



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

APPELLANT: Victoria Fox
DOCKET NO.: 14-03328.001-R-1
PARCEL NO.: 05-19-412-034

The parties of record before the Property Tax Appeal Board are Victoria Fox, the appellant, by attorneys Michael R. Davies and Kelly Murray, of the Law Offices of Michael R. Davies, Ltd. in Oak Lawn; 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: \$16,780
IMPR.: \$58,740
TOTAL: \$75,520

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 two-story condominium unit of frame exterior construction with 1,996 square feet of living area.¹ The dwelling was constructed in 1974. Features of the home include a 1,076 square foot basement, central air conditioning and a two-car garage containing 420 square feet of building area. The property is located in Wheaton, Milton Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal of the subject property prepared by Dominick DiMaggio, a licensed State of Illinois Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to

¹ During testimony, Karen Julian, Residential Deputy Assessor Milton Township, testified that the subject property was a condominium, which was not refuted by the appellant.

provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion.

Using the cost approach and the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$183,000 as of January 1, 2013.

The appellant's attorney called no witnesses.

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

At the hearing the board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board reserved ruling on the objection.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$75,520. The subject's assessment reflects a market value of \$226,583 or \$113.52 per square foot of living area, land included, when using the 2014 three year average median level of assessment for DuPage County of 33.33% as determined by the Illinois Department of Revenue. Representing the board of review was Board Member Chairman Anthony Bonavolonta. Bonavolonta called Milton Township Residential Deputy Assessor Karen Julian as a witness.

Julian testified about the four comparable sales selected in the appellant's appraisal. Julian testified that the appraiser's comparable #2 is outside of the subject's condominium complex.

In support of its contention of the correct assessment the board of review submitted information on four comparable condominium sales located in the same neighborhood code as the subject property. One comparable was also utilized by the appellant's appraiser. The comparables are improved with two-story condominium units that contain 1,996 square feet of living area. The dwellings were of frame exterior construction and were built in 1974. Each comparable has a 1,076 square foot basement, central air conditioning and a two-car garage containing 420 square feet of building area. The comparables sold from August 2012 to September 2013 for prices ranging from \$257,500 to \$305,000 or from \$129.01 to \$152.81 per square foot of living area, land included. The board of review requested that the 2014 assessment be confirmed.

Under cross-examination, Julian testified that the subject is in a platted condominium complex.

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.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$183,000 as of January 1, 2013. The board of review objected to

the appraisal report contending the appraiser was not present to be cross-examined. The Board hereby sustains the objection. The Board finds 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. Based on this case law, the Board gives the conclusion of value contained in the appraisal no weight since the appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value. Furthermore, the Board finds the effective valuation date of January 1, 2013 is one year prior to the subject's January 1, 2014 assessment date.

The Board finds the record contains seven comparable sales submitted by the parties in support of their respective positions, including the raw sales data contained in the appellant's appraisal. The appraiser's comparable #4 is also board of review's comparable #2. The Board gave less weight to the appraiser's comparable sales #1, #3 and #4 along with the board of review's comparable sale #2. These comparables sold from April 2012 to September 2012, which are dated and less indicative of fair market value as of the subject's January 1, 2014 assessment date. The Board gave less weight to the appraiser's comparable #2 due to its one-story design and considerably smaller dwelling size when compared to the subject. The Board finds the best evidence of market value to be board of review comparable sales #1, #3 and #4. The Board finds that these comparables are identical in design, dwelling size and features when compared to the subject and similar in location. These properties sold from May 2013 to September 2013 for prices ranging from \$257,500 to \$300,000 or from \$129.01 to \$150.30 per square foot of living area including land. The subject's assessment reflects a market value of \$226,583 or \$113.52 per square foot of living area including land, which is below the best comparable sales in the record. Based on this record the Board finds no reduction in the subject's assessment is warranted.

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.