



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

APPELLANT: Sam Miller  
DOCKET NO.: 09-34276.001-R-1  
PARCEL NO.: 14-32-422-006-0000

The parties of record before the Property Tax Appeal Board are Sam Miller, the appellant, by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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:** \$ 22,500  
**IMPR.:** \$135,476  
**TOTAL:** \$157,976

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 2009 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 22 years old, and consists of a three-story dwelling of masonry construction containing 3,553 square feet of living area. Features of the home include a full

basement, central air conditioning, a fireplace and a two-car garage. The property has a 3,000 square foot site and is located in North Chicago Township, Cook County. The subject is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted evidence disclosing the subject property was purchased on August 21, 2009, for a price of \$980,000, from Todd and Kirsten Holmquist-Sutherland. The appellant submitted a copy of the real estate contract including Riders 5 and 6, the settlement statement, the escrow receipt and disbursement authorization, the warranty deed, and a property information print-out from Win2Data.

The appellant also submitted an appraisal estimating the subject property had a market value of \$970,000, or \$273.55 per square foot of living area including land, as of June 26, 2009. The appraiser offered the opinion that the sale appeared to be a typical arm's-length transaction without any unusual financing agreements, but that only Rider 5 was provided and that the real estate contract mentioned Riders 5 and 6. The appraisal report also disclosed that the appraisal was for lending purposes.

The appraisal report disclosed the use of three sale comparables. Comparable #1 contained 3,716 square feet of living area and sold in June 2009 for \$2,150,000, or \$578.58 square feet of living area including land; was located .21 miles from the subject; was on a 3,000 square foot site; and was a ten year-old dwelling of masonry construction. Comparable #2 contained 3,498 square feet of living area and sold in March 2009 for \$1,510,000, or \$431.68 square feet of living area including land; was located .54 miles from the subject; was on a 3,000 square foot site; and was a 133 year-old dwelling of masonry construction. Comparable #3 contained 3,553 square feet of living area and sold in November 2008 for \$1,575,000, or \$443.29 square feet of living area including land; was located on the same block and .01 miles from the subject; was on a 3,000 square foot site; and was a 21 year-old dwelling of masonry construction.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraisal value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of

\$157,976. The subject's assessment reflects a market value of \$1,775,011, or \$499.58 per square foot of living area, when using the board of review's indicated size of 3,553 square feet and when using the 2009 three-year median level of assessment of 8.90% for class 2 property as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on three suggested equity comparables, and the May 1, 2006 sale of the subject for \$1,200,000, or \$337.74 per square foot of living area including land.

In rebuttal, the appellant reaffirmed the request for an assessment reduction.

#### **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 has not met this burden of proof and a reduction in the subject's assessment is not warranted.

In addressing the appellant's market value argument, the Board finds that the sale of the subject in August, 2009 for \$980,000 is a "compulsory sale." A "compulsory sale" is defined as:

(i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (2d Dist. 1979)). However, when there is a recent sale of the subject, and that sale is a compulsory sale, the Board may consider evidence which would show whether the sale price was representative of the subject's fair cash value. Calumet Transfer, 401 Ill. App. 3d at 655-56.

The appellant's evidence did not dispute that the sale was pursuant to a short sale. Paragraph 1 of Rider 6 of the real estate contract stated the contract was, "contingent upon Sellers' ability to obtain the written agreement...from its two lenders...to accept a short payoff on Sellers' two mortgage loans...and to release their mortgage liens and any and all claims against the Property." Further, the escrow receipt and disbursement authorization disclosed no disbursement of money was made to Todd and Kirsten Holmquist-Sutherland or their agent. Disbursements of \$864,274.14 and \$10,000 were made to two banks as payoffs of first and second mortgages.

The appraisal report is given no weight by the Board. The report disclosed that the appraiser was not provided Rider 6, which contained the disclosure that the transaction was a short sale. Further, the three comparables used by the appraiser, although adjusted, sold for significantly greater prices and per-square-foot values than the subject, despite the similarity of physical characteristics, proximity, age, and dates of sale of the comparables to the subject.

Since there is no convincing evidence that the sale price of the subject was at its fair cash value, or that the appraiser's opinion of market value was supported by valid comparables and all relevant information about the compulsory nature of the sale, the Board finds that the subject is not overvalued and holds that a reduction is not 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.

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Chairman



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Member



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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: May 22, 2015



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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.