



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

APPELLANT: Don Opal
DOCKET NO.: 18-04233.001-R-1
PARCEL NO.: 05-19-300-039

The parties of record before the Property Tax Appeal Board are Don Opal, the appellant, by Dennis D. Koonce, Attorney at Law in Frankfort; 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: \$86,410
IMPR.: \$246,170
TOTAL: \$332,580

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 2018 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 is improved with a 1-story ranch-style dwelling of frame and masonry exterior construction containing 4,516 square feet of living area¹ and was built in 1997. Features of the home include a partially finished basement with a sauna, theater room, rec room, and a wine cellar; other features include central air conditioning, two fireplaces and an attached garage with 803 square feet of building area. The property has a 37,782-square foot site and is located in Wheaton, Milton Township, DuPage County.

The appellant contends 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 \$878,000

¹ The parties disagree on the total number of square feet of living area of the subject property with the appellant's appraiser reporting 4,355 square feet and the property record card submitted by the board of review depicting 4,516 square feet of living area. The Board finds that the best evidence of the subject's dwelling size is the property record card which contains the schematic drawing and measurements.

as of October 18, 2017. The appraisal was prepared by Robert D. Olson, a Certified Residential Real Estate Appraiser and the property rights appraised were fee simple. The intended use of the appraisal was for the lender/client to evaluate the subject property for a mortgage finance transaction and was based on interior and exterior inspections of the subject property. In estimating the market value of the subject property, the appellant's appraiser developed and relied most heavily on the sales comparison approach to value.²

In developing the sales comparison approach to value, the appraiser utilized three comparable sales and one active listing. The comparable sales are located from .04 of a mile to 4.3 miles from the subject property. The properties have sites ranging in size from 18,008 to 63,162 square feet of land area and are improved with 1-story and 2-story single family dwellings of masonry or frame and masonry exterior construction ranging in size from 3,690 to 5,221 square feet of living area.³ The dwellings were built in 1994 or 1999. Each comparable has a partially finished basement, central air conditioning, one or two fireplaces, and a 2-car or a 3-car garage. Comparables #1, #2, and #3 sold from July 2016 to January 2017 for prices ranging from \$820,000 to \$1,047,000 or from \$212.44 to \$227.64 per square foot of living area, including land. Comparable #4 listed for sale for a price of \$899,000 or \$172.19 per square foot of living area, land included. The appraiser made adjustments to the comparables for differences from the subject including financing terms, quality of construction, bathroom count, size of living area, condition, and number of fireplaces to arrive at adjusted prices ranging from \$877,700 to \$888,000 and arrived at an estimated value of \$878,000.

Based on this evidence, the appellant requested the subject's total assessment be reduced to \$292,666, to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$332,580. The subject's assessment reflects an estimated market value of \$999,339 or \$221.29 per square foot of living area when using the 2018 three-year average median level of assessment for DuPage County of 33.28% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review through the township assessor submitted a memorandum critiquing the appellant's appraisal. The board of review argued that the appraisal was ordered by a lender in connection with obtaining a home loan rather than for an assessment appeal, thus it is not an "Ad Valorem appraisal." The board of review also argued that the Illinois Real Estate Transfer Declaration (PTAX-203) form associated with the sale of the appraiser's comparable #1 depicts the buyer as "Michael Kahn, as Trustee of the Michael Kahn Trust dated June 22, 2013" and thus this sale is not an arm's-length transaction. As a result, this sale was excluded from the township assessor's sales ratio studies.

² The appraiser also considered the cost approach to value but did not give this approach "any significant weight due to the age of the subject property."

³ The appellant's appraiser inaccurately reported the size of comparable #2 as having 3,860 square feet of living area; the property record card for this comparable provided by the board of review depicts this home as having 4,616 square feet of living area. The Board finds that the property record card which contains a schematic drawing with measurement data more accurately reflects the size of living area.

In support of its contention of the correct assessment, the board of review submitted information on four comparable sales located from .87 of a mile to 5.76 miles from the subject property. The comparables have lots ranging in size from 23,383 to 103,038 square feet of land area and are improved with 1-story, 1.5-story, and 2-story dwellings of frame or frame and masonry exterior construction ranging in size from 4,374 to 4,907 square feet of living area. Each comparable has a partially finished basement, central air conditioning, two or four fireplaces, and a garage ranging in size from 632 to 1,072 square feet of building area. The comparables sold from April 2017 to February 2018 for prices ranging from \$975,000 to \$1,750,000 or from \$222.91 to \$365.73 per square foot of living area, including land.

Based on this evidence and argument, the board of review requested that the subject's assessment be confirmed.

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.

Initially, the board of review argues that the appraiser's comparable sale #1 is not an arm's-length transaction due to the buyer being a Trust rather than a natural person and, therefore, Milton Township Assessor excluded this property from their sales ratio studies. The Property Tax Appeal Board finds this argument unsupported and unpersuasive. A "land trust" is an arrangement under which legal and equitable title to real property is held by a trustee. (765 ILCS 405/1). The Property Tax Appeal Board finds that there is no statutory or case law mandating that a sale qualifies as an arm's-length transaction only if the buyer and/or seller are natural persons (as opposed to a legal entity such as a trust, corporation, etc.). Additionally, the board of review argues that the appellant's appraisal was done for purpose of a mortgage loan and thus is not an "Ad Valorem appraisal." The Property Tax Appeal Board finds this argument without merit. The intended use of this appraisal was to provide an opinion of specifically defined "market value" and, therefore, by definition is considered "*ad valorem*" or according to value. *Black's Law Dictionary* (6th ed. 1991)

The appellant submitted an appraisal report and the board of review submitted four comparable sales in support of their respective positions before the Property Tax Appeal Board.

The Board gave less weight to the value conclusion contained in the appraisal as the appraiser utilized sales from 2016 which are less proximate in time to the subject's January 1, 2018 assessment date and less likely to be reflective of the subject's market value as of that date than the remaining comparable sales. Furthermore, the appraiser utilized comparables dissimilar in design from the subject property, and inaccurately reported the dwelling size of comparable sale #2. Finally, the active listing included in the appraisal has been duly considered by the Board and, given that this property has not sold as of the effective date of the appraisal report, the

Board finds this listing has little probative value for the purposes of this market value analysis. The Board will, however, analyze the raw sales contained in the appellant's appraisal report.

The Board finds that none of the parties comparables are particularly similar to the subject due to significant differences in location, dwelling size, design, age, and/or sale date. Nonetheless, the Board gives less weight to appraiser's comparables #1 and #3 based on their sale dates in in January and July 2016, respectively, which dates are less proximate to the subject's assessment date of January 1, 2018, and therefore less likely to be reflective of subject's market value than the remaining comparables. Additionally, appraiser's comparable #1 is smaller in dwelling size and #3 is located 4.29 miles relative to the subject. The Board gave less weight to board of review comparables #1 and #3 due to their location being 5.3 miles and 5.76 miles distant from the subject; board of review comparable #1 is also 37 years older than the subject; and board of review comparable #2 has site size which is significantly larger when compared to the subject and was therefore given reduced weight.

The Board finds the best evidence of market value to be the appraiser's comparable sale #2 and board of review comparable #4. Although these were dissimilar to the subject in design, they are more similar overall to the subject in location, dwelling size, age, and some features. These two best comparable sales in the record sold in January 2017 and February 2018 for prices of \$820,000 and \$975,000 or for \$177.64 to \$222.91 per square foot of living area, respectively. The subject's assessment reflects a market value of \$999,339 or \$221.29 per square foot of living area, including land, which is supported by the two best comparable sales in the record on a per square foot basis and also supported on an overall value basis when considering the subject's superior site size, basement size, and basement finished area. Based on the evidence presented by the parties, the Board finds that the appellant did not prove by preponderance of the evidence that the subject property is overvalued. After considering necessary adjustments to the two best comparable sales in the record for differences when compared to the subject, the Board finds that the subject property's assessment is supported and, 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(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:

February 16, 2021



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

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