



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

APPELLANT: Matt & Vasiliki Ortiz  
DOCKET NO.: 14-00346.001-R-1  
PARCEL NO.: 09-14-100-007

The parties of record before the Property Tax Appeal Board are Matt & Vasiliki Ortiz, the appellants, by attorney Scott Shudnow, of Shudnow & Shudnow, Ltd. in Chicago, and the Kane County Board of Review.

Based on the facts and exhibits presented in this matter, 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:** \$30,700  
**IMPR.:** \$152,633  
**TOTAL:** \$183,333

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 2014 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 part two-story and part one-story dwelling of brick exterior construction with 4,569 square feet of living area.<sup>1</sup> The dwelling was constructed in 2004. Features of the home include a full English-style basement with finished area which includes a second kitchen, central air conditioning, a fireplace, an attached 578 square foot garage and a

---

<sup>1</sup> The appellants' appraiser reported a dwelling size of 4,569 square feet of living area supported by a detailed schematic drawing. The assessing officials reported a dwelling size of 4,578 square feet of living area with a less detailed schematic drawing. The Board finds the appellants provided the best evidence of dwelling size and furthermore, the Board finds that the slight size discrepancy does not prevent a determination of the correct assessment on this record.

detached 1,152 square foot garage. The subject parcel is a 1.47-acre site and is located in St. Charles, St. Charles Township, Kane County.<sup>2</sup>

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants reported the July 2014 purchase price of the subject property for \$550,000 and also submitted an appraisal that was prepared for the purchase transaction and estimated the subject property had a market value of \$565,000 as of July 21, 2014.

In Section IV – Recent Sale Data of the appeal petition, the appellants reported the subject property was purchased from Continental Relocation Group on July 25, 2014 for a price of \$550,000. The appellants also reported the property was listed for sale in the Multiple Listing Service for a period of 271 days and the parties to the transaction were not related. In further support, the appellant submitted a copy of the Multiple Listing Service data sheet which noted that the home had an original list price of \$697,000 before being reduced to \$579,900 before it was sold. The Settlement Statement also reiterated the date of sale and sale price along with reflecting the payment of brokers' commissions.

The appellant's appraisal report was prepared for Millennium Bank and reported that the subject property had been on the market with a listing for \$579,900 and was originally listed in August 2013 for \$697,000 resulting in 342 days on the market.

The appraiser utilized both the cost approach and the sales comparison approach to value in arriving at the opinion and the opinion includes both parcels of land for a total of 2.34-acres of land area. Under the cost approach, the appraiser estimated a value of \$597,988 for the subject. For the sales comparison approach the appraiser analyzed three comparables located within 2.28 miles from the subject. The two-story dwellings were 12 to 27 years old and range in size from 3,484 to 5,318 square feet of living area with finished basements, central air conditioning, a fireplace and a two-car or a three-car garage. The properties sold in April 2014 or July 2014 for prices ranging from \$536,000 to \$549,000 or from \$103.23 to \$153.85 per square foot of living area, including land. For the sales comparison approach, the appraiser opined a value for the subject of \$565,000.

In reconciling the two value conclusions, the appraiser gave most weight to the sales comparison approach due to the difficulty in measuring depreciation under the cost approach. Based on the foregoing evidence, the appellants requested a reduction in the subject's assessment to reflect the recent purchase price of \$550,000, or in the alternative, that a reduction in assessment reflective of the appraised value of \$565,000 be issued.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$228,877. The subject's assessment reflects a market value of \$687,525 or \$150.48 per square foot of living area, land included, when using the 2014 three year average median level of assessment for Kane County of 33.29% as determined by the Illinois Department of Revenue.

---

<sup>2</sup> Both the appellants' appraiser and the assessing officials noted that there is a second parcel of 1.18-acres with parcel number 09-11-357-003 associated with the subject, but this parcel was not appealed to the Property Tax Appeal Board.

In response to the appeal, the board of review submitted a memorandum along with data prepared by Diane Hemmingsen, Chief Residential Deputy Assessor in the St. Charles Township Assessor's Office. Within the memorandum, the assessor contended that three of the appraisal's sales along with the sale of the subject occurred past the January 1, 2014 assessment date at issue "for current assessments." She also asserted that the subject custom built dwelling has special design features of higher quality materials and workmanship with adjustments made by the appraiser in the report at \$10 per square foot of living area which is "grossly unreasonable for homes of the quality of the subject and all of the comparables." The assessor also noted a dwelling size discrepancy for appraisal sale #2 as compared to the assessor's records resulting in an overstatement of size by 638 square feet of living area. The assessor contended that these two errors by the appraiser would result in a finding that the conclusion of value was not reliable.

In support of its contention of the correct assessment the board of review submitted information on seven comparable sales located an unknown distance from the subject property. The comparables consist of parcels ranging in size from .37 of an acre to 1.86-acres of land area that are improved with two-story brick or frame and brick dwellings that were built between 1996 and 2006. The homes range in size from 3,850 to 4,670 square feet of living area with basements, six of which have finished area and five of which are walkout style and two of the walkouts also described as being English style. Each home has central air conditioning, fireplaces and garages. Two comparables have pools. The properties sold between March 2011 and January 2014 for prices ranging from \$570,000 to \$1,200,000 or from \$141.93 to \$296.44 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 noted that the subject was listed on the market for \$697,000 and did not sell for that price. Therefore, the assessor's estimated market value for the subject is excessive given that the property sold for \$550,000 after being on the market for 271 days. Counsel argued that the board of review did not dispute the arm's length nature of the subject's sale transaction, but instead contended that the sale occurred seven months after the assessment date at issue. Next counsel criticized the assessor's presentation of raw, unadjusted comparable sales that do not account for differences in age, quality, condition or amenities. To the extent that the assessor contended that the subject had higher quality finishes, there was no further detailed information beyond this summary assertion.

### **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 sale of the subject property July 2014, a date seven month after the assessment date at issue, for \$550,000. 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 for at least 271 days; 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). The subject's assessment reflects an estimated market value of \$687,525, which is considerably more than its recent sale price. The board of review only alleged that the seller was a relocation and thus, the Board finds that the board of review did not present any credible evidence that would demonstrate the subject's sale was not an arm's-length transaction.

The Board further finds the seven 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, board of review sales #1, #4 and #5 occurred in 2011 and 2012, dates more remote in time to the valuation date at issue of January 1, 2014 and thus would be less indicative of the subject's estimated market value as of the assessment date. Board of review comparables #3 and #7 have pools which is not an amenity of the subject property are therefore dissimilar to the subject.

Based on this analysis, the Board finds the subject property is overvalued and a reduction in its assessment commensurate with the appellants' 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.



Chairman



Member



Member



Member



Acting Member

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

CERTIFICATION

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:

August 19, 2016



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.