



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

APPELLANT: Anthony Zajac  
DOCKET NO.: 12-04765.001-R-1  
PARCEL NO.: 08-202-109-00

The parties of record before the Property Tax Appeal Board are Anthony Zajac, the appellant; and the Jo Daviess 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 **Jo Daviess** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$13,077  
**IMPR.:** \$13,736  
**TOTAL:** \$26,813

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Jo Daviess 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 one-story frame dwelling with 1,156 square feet of living area. The dwelling was constructed in 1979. Features include a full basement, central air conditioning, a fireplace and a 598 square foot garage. The property has a .79 acre site. The subject property is located in Guilford Township, Jo Daviess County.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant completed Section IV of the residential appeal petition pertaining to the subject's recent sale. The subject property was purchased on July 9, 2012 for \$80,325. The property was sold by auction; the property was advertised for sale in the open market for one year through the Multiple Listing Service (MLS); and the buyer and seller were unrelated parties. The appellant also submitted a settlement statement as supporting evidence of the subject's sale. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect its sale price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$42,704. The subject's assessment reflects an estimated market value of \$127,933 or \$110.67 per square foot of living area including land when using the 2012 three-year average median level of assessment for Jo Daviess County of 33.38% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a narrative letter addressing the appeal and information on four comparable sales. (Exhibit B) The comparables had varying degrees of similarity when compared to the subject. The comparables sold from April to October of 2011 for prices ranging from \$140,000 to \$193,000 or from \$113.26 to \$207.10 per square foot of living area including land.

The board of review also cited portions of Sections 9-155 and 1-55 of the Property Tax Code. (35 ILCS 200/9-55 and 1-55). Section 9-155 of the Property Tax Code provides in part:

the assessor, in person or by deputy, shall actually view and determine as near as practicable the value of each property listed for taxation as of January 1 of that year, . .

Section 1-55 of the Property Tax Code provides;

33 1/3%. One-third of the fair cash value of property, as determined by the Department's sales ratio studies for the 3 most recent years preceding the assessment year, adjusted to take into account any changes in

assessment levels implemented since the data for the studies were collected.

The board of review argued the appellant did not purchase the subject property until July 2012, which is after the statutory January 1 assessment date and 2012 was not a quadrennial reassessment year for the township. The board of review claimed property values, pursuant to section 1-55 of the Property Tax Code, are based on the three prior year's sales. Any sales that occur after the January 1 assessment date are considered for the following assessment year if it is a quad revaluation or if the taxpayer requests a reduction. The board of review argued that in a non-quad year, property that sold cannot be singled out and reduced or raised based strictly on that sale without revaluing like property in a quad year revaluation.

Based on this evidence, the board of review requested confirmation of the subject's assessment. In rebuttal, the appellant argued the first level of the subject dwelling was not livable because of water damage. The appellant submitted three photographs depicting the water damage. The appellant claimed the subject property has been overvalued since the housing bubble occurred in 2009. The appellant argued the price of a commodity is determined by the open market.

In response to the appellant's rebuttal evidence, the board of review objected to the photographs submitted by the appellant pursuant to section 1910.66 of the rules of the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.66. The board of review argued this evidence was not submitted in his (appellant's) initial appeal. The Board hereby overrules the board of review's objection. The Board finds the appellant did not submit new evidence such as an appraisal, new comparable properties or any evidence in guise of its case in chief. The appellant merely provided relevant photographic evidence depicting the condition of the subject dwelling at the time of sale.

#### **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 Board finds the appellant submitted the best evidence of the subject's market value. The Board finds the subject's property sold on July 9, 2012 for \$80,325. The subject's sale occurred slightly more than six months after the January 1, 2012 assessment date and meets the fundamental elements of an arm's-length transaction. The appellant provided un-refuted evidence demonstrating that the parties to the transaction were unrelated; the property was advertised for sale in the open market; and there was no compulsion involved in the transaction. The Illinois Supreme Court has defined fair cash value as 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 of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an 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).

The board of review submitted four suggested comparable sales in support the subject's assessed valuation. The Board gave little weight to this evidence. Three comparables are smaller or larger dwellings than the subject. Additionally, three suggested comparables are situated on larger sites than the subject. Moreover, these sales do not overcome the subject's arm's-length sale price.

The Property Tax Appeal Board further finds the board of review interpretations of the sections 9-155 and 1-55 of the Property Tax Code to be misplaced in this appeal. (35 ILCS 200/9-155 and 1-55). With respect to the subject's January 1, 2012 assessment date, the Property Tax Appeal Board finds the legislature clearly contemplated subsequent events in the assessment process by inserting the language: "On or before **June 1** . . . the assessor, in person or by deputy, shall actually view and **determine as near as practicable the value of each property listed for taxation as of January 1 of that year.** . . and assess the property at 33 1/3% of its fair cash value, or in accordance with Sections 10-110 through 10-140." The Board finds assessors

are statutorily bound to determine a given property's fair cash value as near as practicable **as of** the date of January 1 of a given assessment year. Illinois courts recognized that assessing officials are not barred, as a matter of law, from considering events which occurred after the lien date in assessing properties and subsequent events assessing officials may consider in any individual case will depend on the nature of the event and the weight to be given the event will depend upon its reliability in tending to show value as of January 1. (See Application of Rosewell, 120 Ill. App. 3d 369 (1<sup>st</sup> Dist. 1983)).

In addition, the Property Tax Appeal Board finds the board of review, unlike the local assessors, has broad authority to correct real property assessments from taxpayers appealing individual assessments that were originally established by local assessors, including considering the sale of the individual property under appeal. Section 16-30 of the Property Tax Code Provides:

Board of review meetings. In counties with less than 3,000,000 inhabitants, the board of review may meet at times it deems necessary for supervising and directing the clerk in the duties prescribed in this Article, and shall meet on or before the first Monday each June to revise the assessment of property. **At the meeting, the board of review upon application of any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just.** The assessment of the property of any person shall not be increased unless that person or his or her agent first has been notified in writing at the address that appears on the assessment books, and been given an opportunity to be heard. The meeting may be recessed as necessary. 35 ILCS 200/16-30.

Section 16-55 of the Property Tax Code provides in part:

Complaints. (a) **On written complaint that any property is overassessed or underassessed, the board shall review the assessment, and correct it, as appears to be just,** but in no case shall the property be assessed at a higher percentage of fair cash value than other property in the assessment district prior to equalization by the board or the Department. . .  
(e) **The board may also, at any time before its revision of the assessments is completed in every**

year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department. 35 ILCS 200/16-55.

The Board finds the Property Tax Code prescribes different responsibilities to assessors than the boards of review. In limited summary, the board of review, upon written complaint or upon its own motion, shall review the assessment, and correct it, as appears to be just.

With respect to Section 1-55 of the Property Tax Code, the Board again finds the Jo Daviess County Board of Review implementation, reliance and interpretation to be misplaced.

33 1/3%. One-third of the fair cash value of property, as determined by the Department's sales ratio studies for the 3 most recent years preceding the assessment year, **adjusted to take into account any changes in assessment levels implemented since the data for the studies were collected.** (Emphasis Added). (35 ILCS 200/1-55)

First, the Board finds the process by which local assessment officials calculate assessments can be appealed to the local board of review in which the property is located and further to the Property Tax Appeal Board upon proper application. The Property Tax Appeal Board's decision shall be based on the weight and equity of the evidence in that record in order to find the correct assessment of the individual property under appeal, regardless of the valuation techniques employed by local assessment officials. In addition, section 1-55 of the Code pertains to the "level of assessment" based on "Department sales ratio studies for the 3 most recent years" rather than the evidence presented before this Board. In summary, the Board finds the assessment process used by local assessment official do not override the taxpayers' due process right to contest that assessment nor the Property Tax Appeal Board's jurisdiction to find the correct assessment of the property based on the equity and weight of the evidence in that record.

In conclusion, the Board finds the subject's 2012 sale price demonstrates the subject's property's assessed valuation as determined by the board of review is excessive. Therefore, a reduction in the subject's assessed valuation is warranted. Since fair market value has been established, the 2012 three-year median level of assessment for Jo Daviess County of 33.38% shall apply.

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. Crit*

Chairman

*K. L. Fan*

Member

*Richard A. Huff*

Member

*Mario M. Lino*

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: November 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.