



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

APPELLANT: Jean Michaels and Albert Winston
DOCKET NO.: 15-23481.001-R-1
PARCEL NO.: 14-29-312-020-0000

The parties of record before the Property Tax Appeal Board are Jean Michaels and Albert Winston, the appellants; and the Cook 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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 19,200
IMPR.: \$ 93,158
TOTAL: \$112,358

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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 28-year old, two-story, frame, single-family dwelling with approximately 2,688 square feet of living area. Features of the home include two and one-half baths; a full, finished basement; as well as a two-car garage. The property has a 3,000 square foot site and is located in Lake View Township, Cook County. The subject is classified as a class 2, residential property under the Cook County Real Property Assessment Classification Ordinance.

The appellants contend overvaluation as the basis of the appeal. In support of this argument, the appellants submitted an appraisal estimating the subject property had a market value of \$880,000 as of January 31, 2013. The appraisal indicated that the property was owner-occupied with the purpose of the appraisal for refinancing, while developing the sales comparison approach to

value. The appraisal indicated that the subject contained 2,684 square feet of living area, while submitting photographs and a building schematic.

The appraisal report used six improved properties located from 0.04 to 0.47 mile radius. The properties sold from July, 2012, to January, 2013, for unadjusted prices that ranged from \$275.12 to \$449.22 per square foot of living area. They were improved with a single-family dwelling: two of which contain frame exterior construction, while four properties contain masonry exterior construction. The improvements ranged: in improvement size from 2,048 to 3,444 square feet; 2.1 to 3.1 bathrooms; and a two-car garage. The appraisal estimated a market value of \$880,000. Based upon this information, the appellants requested a reduction in the subject's assessment.

At hearing, the appellant, Albert Winston, argued that despite a reduction received at the Cook County board of review's hearing level, the subject property still experienced a 32.5% increase in assessment from tax years 2014 to 2015, the latter of which he noted was the subject's new triennial reassessment period. He asserted that property values within his property's area have not risen at that level. He stated that they have lived in the subject for 15 years as of the date of this appeal. He indicated that the subject is a frame home larger than most frame homes, and that it is flawed for the county to use masonry homes as comparables to the subject. He further asserts that only one of the county's comparables is reasonable. He also stated that the market value estimated in his appraisal is within the range of reasonableness for the subject property.

As to the appraisal's raw sales data, the appellants testified that they are familiar with those 6 sales which are located within several blocks of the subject property, but that they had not been inside these properties.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$113,092. The subject's assessment reflects a market value of \$1,130,920 or \$420.73 per square foot of living area, including land, based upon 2,688 square feet when applying the 10% level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted assessment and sales data on eight suggested comparables located within a two-block radius of the subject. These properties were improved with a two-story or three-story, masonry or frame dwelling. They ranged in age from 4 to 24 years and in improvement size from 2,190 to 3,781 square feet of living area. They sold from January, 2014, to July, 2015, for prices that ranged from \$465.93 to \$773.60 per square foot. Further, the properties contained improvement assessments that ranged from \$36.98 to \$50.98 per square foot. Moreover, the board's grid sheet reflected that the subject property is of average condition, while property #1 was accorded a deluxe condition without further explanation.

In written rebuttal, the appellants detailed the lack of comparability of the board of review's properties in comparison to the subject. Specifically, they noted that the board's properties were not in the same vicinity as the subject. The appellants argued that the subject property is not only located on a main thoroughfare which experiences a heavy traffic flow, but that the board's properties are all located on residential, low-traffic streets that are only two blocks in length. In support of this argument, they submitted a Google map reflecting the locations of the subject and

its surrounding streets. Moreover, the appellants noted the upgraded and additional amenities in the board's properties that are not included in the subject property, while detailing variances in pertinent factors of comparison, such as: exterior construction, improvement age, improvement size, lot size, living area, and building design.

As to the appellants' evidence, the board of review's representative raised a hearsay objection regarding the appellants' appraisal due to the absence of the appraiser at hearing to testify regarding the methodology used therein. Therefore, he asserted that no weight should be accorded the adjustments and conclusions of value reflected in the appellants' appraisal. As to the board's grid sheet, the board's representative stated that he had neither personal knowledge of the distinguishing characteristics of average versus deluxe condition nor was he aware of whether the board's sales properties were arm's length transactions.

At hearing, the appellants testified regarding data that they submitted relating to the board of review's suggested comparables. They stated that while using a multiple listing service, they found that the board's property #1 reflects a single-family dwelling with upgraded, luxury amenities and deluxe condition located on a low-traffic street. They stated that this was in contrast to the subject that contains average finishes that have not been upgraded over the years, while the subject is located on a well-traveled thoroughfare. In support, interior and exterior photographs of the board's #1 were submitted and identified for the record as Appellant's Exhibit #1 over the objection of the board of review's representative. Moreover, as an overall review of the board's properties, appellant, Jean Michaels, testified that when she telephoned the board of review's offices for guidance on locating comparables, she was told that she should not look at improvements that contained more than 500 square feet of additional area in comparison to the subject's size of 2,688 square feet. Therefore, she argued that many of the board's properties violate that rule she was given by a board of review employee.

Furthermore, the appellants asserted that: property #2 lacked comparability due to size, style, age and lot size as well as a premium location off of high-traffic areas; property #3 was not the same classification as the subject and was also located on a premium street; property #4 was asserted to be the most comparable to the subject; property #5 varied in style, size, age and lot size; property #6 varied in style, size, and lot size; property #7 varied in exterior construction while its location was on a dead-end street with minimal traffic; and property #8 varied in exterior construction and improvement age.

As to the board's property #4, the appellants testified that they have viewed interior photographs of this property on or about the listing date of February, 2015, that reflect a chef's kitchen with updated appliances, granite countertops, new wood cabinets, and an island with running water, while that building also contains three fireplaces and bathrooms with high-end ceramic tile and glass doors. In contrast, they stated that the subject's building contains none of the above and only one fireplace, while they testified that there are significant differences between this property and the subject property.

In response to this argument, the board's representative testified that the significant differences alluded to by the appellants between the board's property #4 and the subject are accounted for by the variance in market value per square foot. He stated that the subject property's market value for tax year 2015 is \$420.73 per square foot of living area, while the board's property #4 which

contains undisputed, upgraded amenities contains a market value of \$497.26 per square foot based upon its sale price in April, 2015.

Further, the appellants' testified that the subject property is not only located on a main thoroughfare, but sits at a corner with an alley. In comparison, they stated that the board's properties were all located on side streets all of which dead end on Wrightwood, which is the subject's main thoroughfare. They stated that there is not only high traffic and noise from the street and the alley, but that the subject suffers from truck deliveries in that alley as well as vandalism from the bar patrons which is located across the alley from the subject.

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.

Initially, the appellant submitted a uniform residential appraisal report that included six sales properties. However, the appellant's appraiser or preparer was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the Board.

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 appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

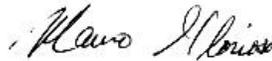
In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appraisal's adjustments and conclusions as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight.

In totality, the Board will consider the raw sales data relating to the 14 properties submitted by the parties. In reviewing the parties' properties, the Board notes that the appellants' repeatedly

argued that masonry properties lacked comparability to the subject; however, four of the six sale properties submitted by the appellants were of masonry exterior construction. In addition, several of the appellants' assertions regarding the board's properties upgraded amenities relate to personal property such as appliances. Therefore, the Board finds these arguments unpersuasive.

The Board finds most probative appellants' sales #3, #5 and #6 as well as the board of review's sales #4, #7 and #8. The six sales were improved with a two-story, single-family dwelling located within the subject's neighborhood. They ranged in improvement age from 8 to 21 years and in improvement size from 2,160 to 2,851 square feet of living area. They sold from October, 2012, to April, 2015, for unadjusted prices ranging from \$318.69 to \$695.99 per square foot of living area. In comparison, the appellant's assessment reflects a market value of \$420.73 per square foot of living area which is within the range established by these sale comparables. The Board accorded diminished weight to the remaining properties due to the disparity in sales date, location, style, lot size, improvement age, improvement size, condition and/or amenities. After making adjustments for pertinent factors and the differences in the six comparables when compared to the subject, the Board finds the owner-occupied, subject's per square foot assessment and market value is not supported and that a slight reduction is warranted for site location, improvement condition, and/or amenities.

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



Member



Acting 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: February 20, 2018



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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