



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

APPELLANT: Ehsan & Shahbano Safari  
DOCKET NO.: 12-01451.001-R-1  
PARCEL NO.: 08-13-453-006

The parties of record before the Property Tax Appeal Board are Ehsan & Shahbano Safari, the appellants, by attorney Jerri K. Bush 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:** \$37,464  
**IMPR:** \$329,386  
**TOTAL:** \$366,850

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants 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 single-family dwelling of brick and stone exterior construction with 7,754 square feet of living area. The dwelling was constructed in 2009. Features of the home include a full walk-out style basement with finished area, central air conditioning, fireplaces and an attached 1,058 square foot garage. The

property is located in St. Charles, Campton Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument, the appellants submitted evidence disclosing the subject property was purchased on August 19, 2011 for a price of \$1,100,000. The appellants also provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellants 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, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market as shown in the Listing & Property History Report.

The Listing & Property History Report reflected that the subject property was originally placed on the market in April 2009 for \$1,899,900. This listing expired in September 2009 at which time the property was again listed with a new asking price of \$1,790,000; this price was first reduced in November 2009 to \$1,699,000 and then reduced in February 2011 to \$1,650,000. The latest listing was cancelled in April 2011 and again listed on April 18, 2011 for \$1,299,000. Then, as shown in the submitted Multiple Listing Service data sheet, a sale contract was entered into on April 22, 2011 after which the closing occurred on August 19, 2011 for a purchase price of \$1,100,000. In further support of the transaction the appellants also submitted a copy of the Settlement Statement which reiterated the sales price and closing date along with depicting the payment of brokers' fees as part of the sale transaction. Based on this evidence, the appellants 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" disclosing the total assessment for the subject of \$461,317. The subject's assessment reflects a market value of \$1,383,259 or \$178.39 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 provided data from the township assessor and asserted the "subject was a short sale and not considered arms [sic] length." A document entitled Assessor Notes refers to a purported letter submitted by the appellants from RMR Property Tax Solutions/ProTax Appeal. The Board finds this letter was

not presented as part of the evidence before the Property Tax Appeal Board. The Assessor's Notes further cite to the Multiple Listing Service data sheet which noted the subject was a short sale and "please allow time for bank response." The document states, "This would indicate that the transaction involved some measure of duress and should not be considered arm's length."

In support of its contention of the correct assessment the board of review through the assessor submitted information on four comparable sales that occurred between July 2010 and July 2011. The comparable dwellings were each built in 2007 and consist of two-story homes of brick and stone or frame and brick exterior construction. The dwellings range in size from 4,902 to 7,563 square feet of living area. Each comparable has a basement, three of which are walkout-style with finished area, central air conditioning, fireplaces and garages that range in size from 931 to 1,191 square feet of building area. The comparables sold for prices ranging from \$895,000 to \$1,350,000 or from \$165.78 to \$191.30 per square foot of living area, including land. The Assessor Notes further contended that board of review comparable #1 was most similar to the subject in size and amenities which sold in July 2011 for \$1,350,000 or \$178.50 per square foot of living area, including land. Applying this same market value of board of review comparable #1 to the subject dwelling, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellants contended that the sale price of the subject property when an arm's length transaction is synonymous with fair cash value as determined by case law applying the provisions of the Property Tax Code.

### **Conclusion of Law**

The appellants contend 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

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 Illinois Supreme Court 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 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).

In addition, the 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. [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 the assessment date at issue, January 1, 2012. Moreover, the Board finds these statutes are instructive as to the 2012 assessment of the subject property in light of the purchase transaction as a "short sale."

The Property Tax Appeal Board has given no weight to board of review comparables #2, #3 and #4 as these dwellings were each

substantially smaller than the subject home and one of the sales occurred in 2010 which the Board finds to be remote in time to the assessment date and thus less likely to be indicative of the subject's estimated market value as of the assessment date.

On this record, the Board finds the best evidence of market value to be the purchase of the subject property in August, 2011 for a price of \$1,100,000. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction as outlined in detail in this decision. The appellants reported the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open market with the Multiple Listing Service from April 2009 to the contract date of April 18, 2011. The parties did enter into a contract for purchase shortly after the new listing price of \$1,299,000 which is below the subject's estimated market value based on its assessment. Moreover, the Board finds that the sale of board of review comparable #1 further supports that a reduction in the subject's assessment is warranted as this comparable dwelling which sold in July 2011 for \$1,350,000 is superior to the subject dwelling in basement size, finished basement area and garage size.

The Property Tax Appeal Board finds the purchase price of \$1,100,000 is below the market value reflected by the assessment of \$1,383,259. In addition, the subject's estimated market value based on its assessment is greater than the sale price of a superior property known as board of review comparable #1. The Board further finds that the board of review through the township assessor presented insufficient evidence to challenge the arm's length nature of the transaction by contending the property was on the market for only 5 days based on the Multiple Listing Service data sheet and the conclusion that the transaction involved duress because a bank would respond to any offer(s). In addition, the board of review did not refute the contention that the subject's purchase price was reflective of market value in light of the property's lengthy marketing time as shown by the Listing & Property History Report submitted by the appellants.

Based on this record the Board finds the subject property had a market value of \$1,100,000 as of January 1, 2012. Since market value has been determined the 2012 three year average median level of assessment for Kane County of 33.35% 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

*K. L. Fen*

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Member

*[Signature]*

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Member

*Mark Albino*

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Member

*Jerry White*

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Acting 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: June 26, 2015

*[Signature]*

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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.