remodeled in both 1976 and 1982. The homes range in size from 1,429 to 2,260 square feet of living area. Each of the comparables has a full or partial basement, one comparable has central air conditioning and each has a fireplace. Each of the comparables has a garage ranging in size from 667 to 1,189 square feet of building area. The properties sold between September 2013 and June 2014 for prices ranging from \$510,000 to \$687,000 or from \$229 to \$425 per square foot of living area, including land, rounded.

Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

On cross-examination, Gaddis did not have knowledge of the condition of the comparable sales presented on behalf of the board of review and were relying solely on the sales data at the time.

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 not meet this burden of proof and a reduction in the subject's assessment is not warranted.

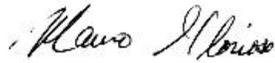
The appellant submitted an appraisal without testimony from the appraiser who prepared the report and the assessing officials presented evidence of the sale of the subject, which was not refuted by the appellant, along with comparable sales to support the assessment of the subject property which reflects the subject's recent purchase price.

The Property Tax Appeal Board gave little weight to the appraisal submitted by the appellant and hereby sustains the objection made by the board of review at the hearing to the appraisal. First, the appraiser was not present at the hearing to be subject to direct-examination and cross-examination about the appraisal, the methodologies employed and the ultimate estimate of value. The inability to observe the demeanor of the appraiser during testimony and the inability to cross-examine the appraiser greatly diminishes the weight that can be given to the conclusion of value contained in the report. Second, the appraiser utilized three sales comparables with sale dates ranging from November 2012 to March 2013, two of which were not located within DuPage County, and of two active listings, neither actually sold as reported by the board of review. As a consequence of the nature of the data contained in the appraisal report, the Board will not further analyze the raw sales data from the appraisal as it would be less indicative of the subject's estimated market value as of January 1, 2014.

The Board has also given reduced weight to board of review comparable sale #3 due to differences in design when compared to the subject dwelling.

The Board finds the best evidence of market value to be the March 2014 sale of the subject for \$550,000 along with board of review comparable sales #1 and #2. These board of review comparables sold in September 2013 and June 2014 for prices of \$607,000 to \$687,000 or for \$304 and \$425 per square foot of living area, including land, rounded. The subject's assessment reflects a market value of \$550,150 or \$246.81 per square foot of living area, including land, which is reflective of the recent purchase price of the subject and below the best comparable sales in the record. In conclusion, based on this evidence and consideration of the testimony at hearing, the Board finds a reduction in the subject's assessment 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: December 23, 2016



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.