



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

APPELLANT: David Burnier
DOCKET NO.: 15-05387.001-R-2
PARCEL NO.: 06-02-403-017

The parties of record before the Property Tax Appeal Board are David Burnier, the appellant; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$124,790
IMPR.: \$75,190
TOTAL: \$199,980

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 two-story dwelling of brick, masonry or stone exterior construction with 2,540 square feet of living area. The dwelling was constructed in 1944. Features of the home include a full basement with 50% finished, central air conditioning, two fireplaces and a two-car detached garage. The property has a 20,700 square foot site and is located in Elmhurst, York Township, DuPage County.

David Burnier appeared before the Property Tax Appeal Board contending overvaluation and assessment inequity as the bases of the appeal. In support of the overvaluation argument the appellant submitted an appraisal of the subject property prepared by Timothy M. McNally, 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 \$545,000 as of May 8, 2015.

Under the cost approach the appraiser estimated the subject had a site value of \$251,500. The report indicated the appraiser estimated the replacement cost new of the improvements to be \$593,188 after consulting with local builders and contractors. Physical depreciation was estimated to be \$287,933. No deductions were made for functional and external obsolescence. The appraiser calculated the depreciated cost of the building improvements to be \$305,255. The appraiser then added \$6,000 for site improvements and the land value of \$251,500 to arrive at an estimated value under the cost approach of \$562,755.

Under the sales comparison approach the appraiser utilized five comparable sales and two listings located in Elmhurst, approximately .26 to .98-of a mile from the subject property. The comparables were described as improved with 6, two-story traditional style dwellings and 1, three-story dwelling that ranged in size from 2,086 to 3,940 square feet of living area. The dwellings were of frame, brick or stone; frame, aluminum or vinyl; or brick, masonry or stone exterior construction and ranged in age from 62 to 172 years old.¹ Each comparable has a basement with six comparables having a finished area and a two-car or three-car garage. Six comparables have central air conditioning. The comparables had sites ranging in size from 7,000 to 30,080 square feet of land area. The comparables sold from September 2014 to March 2015 for prices ranging from \$510,000 to \$684,000 or from \$160.08 to \$246.86 per square foot of living area, land included. Comparable #6 was listed for \$679,000 or \$274.23 per square foot, land included and comparable #7 was listed for \$649,000 or 288.19 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 \$491,540 to \$639,000. Using this data, the appraiser estimated the subject had an estimated value under the sales comparison approach of \$545,000.

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 \$545,000 as of May 8, 2015.

The appellant also argued assessment inequity of land and building as the bases of the appeal. In support of this argument the appellant submitted information on four equity comparables located within .8-of a mile from the subject property. The comparables are improved with 2, 1.5-story dwellings and 2, two-story dwellings of brick or brick and frame exterior construction and range in size from 2,120 to 2,476 square feet of living area. The comparables are from 57 to 90 years old. Each comparable has a basement with finished area, central air conditioning, one or two fireplaces and a two-car or three-car detached garage. The comparables have sites ranging from 7,000 to 8,350 square feet of land area. The comparables have improvement assessments ranging from \$62,070 to \$86,130 or from \$29.27 to \$34.96 per square foot of living area and land assessments ranging from \$52,460 to \$62,580 or \$7.49 per square foot of land area.

¹ 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 Julie Patterson of the township assessor's office.

The appellant requested a reduction of his assessment to \$116,640 or an approximate market value of \$349,945.

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 \$254,960. The subject's assessment reflects a market value of \$765,646 or \$301.44 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. The subject has an improvement assessment of \$130,170 or \$51.25 per square foot of living area and a land assessment of \$124,790 or \$6.03 per square foot of land area.

Representing the board of review was Chairman Anthony Bonavolonta. Bonavolonta called York Township Julie Patterson as a witness. On behalf of the board of review

The board of review submitted a narrative report detailing both parties' comparables which was prepared by Patterson. Patterson testified that she only used sales in neighborhoods E89 and 013 because these neighborhoods have larger lot sizes. Patterson testified that comparable sales #5 through #10 were sale prices for houses that were tore down. Patterson testified that the property located at 251 Forest (comparable #2) had an addition put on the home after the sale. Comparables #1 through #4 were described as being improved with two-story single-family dwellings that ranged in size from 1,760 to 2,793 square feet of living area. The dwellings were of brick, masonry or stone and frame, aluminum or vinyl exterior construction and were built from 1911 to 1940. Each comparable has a full or partial basement and a 2-car or four-car garage. One comparable has a carport. Comparables #1 through #4 had sites ranging in size from 9,960 to 19,000 square feet of land area. Comparables #1 through #4 sold in July 2013 to September 2015 for prices ranging from \$580,000 to \$885,000 or from \$300.08 to \$316.86 per square foot of living area, land included. Comparables #1 through #4 improvement assessments range from \$94,060 to \$133,780 or from \$42.45 to \$53.44 per square foot of living area and land assessments ranging from \$74,640 to \$118,280 or from \$6.23 to \$7.49 per square foot of land area. Based on this evidence, 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 met this burden of proof and a reduction in the subject's assessment is warranted.

In support of the overvaluation argument the appellant submitted an appraisal estimating the subject had a market value of \$545,000 as of May 8, 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 in the appellant's appraisal.

The Board finds the record contains 17 comparables submitted by the parties in support of their respective positions. The Board gave no weight to board of review comparables #5 through #10 based on these comparables being tear down sales and the board did not provide the description of the properties prior to their tear down. The Board gave less weight to the appellant's comparable #1 and #5 based on their considerably larger dwelling size when compared to the subject. The Board gave less weight to the board of review's comparables #1 and #3. These properties sold in October 2013 and July 2013, which are dated and less indicative of fair market value as of the subject's January 1, 2015 assessment date. The Board gave less weight to the board of review's comparable #2. This comparable at the time of sale was considerably smaller in dwelling size when compared to the subject. The Board gave less weight to the board of review's comparable #4. This home was built in 1911, which is 33 years older than the subject. The Board finds the remaining five comparables are more similar to the subject in location, size, design, features and sold more proximate to the assessment date. Due to these similarities the Board gave these five comparables more weight. These similar properties sold or were listed in 2014 and 2015 for prices ranging from \$510,000 to \$679,000 or from \$243.96 to \$288.19 per square foot of living area including land. The subject's assessment reflects a market value of \$765,646 or \$301.44 per square foot of living area including land, which falls above 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 not supported. Therefore, a reduction in the subject's assessment is warranted.

The appellant also contended unequal treatment in the subject's land and building assessment as a bases of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data and considering the reduction in assessment for overvaluation, the Board finds no further 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(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: January 21, 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

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