



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

APPELLANT: Quan Domaleczny  
DOCKET NO.: 11-01525.001-R-1  
PARCEL NO.: 05-02-475-008

The parties of record before the Property Tax Appeal Board are Quan Domaleczny, the appellant, by attorney Laura Godek of Laura Moore Godek, PC, in McHenry, 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: \$41,662**  
**IMPR: \$113,589**  
**TOTAL: \$155,251**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story dwelling of stone and cedar exterior construction containing 4,284 square feet of living area. The dwelling was constructed in 2007. Features of the home include a full unfinished basement, central air conditioning, a fireplace and an attached garage of 895 square feet of building area. The property has a .4-acre site and is located in Elgin, Plato Township, Kane County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on October 14, 2010 for a price of \$467,200. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor from the firm of Keller Williams Fox Valley, agent Jim Galas, and the property had been advertised on the open market through the Multiple Listing Service. The property had been on the market for 135 days.

In further support of the transaction, the appellant submitted a copy of the Multiple Listing Service data sheet depicting the original asking price of \$799,900 which was subsequently reduced to \$574,900 prior to its sale in October 2010 for \$467,200. The remarks include "Amazing Short Sale Opportunity." Also submitted was a copy of the "Listing & Property History Report" indicating the property had a total of 227 days on the market commencing in June 2009 with an asking price of \$849,000. A copy of the Settlement Statement reiterated the sale date and sale price as previously reported. A copy of the PTAX-203 Illinois Real Estate Transfer Declaration depicts that the property was advertised prior to its sale and sold for the price previously reported. As additional evidence, the appellant submitted a computer printout from the Plato Township Assessor's website which revealed the subject's "most recent sale date" of October 2010, the sale price of \$467,200, the deed type having been a Warranty Deed and the "sale type" having been "arms length."

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price 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 total assessment of \$213,441 was disclosed. The subject's assessment reflects a market value of \$642,314 or \$149.93 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for Kane County of 33.23% as determined by the Illinois Department of Revenue.

The board of review submitted a two-page letter and a two-page spreadsheet of comparable sales all of which were prepared by Janet M. W. Roush, Plato Township Assessor. The assessor's letter discussed the "mass appraisal" system of arriving at assessments of properties in the township through the use of the prior three years' sales data. She further discussed the concept of uniformity of assessments for similar properties. Next, the assessor cited a definition of market value from the Appraisal Institute (11<sup>th</sup> Edition, The Appraisal of Real Estate, Appraisal Institute, Chicago).

The township assessor then reported the subject property was originally purchased in 2007 for \$871,537. She then poses questions implying "duress" given a sale price which is \$400,000 less than the prior price in less than three years' time and she

also questioned if a listing from June 2009 to October 2010 is a "reasonable amount of time" for exposure in the market.

In the spreadsheet, the township assessor provided information on six comparable sales located in Elgin, Illinois. The comparables are improved with two-story dwellings of frame and masonry construction that range in size from 3,602 to 4,313 square feet of living area. The dwellings were constructed from 2007 to 2010. Features of the comparables include a full basement, two of which include finished area, central air conditioning, one or two fireplaces and a garage. These six comparables sold from January 2008 to October 2010 for prices ranging from \$560,000 to \$750,000 or from \$140.46 to \$176.55 per square foot of living area, including land.

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

In written rebuttal, counsel for the appellant generally reiterated the listing history of the subject property prior to its sale. Next counsel noted the dates of sale for the board of review's comparables that occurred in 2008 and 2009, dates more remote in time to the assessment date of January 1, 2011 and further outlined differences in various aspects of board of review comparables #1, #2, #4 and #6 when compared to the subject property, including view, energy efficiency, basement finish with home theater and other amenities.

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 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). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1<sup>st</sup> Dist. 1983). 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 Board finds the best evidence of market value to be the purchase of the subject property on October 14, 2010 for a price of \$467,200. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. Moreover, Public Act 96-1083 amended the Property Tax Code adding sections 1-23 and 16-183 (35 ILCS 200/1-23 & 16-183), effective July 16, 2010. Section 1-23 of the Property Tax Code provides:

Compulsory sale. "Compulsory sale" means (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. (Emphasis added.)

Section 16-183 provides:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

The Board finds the effective date of these statutes is applicable to assessment date at issue of January 1, 2011. Therefore, the Board finds these statutes apply to the appellant's 2011 appeal assessment.

Furthermore, the Board finds the purchase price of \$467,200 is below the market value reflected by the assessment of \$642,314. The Board also finds the board of review through the township assessor did not present any substantive evidence to challenge the arm's length nature of the transaction. The assessor's questions bringing up whether "duress" was involved in the sale of the property for a substantially reduced price (i.e., short sale) and/or whether a listing from June 2009 to October 2010 is "reasonable exposure" time is not substantive evidence sufficient to refute the apparent arm's length nature of the sale transaction. Furthermore, these submissions did not refute the contention that the purchase price was reflective of market value at the time of sale. In light of the record and applicable case law concerning the sale of the subject property as being reflective of market value, the Board has given no weight to the six comparable sales presented by the township assessor.

Based on this record the Board finds the subject property had a market value of \$467,200 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for Kane County of 33.23% 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.

*Ronald R. Cuit*

Chairman

*K. L. Fern*

Member

*Tracy 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: March 21, 2014

*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.