



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

APPELLANT: Denise Osborne  
DOCKET NO.: 11-01544.001-R-1  
PARCEL NO.: 02-06-459-013

The parties of record before the Property Tax Appeal Board are Denise Osborne, 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: \$21,972  
IMPR.: \$61,103  
TOTAL: \$83,075**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a one-story single-family dwelling of frame exterior construction containing 2,804 square feet of living area. The dwelling was constructed in 2003. Features of the home include a concrete slab foundation, central air conditioning and a two-car garage of 400 square feet. The property has a 10,161 square foot site and is located in Huntley, Rutland 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 November 5, 2010 for a price of \$250,000. 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 with Huntley Realty, agent Joan Hightower, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 62 days.

In further support of the transaction the appellant submitted a copy of the Multiple Listing Service data sheet which depicted the original asking price of \$275,000 when the property was listed in September 2010. The appellant submitted a copy of the Listing & Property History Report which also depicted the original listing date and asking price. Also submitted was a copy of the sales contract disclosing the purchase price of \$250,000 and showing the contract was executed in September 2010. The copy of the PTAX-203 Illinois Real Estate Transfer Declaration shows the property was advertised for sale prior to the transaction and reiterates the sales price as does the copy of the Settlement Statement. Also attached was a document entitled "Affidavit" executed by counsel for the appellant asserting that having reviewed the PTAX-203 and the Settlement Statement the sale "was an arm's length transaction." The document is not notarized and does not qualify as an affidavit. Moreover, the rules of the Property Tax Appeal Board provide in pertinent part:

An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. When an attorney is a witness for the client, except as to merely formal matters, the attorney should leave the hearing of the appeal to other counsel.

(86 Ill.Admin.Code §1910.70(f)).

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 \$99,829 was disclosed. The subject's assessment reflects a market value of \$300,418 or \$107.14 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.

In support of the assessment, the board of review submitted a spreadsheet that included three sales, besides the sale of the subject in November 2010 for \$250,000. The spreadsheet provided limited information on three comparable sales that are improved with one-story dwellings that range in size from 2,576 to 2,804 square feet of living area. Each has the same neighborhood code as the subject property. Features of the comparables include a

400 or 600 square foot garage. One comparable has a fireplace. The comparables have sites ranging in size from .19 to .33 of an acre of land area. These three comparables sold from March 2009 to September 2011 for prices ranging from \$274,000 to \$350,000 or from \$97.72 to \$125.63 per square foot of living area, including land. There is a remark at the bottom of the spreadsheet, "the subject is within the range for the Buckingham models in 2008, 2009 and 2010."

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

In written rebuttal, counsel for the appellant noted that two of the sales presented by the board of review occurred in 2009, which is less proximate in time to the assessment date of January 1, 2011 than the sale of the subject property which was presented by the appellant. In addition, counsel noted that the equity data in the board of review's spreadsheet should not be considered as the appeal was not based upon lack of uniformity.

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 November 5, 2010 for a price of \$250,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The Board finds the purchase price of \$250,000 is below the market value reflected by the assessment of \$300,418. The Board finds the board of review did not present any 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. In light of the case law and evidence of the sale of the subject property, the Board has given reduced weight to the three sales comparables presented by the board of review. Two of the sales occurred in 2009, which dates are less proximate in time to the assessment date of January 1, 2011 and therefore less likely to be valid indicators of the subject's estimated market value as of the assessment date. The board of review's third sale which occurred in September 2011 for \$274,000 supports the appellant's claim that the subject property is overvalued based on its assessment. Moreover, this comparable dwelling was identical in size to the subject.

In conclusion and based on this record, the Board finds the subject property had a market value of \$250,000 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.



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: March 21, 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.