



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

APPELLANT: Fullerton Associates Family LP  
DOCKET NO.: 13-02320.001-R-1  
PARCEL NO.: 03-21-476-004

The parties of record before the Property Tax Appeal Board are Fullerton Associates Family LP, the appellant, by Jerri K. Bush, Attorney at Law, 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: \$21,193  
IMPR.: \$3,305  
TOTAL: \$24,498**

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 one-story dwelling of frame construction with 1,824 square feet of living area. The dwelling was constructed in 1971. Features of the home include a crawl-space foundation, two fireplaces and an attached 528 square foot garage. The property has a 20,800 square foot site and is located in Sleepy Hollow, Dundee Township, Kane 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 August 22, 2012 for a price of \$73,500. The appellant completed Section IV - Recent Sale Data of the appeal petition disclosing 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 with the Multiple Listing Service for 46 days.

In further support of the transaction the appellant submitted a copy of the Settlement Statement reiterating the purchase date and price. The appellant also submitted a copy of the Multiple Listing Service data sheet depicting the home was sold as-is as an REO/Lender Owned, Pre-Foreclosure for cash financing. The appellant also provided a copy of the Listing & Property History Report depicting four most recent listings of the subject property commencing on January 21, 2012 with an asking price of \$129,900. This listing concluded on May 12, 2012 reflecting an asking price of \$114,900 at which time the property was re-listed on May 14, 2012 with an asking price of \$109,900. There was one price reduction and the property was re-listed on July 11, 2012 with an asking price of \$89,900. The last listing began on September 28, 2012 and reflects an asking price of \$199,000 and a marketing time of 46 days. The three previous listings reflect marketing times of 113, 57 and 24 days, respectively. 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 \$59,160. The subject's assessment reflects a market value of \$177,604 or \$97.37 per square foot of living area, land included, when using the 2013 three year average median level of assessment for Kane County of 33.31% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review relied upon an argument and evidence prepared by the Dundee Township Assessor's Office. In a memorandum, the township assessor noted the subject was a rental property; the property was sold in "as is" condition, but the property has been remodeled since the time of purchase.

In further support of the subject's assessment, the township assessor submitted a grid analysis with information on three

comparable sales located in the same community as the subject property. The comparables consist of one-story frame dwellings that were built between 1959 and 1968. The homes range in size from 1,536 to 1,690 square feet of living area. One comparable has a full basement with finished area. Two of the comparables have central air conditioning and each has one or two fireplaces and a garage ranging in size from 420 to 600 square feet of building area. Comparable #3 also has a 400 square foot in-ground swimming pool. The properties sold between April 2013 and January 2014 for prices ranging from \$175,000 to \$300,000 or from \$103.55 to \$195.31 per square foot of living area, 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 the applicable case law and cited to the last listing of the subject property to support the contention that the purchase price reflects the property's market value. Appellant's counsel also noted that the board of review did not provide any evidence disputing the arm's length nature of the sale transaction. As to the rental of the subject property, counsel argued that the basis of this appeal was not made based upon the income approach to value. As to board of review comparable #3, counsel argued this property is superior to the subject with a larger lot, a basement with finished area and an in-ground swimming pool.

#### **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).

Without additional information from the assessing officials regarding the purported remodeling modifications to the subject property that were made after the date of purchase,<sup>1</sup> the Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in August 2012 for a price of \$73,500. 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 there was no evidence of duress to buy or sell. In further support of the transaction the appellant submitted a copy of the Settlement Statement, a copy of the MLS listing sheet for the subject property and a copy of the Listing & Property History Report which depicted that the property had been advertised on the open market on multiple occasions for more than 200 days in total. The Property Tax Appeal Board further finds the purchase price of \$73,500 is less than the subject's estimated market value as reflected by its assessment of \$177,604.

The board of review submitted information on three comparable sales of dwellings with varying degrees of similarity to the subject property. The Board gives little weight to comparable #3 which is located on a larger lot, has a full basement with finished area and features an in-ground swimming pool as compared to the subject dwelling that has a crawl-space foundation and no pool. More importantly, the Property Tax Appeal Board finds the 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 at least 46 days in a transaction involving parties that were not related. Based on this record the Board finds the purchase price in August 2012 is the best indication of market value as of January 1, 2013,

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<sup>1</sup> The Board takes notice that the property record card for the subject property has no permit information dated after May 17, 1999 for "home maintenance."

Docket No: 13-02320.001-R-1

and a 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*

*Mario Alvarez*

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Member

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Member

*JR*

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Member

\_\_\_\_\_  
Acting Member

*Robert Hoffmann*

\_\_\_\_\_  
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: February 19, 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.