



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

APPELLANT: John Slater
DOCKET NO.: 15-00218.001-R-1
PARCEL NO.: 19-09-15-302-001-0000

The parties of record before the Property Tax Appeal Board are John Slater, the appellant, by Jessica Hill-Magiera, Attorney at Law in Lake Zurich; and the Will County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **a reduction** in the assessment of the property as established by the **Will County Board of Review** is warranted. The correct assessed valuation of the property is:

LAND: \$51,852
IMPR.: \$199,056
TOTAL: \$250,908

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 part one story and part two-story dwelling of brick construction with 4,705 square feet of living area.¹ The dwelling was constructed in 2003. Features of the home include a full finished basement, central air conditioning, two fireplaces, a 720 square foot in-ground swimming pool and a three-car garage with 1,036 square feet of building area.² The subject also has radiant heat in the basement and garage floors. The property has a 27,521 square foot site and is located in Frankfort, Frankfort Township, Will County.

¹ The Board finds the best evidence of dwelling size to be the board of review's property record card which includes a schematic diagram. The diagram included in the appellant's appraisal is ineligible.

² The appraisal indicates a 100% finished basement and two fireplaces which are visible in the photographs that were included in the appraisal. The board of review's grid analysis and enclosed property record card depicts no finish in the basement or fireplaces.

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 estimating the subject property had a market value of \$600,000 as of March 4, 2015. The appraisal was prepared by Donald Fry, a certified residential real estate appraiser. The appraiser indicated within the report that the purpose of the appraisal was to estimate the market value of the subject property, as improved, in unencumbered fee simple title of ownership. The client was First Midwest Bank for a refinance transaction.

Under the sales comparison approach the appraiser utilized six comparable sales/listings located in Frankfort. They were located approximately .13 of a mile to 1.74 miles from the subject property. The comparables have lots that range in size from 17,000 to 35,851 square feet of land area. The comparables were described as being improved with traditional style dwellings that ranged in size from 4,255 to 6,584 square feet of living area. The dwellings range in age from 1 to 24 years old. Each comparable has a basement with five comparables having finished area, central air conditioning, one to four fireplaces and a three-car or four-car garage. One comparable has an in-ground swimming pool. The comparables were sold/listed from March 2014 to March 2015 for prices ranging from \$535,500 to \$849,000 or from \$122.99 to \$164.49 per square foot of living area, land included. After making adjustments to the comparables for differences when compared to the subject property, the appraiser concluded the comparables had adjusted sale prices or list prices ranging from \$563,400 to \$745,200 or from \$109.28 to \$166.77 per square foot of living area, land included. Based on these adjusted comparables, the appraiser estimated the subject had a market value of \$600,000 under the sales comparison approach to value.

The appellant also submitted limited "Property Tax Analysis (Sales)" of three suggested comparable sales with one of the sales also being used in the appellant's appraisal. The analysis was dated January 28, 2016. The comparables are located within .80 of a mile from the subject property. The grid analysis reported that the comparables are improved with part one-story and part two-story dwellings ranging in size from 3,605 to 4,534 square feet of living area and built from 1994 and 2007. Each comparable has a basement and a fireplace. The comparables sold from January 2014 to May 2015 for prices ranging from \$400,000 to \$525,000 or from \$107.24 to \$123.79 per square foot of living area, land included.

The analysis also included "Property Equalization Values" (adjustments) to the comparables for sale date, age and land.³ No evidence or explanation pertaining to the calculation of the adjustment amounts was provided. Based on the Property Equalization Values, the analysis conveys a value estimate for the subject property of \$568,170 or a total assessment of \$189,530. At the bottom of the analysis, data sources were listed as Assessor, County, MLS, Realist and Marshall & Swift. At the hearing, Hill-Magiera withdrew the "Property Equalization Values" analysis that was included with the evidence and requested that the Property Tax Appeal Board analyze the raw data that comes from public sources. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The appellant's attorney called no witnesses.

³ No data concerning land sizes of the comparables were presented in the appellant's evidence.

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.

When questioned, Hill-Magiera responded that the "Property Tax Analysis (Sales)" was compiled by Pro Tax Appeal and Rick Robin selected the comparables.

The board of review objected to the selections of the comparables used for the appellant's "Property Tax Analysis (Sales)" based on the fact that Robin was not present to be cross-examined on the selection of the comparables and what the methodology was used in the selection of the comparables. The board of review requested the Property Tax Appeal Board give no consideration to the selection of these comparables. In response, Hill-Magiera stated that this is public data no matter by whom it was chosen. These properties are still comparable sales and how they were chosen is not relevant.

When questioned about the Cease and Desist order against Rick Robin, Hill-Magiera objected to the Board of Review Representative, giving the Administrative Law Judge a copy of the Cease and Desist Order from the Illinois Department of Financial and Professional Regulation. The Administrative Law Judge took the motion under advisement.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$275,578. The subject's assessment reflects a market value of \$828,806 or \$176.15 per square foot of living area, land included, when using the 2015 three year average median level of assessment for Will County of 33.25% as determined by the Illinois Department of Revenue. Appearing on behalf of the Board of Review was John Trowbridge. Also present was Chief County Assessment Official, Rhonda Novak, clerk to the Board of Review and Frankfort Township Assessor, Joe Kral.

In response to the appeal, the board of review submitted a memorandum from the Frankfort Township Assessor, asserting that the appraisal submitted by the appellant is "outside of the assessing window" and it is for refinancing purposes and not for ad valorem purposes. Furthermore, the assessor stated, "due to lack of sales and lack of uniformity of the comparables supplied, the Assessment Equity argument is the strongest argument in determining assessment."

In support of its contention of the correct assessment the board of review submitted property record cards for the subject and comparables along with information on four equity comparables. The board of review did not provide any sale information. The board of review's comparable #1 and #2 were used in the appellant's appraisal as comparable listings #2 and #1, respectively. Furthermore, comparable #2 is being used in the "Property Tax Analysis (Sales)" submitted by the appellant as comparable #2.⁴

In written rebuttal, the appellant's attorney argued that the board of review submitted three equity comparables and one comparable sale, in which, board of review's equity argument is neither responsive nor relevant to the basis of the appeal and should be given no weight.

⁴ The board of review did not disclose the sale information for comparable #2.

Lastly in rebuttal, counsel argued that a sales range is misleading and using a sales range alone does not accurately determine if a property is fairly assessed. Counsel further argued that using a median sale price per square foot "more accurately reflects a reasonable market value."

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

As an initial matter, the Property Tax Appeal Board gave no weight to the appellants' counsel's argument that the Board should adopt a standard practice of using the median sale price per square foot of living area, including land, of those comparables deemed best in determining fair market value because it is "more accurate." Contrary to this argument, the decision of the Property Tax Appeal Board must be based upon equity and the weight of evidence, not upon a simplistic statistical formula of using the median sale price per square foot of living area, including land, of those comparables determined to be most similar to the subject. (35 ILCS 200/16-185; Chrysler Corp. v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979); Mead v. Board of Review, 143 Ill.App.3d 1088 (2nd Dist. 1986); Ellsworth Grain Co. v. Property Tax Appeal Board, 172 Ill.App.3d 552 (4th Dist. 1988); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989)). Based upon the foregoing legal principles and contrary to the assertion of the appellant's counsel, there is no indication that a "median sale price per square foot" is the fundamental or primary means to determine market value.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$600,000 as of March 4, 2015. 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 provided 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. 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. However, the Board will examine the raw sales data contained in this record, including the sales/listings in the appellant's appraisal.

The board of review objected to the selections of the comparables used for the appellant's "Property Tax Analysis (Sales)" based on Robin not being present to be cross-examined on the selection of the comparables and what the methodology used in the selection of the comparables. The board of review requested that the Property Tax Appeal Board to give no consideration to the selection of these comparables. The Board overrules the objection and the objection goes to the weight of the evidence rather than admissibility.

The Board finds the objection about the Cease and Desist Order from the Illinois Department of Financial and Professional Regulation is sustained as being moot due to Hill-Magiera withdrawing the "Property Equalization Values" analysis. Hill-Magiera requested the Property Tax Appeal Board analyze the raw sale data that comes from public sources without consideration of the adjustments made to the appellant's comparables.

The parties submitted 11 comparables for the Board's consideration. The appellant's appraisal, appellant's additional grid analysis and board of review's grid analysis share one comparable. The Board gave no weight to the board of review's equity comparables #1, #3 and #4 due to the fact they did not address the appellant's market value argument. The Board gives less weight to the appellant's comparable #3 due to its smaller dwelling size when compared to the subject. The Board gave less weight to the appraiser's listing #2 due to its larger dwelling size when compared to the subject.

The Board finds the best evidence of market value to be the remaining comparables. These comparables are similar to the subject in design, dwelling size and features. These comparable sales sold for prices ranging from \$486,224 to \$749,500 or from \$107.24 to \$164.49 per square foot of living area, including land. The subject's assessment reflects a market value of \$828,806 or \$176.15 per square foot of living area, including land, which is above the range established by the best comparable sales in the record. After considering adjustments to the comparable sales for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by assessment is not supported and a reduction 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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member

Member



Member



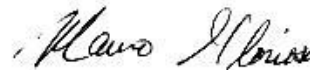
Member

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: June 16, 2020



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

John Slater, by attorney:
Jessica Hill-Magiera
Attorney at Law
790 Harvest Drive
Lake Zurich, IL 60047

COUNTY

Will County Board of Review
Will County Office Building
302 N. Chicago Street
Joliet, IL 60432