



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

APPELLANT: Brian Fenci
DOCKET NO.: 14-03329.001-R-1 through 14-03329.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Brian Fenci, the appellant, by attorneys Michael R. Davies and Kelly A. 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
14-03329.001-R-1	01-03-207-034	25,120	58,980	\$84,100
14-03329.002-R-1	01-03-207-035	12,560	0	\$12,560

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 single-family dwelling of frame exterior construction with approximately 2,660 square feet of living area.¹ The dwelling was constructed in 1968. Features of the home include a full unfinished basement, central air conditioning, two fireplaces on one stack² and a three-car garage of 640 square feet of building area. The property

¹ The appellant's appraiser reported a dwelling size of 2,752 square feet of living area. The Board finds that the size discrepancy does not prevent a determination of the correct assessment of the subject property on this record.

² The appellant's appraiser reported three fireplaces for the subject dwelling.

consisting of two parcels has a total 26,530 square foot site³ and is located in Bartlett, Wayne Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by attorney Kelly A. Murray contending 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 \$245,000 as of November 3, 2012. The appraiser was not present at the hearing. The purpose of the appraisal was for a purchase transaction and the client was identified as American Fidelity Mortgage Services, Inc. The appraiser developed the cost approach to value and the sales comparison approach to value using three sales and two listings. The sales occurred between April 2012 and August 2012 for prices ranging from \$262,500 to \$299,500 or from \$76.44 to \$130.56 per square foot of living area, including land. At the hearing, counsel for the appellant contended that a copy of the HUD-1 Settlement Statement concerning the November 2012 purchase of the subject property for \$230,000 was part of the appraisal report.⁴ The appellant called no witnesses and presented no testimony in support their overvaluation argument as counsel merely orally outlined the comparable sales data and value conclusion of the report in support of the request for a reduced assessment.

The board of review objected to the appraisal due to the fact the appraiser was not present at the hearing to be cross-examined and was therefore hearsay. In response, counsel indicated that the raw data of the appraisal report could still be considered. The Property Tax Appeal Board sustains the objection.

The board of review representative, Carl E. Peterson, also noted the appraisal was not prepared for ad valorem purposes, but was prepared for a financing transaction.⁵ It was also noted the intended user of the appraisal was the lender/client for a mortgage finance transaction and the appraisal had a valuation date in 2012 whereas the valuation date at issue is 2014.

Next, Peterson inquired of counsel if the subject dwelling had been updated since its purchase. Counsel did not know if any updates had been made. As to the subject's vacant adjacent lot, counsel for the appellant did not know if it was a "buildable" lot. Lastly counsel was asked if the \$20,000 land value for the subject parcels under the cost approach in the appraisal was an accurate representation of market value for two parcels in the area to which counsel did not have an answer.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject parcels of \$96,660. The subject's two parcels reflect a total market

³ The appellant's appraiser cited both parcel numbers as part of the appraisal report, but set forth a total land area of 12,886 square feet. Since the appraiser was not present at the hearing to explain the discrepancy, the Board has accepted the land area report for both parcels made by the assessing officials.

⁴ The Property Tax Appeal Board finds that a copy of the Multiple Listing Service data sheet and information on the length of time the property was on the market were attached to the appraisal report, but there was no settlement statement as part of the submission.

⁵ The Property Tax Appeal Board takes notice that "ad valorem" means "according to value." Furthermore, the property rights appraised in the appellant's appraisal report were "fee simple" which is another way to say with the typical bundle of rights in property ownership. As part of the appraisal process, the appraiser arrives at an opinion of market value of the real property which definition is set forth in the report.

value of \$290,096 or \$109.06 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 Wayne Township Assessor's Office which included a memorandum discussing the subject property, addressing the appraisal and outlining evidence of six comparable sales identified by the township office. The memorandum reported that the subject property has an improved lot and a vacant buildable parcel. The memorandum acknowledged that the subject property sold in November 2012 for an "extraordinarily low sale price for the area" of \$230,000. The assessor recommended that for tax year 2013 the assessment be reduced based on the sale price and noted that the listing data indicated the kitchen and baths were in dated condition. However, the property was reviewed for uniformity and based on more current area sales for 2014.

The board of review called as its witness Bruce Mitchell, Deputy Assessor with Wayne Township who has 44 years of assessment experience and prepared the evidence that was submitted on behalf of the board of review. Mitchell testified that to the assessor's knowledge the vacant lot is buildable as "we have not had any evidence from engineering or any other" that the lot is not buildable. Furthermore, the owner has not contended that the vacant lot is not buildable. Based on the 2014 assessment of the vacant lot of \$12,560, the vacant parcel has an estimated market value of \$37,680 or \$3.25 per square foot of land area. The board of review's submission includes a spreadsheet of vacant land sales located from .3 of a mile to 1.57-miles from the subject property. The subject vacant parcel contains 11,577 square feet of land area and the comparable vacant parcels range in size from 10,510 to 29,199 square feet of land area with sales that occurred between January 2013 and March 2015 for prices ranging from \$75,000 to \$150,000 or from \$5.05 to \$7.30 per square foot of land area.

The submission also included eight comparable improved sales of parcels that range in size from 7,275 to 13,938 square feet of land area which are located from .19 to 1.09-miles from the subject property. Mitchell testified the primary difference between the subject and the comparables was the subject's additional buildable lot. The parcels are improved with a 1.5-story or seven two-story dwellings of frame or frame and brick exterior construction. The homes were built between 1976 and 1988 and range in size from 1,736 to 2,660 square feet of living area. Six of the comparables have full or partial basements, one of which has finished area. The homes feature central air conditioning and two-car garages. Seven of the comparables have one or two fireplaces. The properties sold between April 2013 and June 2014 for prices ranging from \$242,500 to \$323,000 or from \$92.11 to \$141.13 per square foot of living area, including land.

As part of the memorandum, Mitchell had indicated that an inspection of the subject dwelling would be desirable to determine if any updates had been performed since the date of purchase. The Administrative Law Judge inquired at the hearing whether such an inspection had occurred or been requested and Mitchell testified that such a request would be turned over to one of the residential inspectors; for purposes of the quadrennial reassessment the records were updated to include basement finish for the subject and absent a request by the homeowner for an inspection, the assessing officials do not believe that an inspection is necessary.

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

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 comparable land sales and improved sales to support the assessment of the subject property which consists of both a vacant parcel and an improved parcel.

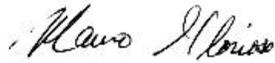
The Property Tax Appeal Board gave little weight to the appraisal submitted by the appellant and hereby sustains the objection made by the board of review at the hearing to the appraisal. First, the appraiser was not present at the hearing to be subject to direct-examination and cross-examination about 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 effective date of the appraisal was as of November 3, 2012 and the appraiser utilized three sales comparables with sale dates ranging from April 2012 to August 2012 along with consideration of two active listings, all of which occurred or were "active" prior to the effective date of the report which indicates the data that was considered is far distant from the valuation date at issue in this appeal of January 1, 2014. As a consequence of the dated 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 sales #1, #2, #6, #7 and #8 due to differences in age, dwelling size and/or foundation when compared to the subject dwelling that was built in 1968, contains 2,660 square feet of living area and features a basement.

The Board finds the best evidence of market value to be the board of review comparable sales #3, #4 and #5. These board of review comparables sold between April and June 2013 for prices ranging from \$245,000 to \$315,000 or from \$92.11 to \$128.26 per square foot of living area, including land. The subject's assessment reflects a market value of \$290,096 or \$109.06 per square foot of living area, including land, which is within the range established by the best comparable sales in the record, despite the fact that the subject property has substantially more land area than these most similar improved comparable properties. As part of the analysis, the Board recognizes that the subject dwelling is also older than these comparable dwellings and the comparables have varying similarities in dwelling size, basement size and/or other features, although the subject has a three car garage whereas each of the comparable has a two-car garage.

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: November 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.