



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

APPELLANT: Richard B. Neubauer  
DOCKET NO.: 12-02247.001-R-1  
PARCEL NO.: 03-01-217-018

The parties of record before the Property Tax Appeal Board are Richard B. Neubauer, the appellant, by attorney Jerri K. Bush, Attorney at Law, in Chicago, and the Kendall 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 **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$7,169  
**IMPR.:** \$10,329  
**TOTAL:** \$17,498

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kendall 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 residential condominium unit of frame construction with 1,168 square feet of living area. The building was constructed in 2001. Features of the subject include a crawl-space foundation, central air conditioning, a fireplace and an attached 400 square foot

garage. The property is located in Aurora, Oswego Township, Kendall County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on July 1, 2011 for a price of \$52,500. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$39,080. The subject's assessment reflects a market value of \$117,498 or \$100.60 per square foot of living area, land included, when using the 2012 three year average median level of assessment for Kendall County of 33.26% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales from the subject's neighborhood. The comparables are the "same model" as the subject and sold between June 2011 and September 2012 for prices ranging from \$92,000 to \$120,000 or from \$78.77 to \$102.74 per square foot of living area, including land.

Based on this evidence, the board of review proposed a reduction in the subject's assessment to \$35,472 which would reflect a market value of approximately \$106,416. The appellant was informed of this proposed assessment reduction and rejected the offer as being "too high."

Furthermore, in written rebuttal, counsel for the appellant argued that the best evidence of the subject's market value was its recent purchase price which is supported by existing case law. The appellant contends that the sale of the subject was not between related parties and was not a forced sale; the sale qualifies as an arm's length transaction after having been offered on the open market. Additionally, the appellant contends that board of review comparable sale #3 occurred nine months past the lien date of January 1, 2012.

#### **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 best evidence of market value to be the purchase of the subject property in July, 2011 for a price of \$52,500. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant 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 from Realty Executives Premiere, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for at least 95 days. A copy of the Listing & Property History Report reflect that the subject property had been on the market almost continuously from June 2010 with an original asking price of \$128,900 until it sold for \$52,500. In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the purchase date and price. A copy of the Multiple Listing Service data sheet reveals an asking price of \$116,500 from March 2011.

The Property Tax Appeal Board finds the purchase price of \$52,500 is below the market value reflected by the assessment of \$117,498 and is also below the proposed market value of \$106,416. The Board finds the board of review did not present any evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value.

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 if

reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Our supreme court has at least indicated that a sale of property during the tax year in question is a "relevant factor" in considering the validity of an assessment. [citations omitted]. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1<sup>st</sup> Dist. 1983). In light of the foregoing cases, the Board has given little weight to the three sales presented by the board of review.

Based on this record the Board finds the subject property is overvalued and a reduction in the subject's assessment commensurate with the appellant's request is warranted.

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. Fan*

*Klaus Albrecht*

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Member

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Member

*JR*

*Jerry White*

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Member

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Acting Member

*Robert Steffen*

\_\_\_\_\_  
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: November 20, 2015

*A. Proctor*

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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.