



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

APPELLANT: Mark J. & Ann C. Warner  
DOCKET NO.: 12-01440.001-R-1  
PARCEL NO.: 06-09-305-040

The parties of record before the Property Tax Appeal Board are Mark J. & Ann C. Warner, 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:** \$12,683  
**IMPR.:** \$32,340  
**TOTAL:** \$45,023

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 frame townhome that has 2,080 square feet of living area. The dwelling was constructed in 1989. Features include a partially finished basement, central air conditioning, a fireplace and a 431 square

foot attached garage. The subject property is located in Elgin Township, Kane County, Illinois.

The appellants submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellants submitted information pertaining to the subject's recent sale price. The appellants' appeal petition indicated the subject property sold in May 2011 for \$135,000 or \$64.90 per square foot of living area including land. The appellants submitted the Multiple Listing Service (MLS) sheet, the listing history and settlement statement associated with the sale of the subject property. The subject property was listed on and off the open market from April 2009 to April 2011 for an initial offering price of \$229,900 that was incrementally reduced to \$139,900. The sale was between unrelated parties. The subject sold in "as is" condition.

Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$52,995. The subject's assessment reflects an estimated market value of \$158,906 or \$76.40 per square foot of living area including land when applying the 2012 three-year average median level of assessment for Kane County of 33.35%.

In support of the subject's assessment, the board of review submitted seven suggested comparable sales. The evidence was prepared by the Elgin Township Assessor's Office. The comparables had varying degrees of similarity when compared to the subject. The comparables sold from November 2009 to May 2012 for prices ranging from \$135,000 to \$175,000 or from \$84.55 to \$112.48 per square foot of living area including land.

With respect to the evidence submitted by the appellant, the assessor argued the subject's sale was a result of foreclosure. The assessor acknowledged the property had been exposed to the open market for 617 days and sold "as is".

Based on this evidence, the board of review requested confirmation of the subject's assessment.

#### **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.

The Board finds the best evidence of market value contained in this record is the subject's sale price in May 2011 for \$135,000, just seven months prior to the January 1, 2012 assessment date. The Board finds the subject's sale appears to meet the fundamental elements of an arm's-length transaction. The subject's assessment reflects an estimated market value of \$158,906, which is considerably more than the subject's recent sale price. The board of review did not present any credible evidence that would demonstrate the subject's sale was not an arm's-length 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 further finds the comparable sales submitted by the board of review do not overcome the subject's arm's-length sale price as provided by the aforementioned controlling Illinois case law. Moreover, three comparables sold in 2009 or 2010, which are dated and less reliable indicators of market value as of the subject's January 1, 2012 assessment date; six comparables are smaller in dwelling size when compared to the subject; and four comparables are located in a different subdivision than the subject.

Based on this analysis, the Board finds the subject property is overvalued and a reduction in its assessment is justified. Since fair market value has been established, Kane County's 2012

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three year average median level of assessment of 33.35% 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.

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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*

\_\_\_\_\_  
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.