



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

APPELLANT: Brian Nicholson  
DOCKET NO.: 11-02466.001-R-1  
PARCEL NO.: 08-09-304-015

The parties of record before the Property Tax Appeal Board are Brian Nicholson, the appellant, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$45,610  
**IMPR.:** \$27,320  
**TOTAL:** \$72,930

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a split-level single-family dwelling of frame and masonry construction containing 1,244 square feet of living area. The dwelling was constructed in 1973. Features of the home include a partially finished lower level, central air conditioning, a fireplace and an attached garage of 441 square feet of building area. The property is located in Naperville, Lisle Township, DuPage 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 August 29, 2011 for a price of \$220,000. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the seller was John Russel, the parties to the transaction were not related, the property was sold using

a Realtor from the firm of ReMax Professionals, agent David Shallow, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 188 days.

In further support of the transaction the appellant submitted a copy of the Multiple Listing Service data sheet depicting the subject was originally listed on February 3, 2011 for an asking price of \$275,000 with a subsequent price reduction to \$234,750 prior to the sale for \$220,000. The document further depicts that the contract was entered into on August 9, 2011 and the closing occurred on August 29, 2011. Additionally, a copy of the Settlement Statement was submitted which reiterated the date of sale and the sale price previously reported along with the payment of brokers' commissions on the sale.

Based on this evidence, 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 Appeals" wherein the subject's total assessment of \$89,630 was disclosed. The subject's assessment reflects a market value of \$270,377 or \$217.34 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for DuPage County of 33.15% as determined by the Illinois Department of Revenue.

In support of the assessment the board of review submitted its Addendum to Board of Review Notes on Appeal along with Exhibit 1 consisting of a spreadsheet that included data on nine comparables along with a map depicting the location of the subject and the comparable properties. The spreadsheet indicates it was prepared by John D. Trowbridge II, Lisle Township Assessor. The grid also depicts the subject's purchase price of \$220,000 with a date of August 2011. Also noted on the spreadsheet were the following statements:

- Subject: Was originally listed 02/03/2011 for \$275,000 was on market for 6 months, sold 08/29/2011 for \$220,000. Seller's last mortgage was released 01/2002
- Subject and all comps are split levels

Each of the nine comparables has the same neighborhood code assigned by the assessor as the subject property. The comparables are improved with split-level dwellings of frame construction that each contains 1,244 square feet of living area and were built between 1972 and 1975. Eight of the comparables

have a fully or partially finished lower level. Eight of the comparables have central air conditioning and seven of the comparables have a fireplace. Each home has an attached garage of either 441 or 462 square feet of building area. These comparables sold from October 1995 to November 2010 for prices ranging from \$158,500 to \$291,250 or from \$127.41 to \$234.12 per square foot of living area, including land.

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

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. 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 August 29, 2011 for a price of \$220,000 on a date approximately eight months after the assessment date of January 1, 2011. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The seller was John Russel, the parties to the transaction were not related, the property was sold using a Realtor from the firm of ReMax Professionals, agent David Shallow, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 188 days.

Moreover, the Board finds the purchase price of \$220,000 is below the market value reflected by the assessment of \$270,377. The Board also finds the board of review did not substantively present any evidence to challenge the arm's length nature of the transaction and, in fact, reported the sale of the subject as of August 2011 for \$220,000 in its spreadsheet. The board of review also failed to refute the contention that the purchase price of \$220,000 was reflective of market value at the time of sale, particularly given the original asking price of \$275,000. In this regard, the Board finds that merely reporting that the property originally had an asking price for six months of \$275,000 is not substantive evidence of the property's actual market value. The property did not sell for the asking price and, in fact, after a six month listing period the property had a price reduction to \$234,750 prior to its sale for \$220,000. Thus, the Board finds this chronology of asking prices suggests that the property was not worth \$275,000 in the marketplace at that time.

The Board has given no weight to board of review comparables #5 through #9 which sold from 1995 to 2004 and are thus too remote in time to be valid or relevant indicators of the subject's estimated market value as of the assessment date of January 1, 2011. Moreover, these remote sales are not relevant when the subject property sold eight months after the assessment date after having been available on the open market for a period of at least 188 days prior to its sale. Similarly, little weight was given to board of review comparable sales #1 through #4 which occurred from April 2009 to November 2010 in light of the provisions of the Property Tax Code and the applicable case law cited above.

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Based on this record the Board finds the subject property had a market value of \$220,000 as of January 1, 2011. Since market value has been determined the 2011 three year average median level of assessment for DuPage County of 33.15% 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

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: April 18, 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.