



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

APPELLANT: Gino Berrini  
DOCKET NO.: 13-00573.001-R-1  
PARCEL NO.: 12-02-15-107-080-1005

The parties of record before the Property Tax Appeal Board are Gino Berrini, the appellant, by Jerri K. Bush, Attorney at Law, in Chicago, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$13,700  
**IMPR.:** \$10,631  
**TOTAL:** \$24,331

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 tri-level townhome of frame construction with 1,262 square feet of living area with a concrete slab foundation. The property is located in Bolingbrook, DuPage Township, Will 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 March 12, 2012 for a price of \$73,000. 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, the property had been advertised on the open market with the Multiple Listing Service and it was on the market for 157 days. In further support of the transaction the appellant submitted a copy of the Multiple Listing Service data sheet depicting that the home was a Pre-foreclosure sale with conventional financing and a copy of the Listing & Property History Report depicting the original listing date of August 16, 2011 with an asking price of \$113,300 followed by five asking price reductions to a final asking price as of January 2, 2012 of \$79,999. 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 \$44,600. The subject's assessment reflects a market value of \$134,378 or \$106.48 per square foot of living area, land included, when using the 2013 three year average median level of assessment for Will County of 33.19% as determined by the Illinois Department of Revenue.

In response to the appeal and in support of its contention of the correct assessment, the board of review submitted a memorandum entitled "Response from the Assessor" along with supporting documents. In the memorandum, it was asserted that the subject's sale was invalid because it was a foreclosure which is not a voluntary sale. Also, the assessor stated that a bank REO is "considered invalid because it is not an arm's length transaction." In further support, the board of review submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration asserting the subject property was purchased in March 2012, it was advertised prior to the sale and "bank REO (real estate owned)" was marked on the form.

The assessor also submitted a spreadsheet with limited information on seven comparable sales. Five of the comparable sales occurred between March and May 2010. The spreadsheet did not provide any descriptive information regarding the properties as to age, size, foundation and/or features. The comparables sold from March 2010 to July 2012 for prices ranging from \$83,000 to \$174,000, including land.

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

In written rebuttal, counsel for the appellant reiterated that the basis of this appeal was the recent sale of the subject property. Counsel contends that the subject's purchase was an arm's length transaction in light of applicable case law and has not been adequately disputed by the board of review. Moreover, the subject property's asking price was also less than the estimated market value as reflected by its assessment. Since the board of review did not provide any evidence that the subject's sale price was not reflective of market value, the appellant requested a favorable decision.

### 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.

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 Supreme Court of Illinois 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 to do so. 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). 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).

As to the assertion that the subject's sale was invalid, 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 on these statutes, the Property Tax Appeal Board finds it is appropriate to consider the sale of the subject property in revising and correcting the subject's assessment.

In conclusion, the Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in March 2012 for a price of \$73,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The evidence disclosed the parties to the transaction were not related, the property was sold using a Realtor and the property had been advertised on the open market for 157 days. In further support of the transaction the appellant submitted a copy of the MLS listing sheet for the subject property and a copy of the Listing & Property History Report. The Property Tax Appeal Board further finds the purchase price of \$73,000 is less than the subject's estimated market value as reflected by its assessment of \$134,378.

The board of review submitted information on seven comparable sales with no characteristics information provided for purposes of a comparative analysis. The Board also finds comparables #2 through #6 sold between March and May 2010, dates more remote in time to the assessment date of January 1, 2013 and therefore less likely to be indicative of the subject's estimated market value if there was evidence that the properties were comparable

to the subject property. Moreover, the Property Tax Appeal Board finds these sales presented by the board of review do not refute the appellant's evidence that the subject property sold after being exposed on the open market for 157 days in a transaction involving parties that were not related. Based on this record the Board finds the purchase price in March 2012 is the best indication of market value as of January 1, 2013, and reduction in the subject's assessment commensurate with the appellant's request is justified.

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*

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Member

*Klaus Albrecht*

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Member

*Jerry White*

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Member

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Acting Member

*Robert Steffen*

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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: January 22, 2016

*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.