



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

APPELLANT: Elm Street Homes, LLC  
DOCKET NO.: 13-02042.001-R-1  
PARCEL NO.: 02-33-126-022

The parties of record before the Property Tax Appeal Board are Elm Street Homes, LLC, the appellant, by attorney Mark Vanecko of the Law Offices of Mark Vanecko, 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:** \$15,917  
**IMPR.:** \$46,123  
**TOTAL:** \$62,040

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant 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 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 two-story frame dwelling that has 2,831 square feet of living area. The dwelling was constructed in 2006. Features include a finished basement, central air conditioning and a 754 square foot attached garage.

The subject property was described having a "Standard 1.0" lot. The subject property is located in Rutland Township, Kane County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information pertaining to the subject's recent sale. The appellant's appeal petition indicated the subject property sold in August 2013 for \$186,250 or \$65.79 per square foot of living area including land. The appellant submitted the Multiple Listing Service (MLS) sheet and settlement statement associated with the sale of the subject property. The subject property was listed for sale in the open market for approximately 36 days and the sale was between un-related parties. The MLS sheet indicated the subject property sold "As-Is."

The appellant also submitted MLS sheets for three comparable sales to bolster the overvaluation claim. Based on this evidence, the appellant 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 \$67,861. The subject's assessment reflects an estimated market value of \$203,726 or \$71.96 per square foot of living area including land when applying the 2013 three-year average median level of assessment for Kane County of 33.31%.

In support of the subject's assessment, the board of review submitted a comparative analysis of three suggested comparable sales. The evidence was prepared by the Rutland Township Assessor's Office. The comparables had varying degrees of similarity when compared to the subject. The comparables sold from June 2010 to November 2012 for prices ranging from \$234,475 to \$261,000 or from \$82.54 to \$90.59 per square foot of living area including land.

With respect to the evidence submitted by the appellant, the assessor argued the comparables submitted by the appellant are smaller in dwelling size when compared to the subject. The assessor acknowledged the subject property sold in August 2013 for \$186,250 through a Special Warranty Deed/Foreclosure. Neither the board of review nor the assessor provided any direct evidence challenging the arm's-length nature of the subject's transaction.

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

### 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 contained in this record is the subject's sale price in August 2013 for \$186,250. The Board finds the subject's sale meets the fundamental elements of an arm's-length transaction. The buyer and seller were un-related; the subject property was exposed to the open market; and there is no direct evidence the parties to the transaction were under duress or compelled to buy or sell. 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 subject's assessment reflects an estimated market value of \$203,726, which is more than its recent sale price. The board of review did not present any direct evidence that would demonstrate the subject's sale was not an arm's-length transaction. Finally, the Board finds just because the subject sold through a Special Warranty Deed/Foreclosure does not demonstrate the subject's sale was not an arm's-length transaction.

The Board further finds the comparable sales submitted by the appellant and the board of review does not overcome the subject's arm's-length sale price as provided by the aforementioned controlling Illinois case law. Additionally, two

sales submitted by the board of review occurred in 2010 and 2011, which are dated and less reliable indicators of market value as of the subject's January 1, 2013 assessment date.

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 2013 three year average median level of assessment of 33.31% 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. Fan*

*Klaus Albrecht*

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Member

\_\_\_\_\_  
Member

*JR*

*Jerry White*

\_\_\_\_\_  
Member

\_\_\_\_\_  
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.