



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

APPELLANT: Joe & Lisa Spears  
DOCKET NO.: 13-02390.001-R-1  
PARCEL NO.: 12-02-103-003

The parties of record before the Property Tax Appeal Board are Joe & Lisa Spears, the appellants, 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:** \$20,984  
**IMPR.:** \$3,980  
**TOTAL:** \$24,964

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants 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 1,073 square feet of living area. The dwelling was constructed in 1955. Features of the home include a full unfinished basement.<sup>1</sup> The property has a 6,250 square

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<sup>1</sup> In the grid analysis, the assessing officials reported central air conditioning as a feature of the subject property despite that the property

foot site and is located in Geneva, Geneva Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on February 28, 2013 for a price of \$74,900. The appellants 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, the property had been advertised on the open market with the Multiple Listing Service for 4 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase price and date; a copy of the Multiple Listing Service data sheet depicting that the property was an REO/Lender Owned, Pre-Foreclosure with cash financing; and a copy of the Listing & Property History Report depicting a listing date of December 12, 2012 with an asking price of \$74,900 before being sold. The listing data sheet reflects the property was sold "as-is" and "seller will not complete repairs nor will they give credits for repairs." Based on this evidence, the appellants 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 \$57,285. The subject's assessment reflects a market value of \$171,975 or \$160.27 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 response to the appeal and in support of its contention of the correct assessment, the board of review submitted a two-page memorandum from Denise D. LaCure, Geneva Township Assessor, along with supporting documents. In the memorandum, she asserted the subject's sale was not a normal arm's length transaction. In support of this proposition, she set forth the history of foreclosure, a Sheriff's Sale, ownership by the Office of Veteran's Affairs followed by sale to the appellants via Special Warranty Deed because the seller was a financial institution/government agency. The assessor then states, "This distressed property was the subject of a compulsory, non arms length transaction."

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record card for the subject does not identify this as a feature of the dwelling.

The assessor also submitted a spreadsheet with information on four comparable sales. The homes range in size from 1,049 to 1,336 square feet of living area. The dwellings were similar in age, design and/or exterior construction to the subject dwelling. Two of the comparables have basements, one of which has finished area. Each of the comparables has central air conditioning, one comparable has a fireplace and each has a one-car or a two-car garage. The comparables sold from May 2010 to October 2012 for prices ranging from \$125,000 to \$177,350 or from \$101.05 to \$160.15 per square foot of living area, including land.

The assessor further reported that comparable #1 needed work at the time of sale and resold after updates in January 2013 for \$195,500. She also reported that comparable #3 was sold via Special Warranty Deed as a Bank REO property. Having considered the data, the assessor recommended a reduction in the subject's total assessment to \$55,159 for a market value of approximately \$165,494.

Based on this evidence and argument, the board of review proposed a reduction in the subject's assessment in accordance with the assessor's recommendation.

The appellants were informed of this proposed reduction and rejected the offer. As to the assessor's arguments regarding the sale of the subject property, counsel contends the assessor provided no evidence to show that the sale of the subject was distressed or that the property was in inferior condition. Furthermore, counsel argued that the board of review provided no evidence that the sale price was not reflective of market value.

#### **Conclusion of Law**

The appellants contend 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 appellants 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 assessor's contentions regarding the sale of the subject property, the Property Tax Appeal Board takes judicial notice of Section 1-23 of the Code which defines compulsory sale as:

. . . (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 further 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 and these statutes are instructive as to the assessment of the subject property.

The Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in February 2013, a month after the assessment date of January 1, 2013, for a price of \$74,900. The appellants 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 appellants submitted a copy of the Settlement Statement, a copy of the MLS listing sheet for the subject property which depicted that the property had been advertised on the open market for 4 days and a copy of the Listing & Property History Report. The Property Tax Appeal Board further finds the purchase price of \$74,900 is less than the subject's estimated market value as reflected by its assessment of \$171,975 and also less than the proposed revised assessment that would reflect a market value of approximately \$165,494.

The board of review submitted information on four comparable sales of dwellings with varying degrees of similarity to the subject property. Each comparable was superior to the subject property with features of central air conditioning and a garage which were not features of the subject dwelling. Moreover, board of review comparables #3 and #4 sold in 2010, dates more remote in time to the assessment date of January 1, 2013 and thus less likely to be indicative of the subject's estimated market value. More importantly, the Property Tax Appeal Board finds the sales presented by the board of review do not refute the appellants' evidence that the subject property sold after being exposed on the open market for 4 days in a transaction involving parties that were not related. Based on this record the Board finds the purchase price in February 2013 is the best indication of market value as of January 1, 2013, and a reduction in the subject's assessment commensurate with the appellants' 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

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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: 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.