



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

APPELLANT: Julian & Teresa Kuta  
DOCKET NO.: 08-06698.001-R-1  
PARCEL NO.: 05-25-326-013

The parties of record before the Property Tax Appeal Board are Julian & Teresa Kuta, the appellants, by attorney Charles A. Radovich of Radovich and Radovich, in Geneva, and the Kane County Board of Review.

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

**LAND:** \$40,780  
**IMPR:** \$128,979  
**TOTAL:** \$169,759

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a one and one-half-story single-family dwelling with 2,437 square feet of living area. The home features a full basement, central air conditioning, a fireplace and an attached 315 square foot garage. The dwelling is approximately 2 years old and is located in Elgin, Plato Township, Kane County.

The appellants through legal counsel contend overvaluation as the basis of the appeal. In support of this argument, the appellants submitted three comparable sales located within ¼-mile of the subject. The comparables are described as one and one-half-story dwellings that were from new to 2 years old. These homes contain either 2,789 or 3,104 square feet of living area. Two comparables have basements and the foundation of the third comparable was unknown. Each comparable has central air conditioning and a garage of 315 square feet of building area. These properties sold between November 2006 and October 2007 for prices ranging from \$390,326 to \$513,651 or from \$139.95 to \$165.48 per square foot of living area including land.

The record also reveals that the subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board. As part of this appeal, the appellants submitted a copy of the Final Administrative Decision issued by the Property Tax Appeal Board regarding the subject property for the prior year under Docket Number 07-03402.001-R-1. In that appeal, the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property based on the evidence submitted by the parties to \$166,496.

Based on the foregoing, the appellants requested the subject's assessment be reduced to \$166,496.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$186,631 was disclosed. The subject's assessment reflects an estimated market value of \$566,970 or \$232.65 per square foot of living area including land utilizing the 2008 three-year median level of assessments for Kane County of 33.27%.

In subsequent correspondence, the board of review asserted that a Certificate of Error was issued reducing the total assessment of the subject property for 2008 to \$169,759 by applying the equalization factor of 1.0196 to the Property Tax Appeal Board's decision for 2007. The board of review submitted a copy of the Request for Certificate of Error for the 2008 and 2009 tax years disclosing the 2008 total assessment was reduced to \$169,759.<sup>1</sup>

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellants contend overvaluation as the basis of the appeal. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 86 Ill. Admin. Code §1910.65(c). The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The appellants submitted data on comparable sales ranging from \$390,326 to \$513,651 or from \$139.95 to \$165.48 per square foot of living area including land. The subject property had an assessment for 2008 as reflected in the "Board of Review Notes on

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<sup>1</sup> The Request for Certificate of Error indicates that 2009 assessment will be the same because for 2009 the equalization factor was 1.00.

Appeal" of \$186,631, reflecting a market value of approximately \$566,970 or \$232.65 per square foot of living area including land, which is above the range of the comparable sales on this record. Moreover, the record indicated that subsequent to the final decision issued by the board of review a Certificate of Error was requested revising the assessment to \$169,759, reflecting the prior year's decision subject to the 2008 equalization factor of 1.0196.<sup>2</sup>

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, **subject to equalization**, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. [Emphasis added.]

Thus, the Board further finds that the prior year's decision should be carried forward to the subsequent year subject only to any equalization factor applied to that year's assessments. This finding is pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185). The record contains no evidence indicating the subject property sold in an arm's length transaction subsequent to the Board's decision or that the assessment year in question is in a different general assessment period. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the Board's prior year's finding plus the application of any factor applied for equalization which is also commensurate with the reduction reflected by the requested Certificate of Error in this record.

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<sup>2</sup> The Property Tax Appeal Board takes notice that the Attorney General of the State of Illinois has asserted that a county board of review may not alter an assessment once its decision has been properly appealed to the Property Tax Appeal Board, nor may it alter an assessment by certificate of error or by any other procedure after the Property Tax Appeal Board has rendered its decision. 1977 Ill.Atty.Gen.Op. 188 (October 24, 1977), 1977 WL 19157 (Ill.A.G.).

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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

*J. R.*

Member

DISSENTING: \_\_\_\_\_

C E R T I F I C A T I O N

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 22, 2012

*Allen Castrovillari*

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 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 the subsequent year 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.

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.