



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

APPELLANT: IH2 Property Illinois, L.P.  
DOCKET NO.: 13-02181.001-R-1  
PARCEL NO.: 12-09-478-007

The parties of record before the Property Tax Appeal Board are IH2 Property Illinois, L.P., the appellant, by attorney Robert M. Sarnoff of Sarnoff & Baccash, 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:** \$31,840  
**IMPR.:** \$61,461  
**TOTAL:** \$93,301

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 brick dwelling that has 2,959 square feet of living area. The dwelling was constructed in 1990. Features include an unfinished basement, central air conditioning, a fireplace and a 559 square foot

attached garage. The subject property has 12,197 square feet of land area. The subject property is located in Geneva 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 sale of the subject property. The appellant's appeal petition indicated the subject property sold in May 2013 for \$280,100 or \$94.66 per square foot of living area including land. The appellant submitted the settlement statement associated with the sale of the subject property. The appeal petition depicts the subject property was listed for sale in the open market with a Realtor for unknown period of time and the parties to the transaction were not related. 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 \$117,431. The subject's assessment reflects an estimated market value of \$352,540 or \$119.14 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 three suggested comparable sales. The evidence was prepared by the Geneva Township Assessor. The comparables had varying degrees of similarity when compared to the subject. The comparables sold from February 2010 to June 2011 for prices ranging from \$344,000 to \$410,000 or from \$124.76 to \$133.94 per square foot of living area including land.

In her letter addressing the appeal, the assessor argued that because there has been a question of condition of the subject at the time of sale, an onsite inspection was requested be certified mail. As of June 27, 2014, neither the appellant nor the appellant's attorney had replied. The assessor also submitted photographs of the subject from the listing. The assessor argued these photographs seem to indicate the dwelling is in excellent condition. The assessor also submitted the listing history of the subject property and the Multiple Listing Service (MLS) sheet. The subject property was original listed for sale in May 2012 for \$444,500; however, the offering price was incrementally reduced to \$314,000 by May 20, 2013. The MLS sheet revealed the property was to be sold as "partially

repaired." 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 May 2013 for \$280,100. The Board finds the subject's sale meets the fundamental elements of an arm's-length transaction. The buyer and seller were not 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 \$352,540, which is considerably more than its 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. In the evidence submitted by the board of review, the assessor implied the sale was "clearly distressed." The Board finds the board of review did not adequately challenge the arm's-length nature of the subject's sale. Finally, the Board further finds the fact the subject sold through a Special Warrant Deed/REO sale does not in and of itself demonstrate the sale was not an arm's-length transaction as defined by the case law.

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. Additionally, all the suggested comparable sales occurred in 2010 or 2011, which are dated and are not reliable indicators of market value as of the subject's January 1, 2013 assessment date.

As a final point, the Board finds the fact the appellant did not respond to the township assessor's request to inspect the subject dwelling is moot. This argument appears to be founded on section 1910.94(a) of the rules of the Property Tax Appeal Board that provides:

- a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes. (86 Ill.Admin.Code §1910.94(a)).

The Board finds this section is not applicable in this appeal for two reasons. First, the request to inspect the dwelling was made by the township assessor and not the board of review as required by rule. The township assessor is not a party to the appeal before the Property Tax Appeal Board. Second, the failure of the taxpayer or owner of the property to allow an inspection only prevents the taxpayer or owner from offering evidence to discredit the board of review description of the physical characteristics of subject property.

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



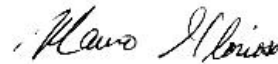
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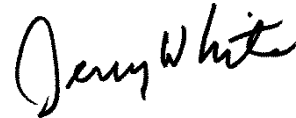
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DISSENTING: \_\_\_\_\_

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: December 18, 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.