



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

APPELLANT: Joseph Garro  
DOCKET NO.: 12-01373.001-R-1  
PARCEL NO.: 08-32-451-025

The parties of record before the Property Tax Appeal Board are Joseph Garro, the appellant, by attorney George J. Relias of Relias & Tsonis, LLC in Chicago, 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:** \$15,613  
**IMPR.:** \$59,425  
**TOTAL:** \$75,038

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2012 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject property consists of a two-story dwelling of frame and masonry exterior construction with approximately 2,451

square feet of living area.<sup>1</sup> The dwelling was constructed in 2004. Features of the home include a full unfinished walkout-style basement, central air conditioning, a fireplace and an integral three-car garage. The property has a 10,000 square foot site and is located in Elburn, Campton Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$225,000 as of February 7, 2012. The appraiser utilized both the cost and sales comparison approaches to value.

Also attached to the appeal was a copy of a multi-page real estate contract depicting the appellant as the seller of the subject property for a purchase price of \$225,000. The contract was executed on July 17, 2012.

Based on this evidence, the appellant requested an assessment reflective of the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$94,528. The subject's assessment reflects a market value of \$283,442 or \$115.64 per square foot of living area, land included, when using the 2012 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

The board of review submitted a memorandum from the township assessor who asserted that in January 2012, the subject property "transferred ownership through a 'deed-in-lieu of foreclosure.'" Furthermore, the assessor contended that appraisal sales #1 and #4 were 'quit claim' deeds and appraisal sale #2 was a short sale.

As to the real estate sales contract, the assessor reported that "there is no recording of this transaction or transfer declaration with Kane County Recorder of Deeds as of" the date of submission of the assessor's memorandum in September 2012.

In support of its contention of the correct assessment on behalf of the board of review, the township assessor submitted

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<sup>1</sup> The appellant's appraiser reported a dwelling size of 2,123 square feet, but provided no schematic drawing or other support for the calculation. The board of review reported a dwelling size of 2,451 square feet and provided a property record card with schematic drawing to support the assertion.

information on four comparable sales that occurred between May 2009 and November 2011 for prices ranging from \$215,000 to \$279,000 or from \$115.17 to \$124.33 per square foot of living area, including land. Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

#### Conclusion of Law

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. 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 submission by the board of review criticizes the sale transactions in the appellant's appraisal report based on the transfer document and that one of the sales was a "short sale." The Property Tax Appeal Board takes judicial notice of Public Act 96-1083 which 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.

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 the assessment date at issue, January 1, 2012 and therefore, the consideration by the appraiser of sales that were foreclosures and/or short sales is not a basis to discount the appraisal in its entirety.

The Property Tax Appeal Board has given no weight to board of review comparable sales #2 and #3 which occurred in May 2009 and May 2010, dates which are more remote in time to the assessment date at issue of January 1, 2012 and thus, less likely to be indicative of the subject's estimated market value as of the assessment date.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant with a value conclusion of \$225,000 or \$91.80 per square foot of living area. The Board further finds the appraised value is somewhat supported by two recent sales of comparable properties presented by the board of review as comparable sales #1 and #4. These two comparables sold in April and November 2011 for prices of \$119.11 and \$122.12 per square foot of living area, including land, although each of these comparables is smaller than the subject dwelling. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. The subject's assessment reflects a market value of \$283,442 or \$115.64 per square foot of living area, including land, which is above the appraised value both in terms of overall value and on a per-square-foot basis. Moreover, the Board finds given the subject's dwelling size, the subject's market value would be expected to be below the two best comparable recent sales presented by the board of review on a per-square-foot basis.

On this record, the Board finds the subject property had a market value of \$225,000 as of the assessment date at issue. Since market value has been established the 2012 three year average median level of assessments for Kane County of 33.35% as determined by the Illinois Department of Revenue 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.

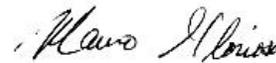
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Chairman



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Member



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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: June 26, 2015



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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.