



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

APPELLANT: Curt Galbraith  
DOCKET NO.: 10-01366.001-R-1  
PARCEL NO.: 01-26-475-004

The parties of record before the Property Tax Appeal Board are Curt Galbraith, the appellant, and the DeKalb 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 DeKalb County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$13,102  
IMPR.: \$46,898  
TOTAL: \$60,000**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story dwelling of frame construction containing 3,240 square feet of living area. The dwelling was constructed in 2004. Features of the home include a full unfinished walkout-style basement, central air conditioning, a fireplace, a patio/wood deck and a three-car garage. The property has a 13,725 square foot site and is located in Kirkland, Franklin Township, DeKalb County.

The subject property was the subject matter of an appeal for the 2009 tax year under Docket Number 09-03476.001-R-1 in which the Property Tax Appeal Board issued a decision reducing the subject's total assessment to \$71,326. The decision of the Property Tax Appeal Board for the 2009 tax year was not reversed or modified upon review and there is no evidence the subject property sold establishing a different fair cash value.

The subject property has a total 2010 assessment as established by the DeKalb County Board of Review of \$60,000. The record further discloses the subject property is an owner occupied dwelling and the 2009 and 2010 tax years are in the same general assessment period. (35 ILCS 200/9-215).

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted an appraisal to the Property Tax Appeal Board estimating the subject property had a market value of \$150,000 as of March 14, 2011. The appraisal was prepared by Randall L. Ledbetter of Aegis Appraisal in Carol Stream. The appraiser is a State of Illinois Certified Residential Real Estate Appraiser. In estimating the market value of the subject property, the appraiser developed the cost and the sales comparison approaches to value.

Under the cost approach, the appraiser estimated the subject had a site value of \$10,000 based upon analysis of active listings of land and one closed sale. The appraiser estimated the replacement cost new of the improvements using the Marshall & Swift Cost Estimator Software to be \$330,996. The appraiser estimated physical depreciation using the age/life method to be \$33,100 resulting in a depreciated improvement value of \$297,896. The appraiser also estimated the site improvements had a value of \$12,500. Adding the various components, the appraiser estimated the subject property had an estimated market value of \$320,400, rounded, under the cost approach to value.

Using the sales comparison approach, the appraiser provided information on four comparable sales and two active listings described as two-story dwellings of frame construction that ranged in size from 2,560 to 3,672 square feet of living area. The dwellings range in age from 5 to 7 years old. The comparables have sites ranging in size from 9,600 to 15,246 square feet of land area. Five of the comparables have full basements, one of which is finished as a recreation room. Five of the homes have central air conditioning, two comparables have a fireplace and each property features a two-car or a three-car garage. Four of the comparables sold from April to June 2010 for prices ranging from \$142,900 to \$189,700 or from \$43.10 to \$59.28 per square foot of living area, including land. The listings had asking prices of \$140,000 each or \$38.13 and \$54.69 per square foot of living area, including land.

The appraiser next made adjustments to the active listings for date of sale/time and to all of the comparables for differences from the subject in land size, room count, dwelling size, foundation, basement finish, heating/cooling system, garage size, fireplace and/or patio/deck feature. The appraiser in an addendum further reported it was necessary to include short sales and foreclosures as comparables and he further stated that since distressed sales were used, no adjustment for time was made. In summary, the "sales presented in this report represent the best available at the time of this appraisal" according to the appraiser. From this process, the appraiser estimated the comparables had adjusted prices ranging from \$144,200 to \$179,215 or from \$39.27 to \$56.72 per square foot of living area, including land. Based on this data the appraiser estimated the subject had an estimated value under the sales comparison approach of \$150,000.

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$50,000 in order to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$60,000 was disclosed. The subject's assessment reflects a market value of \$179,964 or \$55.54 per square foot of living area, including land, when applying the 2010 three year average median level of assessment for DeKalb County of 33.34% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

In response to this appeal, the board of review noted that the appellant had previously filed a 2009 assessment appeal with the Property Tax Appeal Board supported by an appraisal with an opinion of value of \$214,000 and for a 2011 assessment appeal, the appellant provided an appraisal with an opinion of value of \$150,000. "Using time adjustment for those two appraisals yields \$180,000 market value for 2010." There is no submission to articulate the "time adjustments" made by the board of review in arriving at its conclusion of value using the two appraisal reports of the subject property and no discussion of the basis or support for any such adjustments

As part of the submission, the board of review submitted a copy of an appraisal of the subject property with an opinion of value as of January 1, 2009 of \$214,000. Briefly examining this report reveals analysis of three sales that occurred between January and September 2008 for prices ranging from \$197,500 to \$264,900.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant raised issues concerning prior year assessments and actions/inactions of the DeKalb County Board of Review and/or other officials in the assessment field including the township assessor.

In addition, the appellant noted that the board of review in response to this appeal failed to submit "[t]he formula for time adjustments and the comparables for the value have not been provided; and would not be valid without supporting documentation - comparables; and the use of standard time adjustment formulas."

As an initial matter, the appellant's complaints regarding the appeal process before the DeKalb County Board of Review will be briefly addressed. The law is clear that proceedings before the Property Tax Appeal Board are de novo "meaning the Board will only consider the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review . . . ." (86 Ill.Admin.Code §1910.50(a)). Moreover, the jurisdiction of the Property Tax Appeal Board is limited to determining the correct assessment of the property appealed to it; the Board has no jurisdiction to

address any alleged procedural and/or due process violations alleged with regard to actions and/or inactions at the local board of review level. (35 ILCS 200/16-180). Thus, the Property Tax Appeal Board will consider only the evidence presented by both parties to this proceeding in determining the correct assessment of the subject property for 2010.

Next, since the Property Tax Appeal Board rendered a decision on this owner occupied residential property the prior year of 2009 reflecting a total assessment of \$71,326, applicable provisions of the Property Tax Code must be considered and addressed. In particular, 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.

35 ILCS 200/16-185. Applying Section 16-185 of the Property Tax Code would result in an assessment of \$71,326, which is greater than the 2010 assessment of the subject property of \$60,000.

After considering the requirements of Section 16-185 of the Property Tax Code and the request by the DeKalb County Board of Review to simply confirm the 2010 assessment of the subject property, the Property Tax Appeal Board finds that that carrying forward the prior year's 2009 decision would result in an increase in the subject's 2010 assessment and would not be appropriate on this record. Thus, with the agreement of the DeKalb County Board of Review, the Property Tax Appeal Board finds that a decision on the merits of this 2010 appeal should be issued.

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 Board further finds a reduction in the subject's assessment is not warranted.

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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale of the subject property,

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.

The appellant submitted an appraisal with an opinion of value as of March 14, 2011, a date approximately 15 months after the assessment date at issue in this appeal of January 1, 2010. Since the opinion of value is as of a date approximately 15 months after the assessment date at issue, the final conclusion of value presented by appellant's appraiser Ledbetter has been given reduced weight. Similarly, the "active" listings have been given reduced weight again because they occurred substantially after the valuation date at issue in this appeal.

Furthermore, the appellant's appraiser acknowledged using distressed sales to prepare the sales comparison approach to value wherein sales comparables #1, #2, #3 and #4 were noted as either a short sale or a foreclosure. As a general proposition, except in counties with more than 200,000 inhabitants that classify property for taxation purposes, each tract or lot of property is to be valued at 33 1/3% of its fair cash value. 35 ILCS 200/9-145. Section 1-50 of the Code defines fair cash value as:

The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50).

The Illinois Supreme Court defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d. 428 (1970). "Fair cash value can only be established where there is an offer, *and* an acceptance, in a *bona fide* transaction." Ellsworth Grain Co. v. Illinois Property Tax Appeal Board, 172 Ill.App.3d 492, 559 (4<sup>th</sup> Dist. 1988) [emphasis in original].

Despite the fact that the sales presented by Ledbetter were short sales or foreclosures, the Property Tax Appeal Board finds the only evidence of market value that is proximate in time to the assessment date of January 1, 2010 in this record are the four comparable sales submitted by the appellant's appraiser which occurred between April and June 2010. As to the evidence submitted by the board of review, the sales in the appraisal of the subject property with a value conclusion as of January 1, 2009 reflected sales that occurred between January and September 2008, a date that is less proximate in time to the assessment date than the sales in the Ledbetter appraisal. Therefore, these sales from 2008 have been given less weight in the Board's analysis.

The four comparable sales presented by Ledbetter were also similar to the subject in style, exterior construction, features and/or age. Due to their similarities to the subject and proximity in time to the assessment date, these comparables received the most weight in the Board's analysis. These comparables sold for prices ranging from \$142,900 to \$189,700 or from \$43.10 to \$59.28 per square foot of living area, including land. The subject's assessment reflects a market value of \$179,964 or \$55.54 per square foot of living area, including land, which is within the range established by the best comparable sales in this record both in terms of overall value and on a per-square-foot basis.

In conclusion, based on this record the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction in the subject's assessment is not justified.

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.

*Ronald R. Cuit*

Chairman

*Frank J. Huff*

Member

*Mario M. Louie*

Member

*J.R.*

Member

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 24, 2013

*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.