



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

APPELLANT: Joseph & Nancy Atkinson  
DOCKET NO.: 12-00916.001-R-1  
PARCEL NO.: 09-23-303-004

The parties of record before the Property Tax Appeal Board are Joseph & Nancy Atkinson, the appellant, by attorney Laura Godek of Laura Moore Godek, PC in McHenry; 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:** \$41,396  
**IMPR.:** \$90,670  
**TOTAL:** \$132,066

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 dwelling of brick construction with 3,567 square feet of living area. The dwelling was constructed in 1981. Features of the home include a full basement with 109 square feet of finished area, central air conditioning, four fireplaces and a three-car attached garage with approximately 725 square feet of building area. The

property has a 36,228 square foot site and is located in St. Charles, St. Charles 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 October 13, 2011 for a price of \$396,000. The appellants completed Section IV - Recent Sale Data on the appeal disclosing the subject property was sold by LaSalle 115 Holding, LLC, the transfer was not between family or related corporations, the property was sold by a Realtor, the property had been advertised on the open market through Multiple Listing Service (MLS) and had been on the market for 39 days. The appellants submitted a copy of the listing disclosing the subject property was REO/Lender Owned, Pre-Foreclosure. The appellants also submitted an appraisal estimating the subject property had a market value of \$398,000 as of September 15, 2011; a copy of the real estate sales contract; a copy of the PTAX-203 Illinois Real Estate Transfer Declaration which disclosed the subject property was advertised for sale; and a copy of the settlement statement. Based on this evidence, the appellants requested the subject's assessment be reduced to \$132,653.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$174,563. The subject's assessment reflects a market value of \$523,427 or \$146.74 per square foot of living area, including land, 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.

In support of its contention of the correct assessment the board of review submitted a letter from the St. Charles Township Assessor and information on five comparable sales. The township assessor acknowledged the subject sold in September 2011 for a price of \$396,000 but stated it was a Bank REO sale. The comparables sales identified by the assessor sold from June 2011 to April 2013 for prices ranging from \$516,000 to \$660,000 or from \$149.00 to \$175.02 per square foot of living area, including land.

In rebuttal the appellants' attorney argued the best evidence of value was the sale of the subject property. She argued that the PTAX-203 form and the MLS listing both indicate the property was advertised. She asserted that the board of review did not call into question that the property was exposed to the market. The appellants' attorney also argued the PTAX-203 does not indicate

the sale was between related individuals or corporate affiliates. She further stated that the seller was a financial institution and the transaction was the first sale of the real estate by a financial institution as a result of a foreclosure, transfer pursuant to deed in lieu of foreclosure or consent judgment, occurring after the foreclosure proceeding was complete. She argued this was a compulsory sale as defined by section 1-23 of the Property Tax Code (35 ILCS 200/1-23) (hereinafter "the Code") and pursuant to section 16-183 of the Code (35 ILCS 200/16-183) "the Property Tax Appeal Board is to consider compulsory sales of comparable properties for the purposes of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer." She argued the sale should not be excluded from consideration.

The appellants' attorney also made rebuttal comments regarding the differences between the subject dwelling and the comparable sales presented by the board of review.

#### 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). 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). The Board finds the appellants 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 in October 2011 for a price of \$396,000. The appellants provided documentation disclosing that the subject property was purchased after being exposed on the open market and evidence demonstrating the sale had 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 and the property had been advertised on the open with the Multiple Listing Service. A copy of the listing provided by

the appellants and a copy of the PTAX-203 disclosed the property had been on the market for 39 days prior to the sale. The Board finds the purchase price is below the market value reflected by the assessment.

The Board finds the board of review did not present any evidence to challenge that the subject property was exposed on the market or that the parties were not related. The board of review submitted a statement from the township assessor that the transaction was a Bank REO sale. Section 1-23 of the Code defines compulsory sale as:

"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. 35 ILCS 200/1-23.

Section 16-183 of the Code provides that the Property Tax Appeal Board is to consider compulsory sales in determining the correct assessment of a property under appeal stating:

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. 35 ILCS 200/16-183.

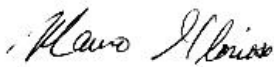
Based these statutes, the Property Tax Appeal Board finds it is appropriate to consider the sale of the subject property even though the transaction was a Bank REO sale. The Board gave less weight to the comparable sales provided by the board of review as they were superior to the subject in age and superior to the subject in features based on statements contained in the MLS listings submitted by the parties describing these properties. Based on this record the Board finds the subject property had a market value of \$396,000 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



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Member



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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: May 22, 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.