



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

APPELLANT: John Green
DOCKET NO.: 15-05159.001-R-1
PARCEL NO.: 09-10-211-020

The parties of record before the Property Tax Appeal Board are John Green, the appellant, by attorney 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: \$56,160
IMPR.: \$322,320
TOTAL: \$378,480

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 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 two-story and part one-story dwelling of frame exterior construction with 3,690 square feet of living area.¹ The dwelling was constructed in 2002. Features of the home include a full basement with 75% of finished area, central air conditioning, two fireplaces and a two-car garage with 621 square feet of building area. The property has a 9,000 square foot site and is located in Clarendon Hills, Downers Grove Township, DuPage County.

¹ The appellant's appraiser reported a dwelling size of 3,784 square feet of living area with a schematic drawing. The assessing officials reported a dwelling size of 3,690 square feet of living area with a schematic drawing to support the contention. The Board finds the slight size dispute is not relevant to determining the correct assessment of the subject property based on the evidence in the record.

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 Jeffrey Plancon, a State of Illinois Certified Residential Real Estate Appraiser. The appraiser was not present at the hearing to provide testimony and be cross examined regarding the appraisal methodology and the final value conclusion. Using the cost approach to value and the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$875,000 as of November 7, 2014.

Under the cost approach the appraiser estimated the subject had a site value of \$250,000. The report indicated the appraiser estimated the replacement cost new of the improvements to be \$781,100 using Marshall and Swift Cost Data. Physical depreciation was estimated to be \$104,146. No deductions were made for functional and external obsolescence. The appraiser calculated the depreciated cost of the building improvements to be \$676,954. The appraiser then added \$20,000 for site improvements and the land value of \$250,000 to arrive at an estimated value under the cost approach of \$947,000.²

Under the sales comparison approach the appraiser utilized four comparable sales and two listings located in Clarendon Hills, approximately .15 to .86 of a mile from the subject property. The comparables were described as improved with two-story colonial style dwellings that ranged in size from 2,122 to 4,209 square feet of living area.³ The dwellings were of frame or brick and frame exterior construction and ranged in age from 3 to 41 years old.⁴ Each comparable has a basement with three comparables having a finished area, central air conditioning, one to four fireplaces and a two-car or four-car garage. Three comparables had a full basement with two having finished area. The comparables sold from May 2014 to August 2014 for prices ranging from \$790,000 to \$835,000 or from \$197.20 to \$372.29 per square foot of living area, land included. After adjusting for differences from the subject property, the appraiser concluded the comparables had adjusted prices ranging from \$844,500 to \$947,000. Using this data, the appraiser estimated the subject had an estimated value under the sales comparison approach of \$875,000.

In reconciling the two approaches to value, the appraiser gave most emphasis to the sales comparison approach and estimated the subject property had a market value of \$875,000 as of November 7, 2014.

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

The appellant's attorney called no witnesses.

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.

² The appraiser's calculation at 75% of physical depreciation yields an incorrect amount of \$104,146 in the cost approach which makes the valuation under the cost approach incorrect.

³ The board of review's evidence described the appraiser's comparables as either a part-one story and part two-story dwelling or a part two-story and part one-story dwelling.

⁴ The appraiser did not disclose the type of exterior construction for each comparable but the information was obtained through the board of review's evidence which was prepared by Chief Deputy Joni Gaddis of the township assessor's office.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$378,480. The subject's assessment reflects a market value of \$1,136,577 or \$308.02 per square foot of living area, land included, when using the 2015 three-year average median level of assessment for DuPage County of 33.30% as determined by the Illinois Department of Revenue.

Representing the board of review was member Charles Van Slyke. Van Slyke called Downers Grove Chief Deputy Assessor Joni Gaddis as a witness

The board of review submitted a narrative report detailing both parties' comparables which was prepared by Gaddis. Gaddis testified that the three comparables submitted on behalf of the board of review are described as improved with a part two-story and part one-story style dwellings that ranged in size from 2,992 to 3,805 square feet of living area. The dwellings were of frame exterior construction and were built from 2002 to 2009. Each comparable has a full finished basement, central air conditioning, one to three fireplaces and garages that range from 480 to 484 square feet of building area. The comparables sold from March 2013 to August 2014 for prices ranging from \$1,080,000 to \$1,275,000 or from \$307.49 to \$360.96 per square foot of living area, land included. The board of review requested confirmation of the 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.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$875,000 as of November 7, 2014. The board of review objected to the appraisal report because the appraiser was not present at the hearing 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 in the appellant's appraisal.

The Board finds the record contains six improved comparables submitted by the parties in support of their respective positions. The Board gave less weight to the appraiser's comparable #4 based on its considerably smaller dwelling size and extremely older in age when compared to the subject. The Board gave less weight to the appraiser's comparable #1 due to its economic obsolescence adjustment for its inferior location to Route 83. The Board gave less weight to the board of review's comparable #3. This sale occurred in March 2013, which is less indicative of fair market value as of the subject's January 1, 2015 assessment date.

The Board finds the remaining three comparables are more similar to the subject in location, land size, design, dwelling size, age and features. Due to these similarities the Board gave these five comparables more weight. These similar properties sold from February 2014 to August 2014 for prices ranging from \$810,000 to \$1,170,000 or from \$249.85 to \$360.96 per square foot of living area including land. The subject's assessment reflects a market value of \$1,136,577 or \$308.02 per square foot of living area including land, which falls within the range established by the most similar comparables in this record. After considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, 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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) 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



Acting 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: November 21, 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 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 Green, by attorney:
Kelly Murray
Law Offices of Michael R. Davies, Ltd.
5533 West 109th Street
Suite #219
Oak Lawn, IL 60453

COUNTY

DuPage County Board of Review
DuPage Center
421 N. County Farm Road
Wheaton, IL 60187