



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

APPELLANT: Dan Lam  
DOCKET NO.: 10-02196.001-R-1  
PARCEL NO.: 06-14-403-018

The parties of record before the Property Tax Appeal Board are Dan Lam, the appellant, by attorney Ronald M. Justin, of RMR Property Tax Solutions, in Hawthorn Woods, 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:** \$9,513  
**IMPR.:** \$9,502  
**TOTAL:** \$19,015

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property<sup>1</sup> is improved with a part one-story and part two-story dwelling of frame construction. The dwelling contains approximately 1,568 square feet of living area. The dwelling was constructed in 1890. Features of the home include a full basement and a 276 square foot garage. The property is located in Elgin, Elgin Township, Kane County.

The appellant appeared before the Property Tax Appeal Board through legal counsel contending the subject property was overvalued in light of its recent sale. In support of this market value argument, the appellant's counsel filed a brief citing various Illinois cases along with evidence disclosing the subject property was purchased on October 30, 2009 for a price of \$57,000. The appellant completed Section IV - Recent Sale

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<sup>1</sup> Descriptive details of the subject property have been drawn from the property record card submitted by the board of review as the appellant failed to complete Section III - Description of Property.

Data of the appeal petition disclosing the parties to the transaction were not related and the property was sold using a Realtor firm of Prudential Starck with agent Anthony Nance. Furthermore, the property had been advertised on the open market with the Multiple Listing Service for 106 days prior to its sale. At hearing, counsel further reported that both the buyer and seller were represented by real estate agents at the time of the transaction.

No witness was presented by the appellant to testify as to the purchase process, negotiations and/or the condition of the subject property at the time of purchase.

In further support of the transaction, the appellant submitted a copy of the Multiple Listing Service sheet which depicted an original asking price of \$94,900 and a listing date of June 24, 2009 and a subsequent price reduction to \$59,900 prior to its sale.

Based on this evidence and applicable case law, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review - Notes on Appeal" wherein the subject's total assessment of \$56,604 was disclosed. The subject's assessment reflects a market value of \$169,676 or \$108.21 per square foot of living area, including land, when applying the 2010 three year average median level of assessment for Kane County of 33.36% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review representative Kevin Schulenburg contended that the sale price was not indicative of its market value as the property transferred by Special Warranty Deed/foreclosure sale. Based upon the circumstances of the sale, [the board of review] does not feel that one sale makes a market value based on other sales evidence in the record.

In support of the subject's estimated market value as reflected by its assessment, the board of review submitted information on three comparable sales in a grid analysis. The comparables are improved with two-story dwellings of frame exterior construction. Dwelling sizes range from 1,185 to 1,420 square feet of living area. The dwellings were built between 1885 and 1890. Each comparable has a basement, one of which includes finished area. Two of the comparables have central air

conditioning and each has a garage ranging in size from 400 to 484 square feet of building area. The properties sold from May 2007 to December 2008 for prices ranging from \$160,000 to \$182,000 or from \$114.84 to \$135.02 per square foot of living area, including land. A fourth comparable was outlined in a grid prepared by the township assessor presenting a two-story dwelling of frame construction that was built in 1903 and contains 1,409 square feet of living area. The home has a basement, central air conditioning and a 369 square foot garage. This property sold in March 2007 for \$201,000 for \$142.65 per square foot of living area, including land.

At hearing, the board of review called Steven Surnicki, the Elgin Township Assessor, for testimony. He noted that the purchase of the subject property was a "cash" sale. He further contended that "a lot of the foreclosures were being purchased with cash which limits the potential buyers for a property." He further noted that few of the foreclosure sales seek FHA loans which again limits the potential buyers.

The board of review did not specifically address nor challenge the subject's sale price.

Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

On cross examination, Surnicki acknowledged that the subject does not have a finished basement although he contended that little value would be assigned to such a feature in a home of this "age and quality." The witness believes that board of review comparable #2 was converted to a single-family residence from its previous duplex style although he had no personal knowledge of that. As to the appearance of two front entrances to comparable #3, Surnicki asserted that was probably an enclosed porch which was common in homes of this age.

In rebuttal, counsel for the appellant noted that the remarks in the listing for the subject property include "preferred lender pre-qual required on all offers" thus indicating that cash was not a requirement for the transaction as inferred from the assessor's testimony.

After hearing the testimony and considering the record, 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 warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he 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 Supreme Court of Illinois has construed "fair cash value" to mean 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 to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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). 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, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property on October 30, 2009 for a price of \$57,000. The appellant provided evidence demonstrating the sale had the elements of an arm's-length transaction. The subject was advertised for sale and the buyer and seller were not related parties. The board of review failed to adequately rebut the apparent arm's-length nature of the transaction.

Additionally, the Board finds the purchase price of \$57,000 is below the market value reflected by the assessment of \$169,676. Moreover, the original listing price of \$94,900 for the subject property at the time of marketing in June 2009 was also less than the estimated market value as reflected by its 2010 assessment. Furthermore, the Property Tax Appeal Board finds

the board of review did not present any substantive evidence to challenge the arm's-length nature of the transaction or to refute the contention that the purchase price was reflective of market value. The Board gave less weight to the comparables submitted by the board of review finding that they do not refute the arm's-length sale price evidence presented by the appellant.

Based on this record, the Board finds the appellant demonstrated by a preponderance of the evidence that the subject property was overvalued. The best evidence in the record is that the subject property had a market value of \$57,000 as of January 1, 2010. Since market value has been determined the 2010 three year average median level of assessment for Kane County of 33.36% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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.



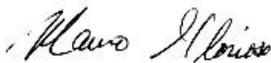
Chairman



Member



Member



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: January 24, 2014



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.