



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

APPELLANT: Jimmy Smith  
DOCKET NO.: 11-02486.001-R-1  
PARCEL NO.: 06-16-118-030

The parties of record before the Property Tax Appeal Board are Jimmy Smith, 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:** \$4,750  
**IMPR.:** \$26,740  
**TOTAL:** \$31,490

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a third floor condominium unit that contains 996 square feet of living area. The condominium building was built in 1977 of brick exterior construction. Features of the unit include central air conditioning and two heated underground parking spaces. The property is located in Lombard, York 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 June 6, 2011 for a price of \$95,000. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the seller was Thomas Gordon, the parties to the transaction were not related, the property was sold using a Realtor from the firm of JW Reedy, agent Jeanne Jordon, the property had been advertised on the open market with

the Multiple Listing Service and it had been on the market for 29 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 March 23, 2011 for an asking price of \$99,900 prior to the sale for \$95,000. The document further depicts that the contract was entered into on April 20, 2011 and the closing occurred on June 6, 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 a brokers' commission 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 \$45,560 was disclosed. The subject's assessment reflects a market value of \$137,436 or \$137.99 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 prepared by Deanna Wilkins, Assessor with the York Township Assessor's Office. The spreadsheet sets forth the sale of the subject property in June 2011 for \$95,000 and has the following "Notes/Comments":

- Appellant has filed Appeal based on 6/2011 Sale - Appears to be a Pre-Foreclosure (see attached documents).<sup>1</sup>
- Assessor 2011 Value based on 2008, 2009, 2010 and also includes 2011 Sales; Median Sale = \$160,000
- Assessor 2011 Market Value = \$136,680
- All B Styles are Uniform - See Attached Assessor Report.

The next document presented by the township assessor is entitled "Sales Ratio Report." The document lists the parcel numbers of 26 properties along with their street addresses. The dwellings were each built in 1977 and have 996 square feet of living area. Each comparable has a total assessment of \$45,560 and the first three properties have sales that occurred between March 2008 and

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<sup>1</sup> Attached was a Lis Pendens Notice of Foreclosure and an Assignment of Mortgage

June 2011 for prices ranging from \$95,000 to \$195,000 or for \$95.38 to \$195.78 per square foot of living area, including land. The third property listed with the sale price of \$95,000 is the subject parcel.

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 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 June 6, 2011 for a price of \$95,000 on a date approximately six 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 Thomas Gordon, the parties to the transaction were not related, the property was sold using a Realtor from the firm of JW Reedy, agent Jeanne Jordon, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 29 days.

Moreover, the Board finds the purchase price of \$95,000 is below the market value reflected by the assessment of \$137,436. It is also noteworthy that the original asking price in March 2011, a date closer to the assessment date, was \$99,900 which is also below the subject's estimated market value based on its assessment of \$137,436. The Board also finds the board of review did not substantively present any evidence to challenge the arm's length nature of the transaction. The mere fact of reporting this the "Sale - Appears to be a Pre-Foreclosure" with supporting documentation is not substantive evidence challenging the arm's length nature of a sale transaction that the property was advertised on the open market through the Multiple Listing Service for a period of 29 days prior to the sale transaction. In addition, the board of review failed to refute the contention that the purchase price of \$95,000 was reflective of market value at the time of sale, particularly given the asking price of \$99,900.

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, January 1, 2011. In addition, the Board finds these statutes are instructive as to the appellant's 2011 assessment of the subject property.

Next, the Board has given no weight to the board of review's "Sales Ratio Report." The assessments may all be uniform for similar properties, but the appeal concerns the market value of the subject property and the best evidence of the subject's market value.

In this regard, the Board has given little weight to the two sales presented by the board of review which occurred in March 2008 and May 2009, respectively, as these sales are 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, particularly where there is evidence of the sale of the subject property within six months of the assessment date for \$95,000. In addition reduced weight should be afforded to the comparable sales evidence in light of the provisions of the Property Tax Code and the applicable case law cited above.

Based on this record the Board finds the subject property had a market value of \$95,000 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.