



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

APPELLANT: Fernando Hernandez  
DOCKET NO.: 09-05935.001-R-1  
PARCEL NO.: 05-29-314-001

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

**LAND: \$44,790**  
**IMPR: \$104,880**  
**TOTAL: \$149,670**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject parcel is improved with a 2-story stucco dwelling. The dwelling contains 3,494 square feet of living area and was built in 1984. Features of the home include a partial unfinished basement, a fireplace, central air conditioning and a 2-car garage containing 484 square feet. The subject is located in Wheaton, Milton Township, DuPage County.

The appellant contends overvaluation based on the recent sale of the subject property. The appellant completed Section IV of the appeal form indicating the subject was purchased on August 20, 2008 for a price of \$450,000 or \$128.79 per square foot of living area including land. The appellant claims the subject was purchased through a realtor, was advertised for sale through a multiple listing service, had been on the market 98 days, and the sale was not between family or related corporations. To further document the sale, the appellant submitted a copy of the listing sheet and a copy of the settlement statement disclosing the subject was purchased on August 20, 2008 for a price of \$450,000. The listing indicated this was a short sale. Based on this record, the appellant requested the subject's assessment be reduced to \$150,000 which would reflect a market value of approximately \$450,000 at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$182,120 was disclosed. The subject's total assessment reflects an estimated market value of \$547,565 or \$156.72 per square foot of living area, land included, using the 2009 three-year median level of assessments for DuPage County of 33.26% as determined by the Illinois Department of Revenue.

In support of the subject's assessment, the board of review submitted the subject's property record card and a listing of 55 comparable properties which sold from mid-2006 through early 2009 for prices ranging from \$315,000 to \$575,000 or from \$128.79 to \$229.28 per square foot of living area including land. The board of review points out the subject had the lowest "per foot" sale price of all the comparables. The board of review argued that since the August 2008 sale was a short sale, the sale price is not a valid indicator of market value. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 this appeal. The Property Tax Appeal Board further finds the evidence in the record supports a reduction in the subject's assessment.

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 must be proven 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 of the subject property, a recent sale of the subject property or comparable sales. (86 Ill.Admin.Code Sec. 1910.65(c)). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). After an analysis of the evidence in the record, the Board finds a reduction in the subject's assessment is warranted.

The Board finds the board of review's sale data does not sufficiently refute the appellant's overvaluation argument. Although the board of review submitted a list of 55 sales occurring over nearly three years, there was insufficient detail to determine the level of similarity between the subject and the comparables. Furthermore, only one comparable was similar in size to the subject.

Furthermore, the Board finds that despite the fact that the subject was sold in a short sale, the information provided by the appellant indicates the sale had the elements of an arm's length transaction in that it was advertised on the open market,

purchased through a realtor, and the parties to the transaction were not related.

Therefore, the Board finds the best evidence of market value in the record is the sale of the subject property in August 2008 for \$450,000. The subject's total assessment reflects an estimated market value of \$547,565 which is greater than its purchase price. The board of review presented no evidence to indicate that the subject's sale was not an arm's length transaction other than the multiple listing comment that it was a short sale. Based on this record, the Board finds the subject had a market value of \$450,000 as of its January 1, 2009 assessment date. Since market value has been established, the 2009 DuPage county three-year median level of assessments of 33.26% shall apply.

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: July 20, 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.