



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

APPELLANT: Dominick Dimaggio  
DOCKET NO.: 11-01545.001-R-1  
PARCEL NO.: 05-24-426-015

The parties of record before the Property Tax Appeal Board are Dominick Dimaggio, 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:** \$24,996  
**IMPR.:** \$74,362  
**TOTAL:** \$99,358

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story dwelling of frame and brick exterior construction containing 3,834 square feet of living area. The dwelling was constructed in 2005. Features of the home include a full unfinished basement, central air conditioning, a fireplace and a two-car garage. The property has a .24-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 September 3, 2009 for a price of \$300,000 along with submission of an appraisal of the subject property.

As to the purchase price, 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 and that the property had been advertised on the open market through the Multiple Listing Service for a period of 178 days.

In further support of the transaction, the appellant submitted a copy of the Settlement Statement which reiterated the sale date and sale price as 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" as August 2009, a sale price of \$300,000, the deed type having been a Warranty Deed Special and the "sale type" having been "Bank or Government."

In further support of the overvaluation argument the appellant submitted an appraisal estimating the subject property had a market value of \$299,000 as of January 1, 2011. The appraisal was prepared by Marcello Noia, a State of Illinois certified real estate appraiser. In estimating the market value of the subject property the appraiser developed the cost and the sales comparison approaches to value.

As part of the report, the appraiser noted the subject's sale history reporting a sale in September 2009 for \$300,000.

Under the cost approach the appraiser estimated the subject had a site value of \$35,000. The appraiser estimated the replacement cost new of the improvements to be \$408,720. The appraiser estimated depreciation to be \$28,610 resulting in a depreciated improvement value of \$380,110. The appraiser also estimated the site improvements had a value of \$12,000. Adding the various components, the appraiser estimated the subject property had an estimated market value under the cost approach to value of \$427,110.

Using the sales comparison approach the appraiser provided information on four comparable sales described as two-story dwellings that ranged in size from 3,122 to 3,722 square feet of living area. The dwellings ranged in age from 1 to 6 years old. Each of the comparables had a full unfinished basement. Three of the comparables have central air conditioning and two have a fireplace. Each comparable has a three-car garage. The comparables have sites ranging in size from 10,625 to 18,217 square feet of land area and were located from .28 to .40 of a mile from the subject property. These comparables sold from

September to November 2010 for prices ranging from \$260,000 to \$348,000 or from \$79.54 to \$105.05 per square foot of living area, including land. After making adjustments to the comparables for differences from the subject the appraiser estimated the comparables had adjusted prices ranging from \$266,600 to \$319,774. Based on this data the appraiser estimated the subject had an estimated value under the sales comparison approach of \$299,000.

In reconciling the two approaches to value the appraiser estimated the subject property had a market value of \$299,000 as of January 1, 2011. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$121,398 was disclosed. The subject's assessment reflects a market value of \$365,327 or \$95.29 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 transferred by a Warranty Deed Special "sale by a mortgage company also known as a compulsory sale." The assessor stated in the letter that "the mortgage company was under duress to sell the property."

As to the appellant's appraisal report, the assessor noted that comparable sales #1 and #3 in the report are 19% smaller than the subject dwelling and comparable sale #2 was reportedly not advertised prior to its sale. The assessor acknowledged that comparable #4 in the report is the most similar to the subject "but adjustments were made on the condition." She then questioned the basis for the appraiser's adjustments to

comparable #4 with no substantive evidence to dispute the appraiser's adjustment process.

In the spreadsheet, the township assessor provided information on six suggested comparable sales located in Elgin, Illinois. The comparables are improved with two-story dwellings of frame construction that range in size from 3,582 to 3,722 square feet of living area. The dwellings were constructed from 2005 to 2009. Features of the comparables include a full basement, central air conditioning and a garage. Five of the comparables have a fireplace. These six comparables sold from March 2009 to March 2011 for prices ranging from \$318,000 to \$390,000 or from \$88.58 to \$104.78 per square foot of living area, including land.

Based on this evidence, the board of review proposed to reduce the subject's total assessment to \$114,989 which would reflect a market value of approximately \$344,967 or \$89.98 per square foot of living area, including land.

The appellant was informed of this proposed assessment reduction and rejected the proposal.

Additionally, in written rebuttal to the board of review's evidence, counsel for the appellant generally reiterated the sales history of the subject property. Next counsel pointed out that there was no evidence that the mortgage company was under duress to sell the subject property. As to the dwelling size differences of two of the comparable sales in the appraisal, counsel noted the appraiser made adjustments for size differences in the report.

As to the board of review's comparable sales, counsel pointed out that #2, #3, #4 and #5 were sold in 2009. In contrast, all of the sales in the appraisal report closed between September and November 2010, reflecting dates of sale more proximate in time to the assessment date of January 1, 2011 than the sales presented by the board of review. Next, counsel outlined differences in various aspects of board of review comparables #1 and #6 when compared to the subject property, including view, age and/or upgrades.

Counsel closed contending that the sale price of \$300,000 from September 2009 was the best evidence of value of the subject property and, in the alternative, the appraised value of \$299,000 as of January 1, 2011 should be utilized to determine the correct assessment of the subject property.

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. 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 appellant dually relied upon the September 2009 purchase price of the subject property for \$300,000 and an appraisal of the subject property with an opinion of value as of January 1, 2011 of \$299,000 as evidence that the subject property was overvalued. The board of review raised some criticisms of the appraisal report and presented six suggested comparable sales. Having analyzed the sales data, the board of review acknowledged that the subject property was somewhat overvalued and proposed to reduce the subject's assessment which offer was rejected by the appellant. In rebuttal, counsel for the appellant pointed out that four of the sales presented by the board of review occurred in 2009 which is a date less proximate in time to the assessment date at issue of January 1, 2011.

In light of the dates of sale, the Property Tax Appeal Board has given less weight to the subject's September 2009 purchase price along with the board of review's sales #2, #3, #4 and #5, each of which occurred in 2009.

The Property Tax Appeal Board finds the best evidence of market value to be the appraisal of the subject property submitted by the appellant estimating the subject property had a market value of \$299,000 or \$77.99 per square foot of living area, including land, as of January 1, 2011. The appellant's appraiser developed both the cost and sales comparison approaches to value and gave most weight to the conclusion of value contained in the sales comparison approach. The appraised value of \$299,000 is also supported by the best comparable sales identified by the

board of review being sales #1 and #6 which sold in September 2010 and March 2011 for prices of \$348,000 and \$320,000 or \$93.50 and \$89.14 per square foot of living area, including land. After considering adjustments to these two comparables for age, differences in size and/or amenities, these sales support the appraiser's value conclusion.

The Board finds the subject's 2011 assessment reflects a market value of \$365,327 or \$95.29 per square foot of living area, including land, which is above the appraised value and above the range established by the best sales in the record. Based on this record the Board finds the subject property had a market value of \$299,000 as of January 1, 2011.

The Board finds the appraised value of the subject property is further well-supported by the recent purchase price of the subject property on September 3, 2009 for a price of \$300,000. Furthermore, the Board finds the purchase price of \$300,000 and the appraised value conclusion of \$299,900 are both below the market value reflected by the assessment of \$365,327. 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 mere assertion that the mortgage company sold under "duress" without any substantive evidence to support the contention does not constitute evidence sufficient to refute the apparent arm's length nature of the sale transaction.

Based on this record, the Board finds the subject property had a market value of \$299,000 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.

*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.