



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

APPELLANT: IH2 Property Illinois, LP  
DOCKET NO.: 14-00690.001-R-1  
PARCEL NO.: 09-33-278-013

The parties of record before the Property Tax Appeal Board are IH2 Property Illinois, LP, the appellant, by attorney David Lavin, of Robert H. Rosenfeld and Associates, LLC 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:** \$26,097  
**IMPR.:** \$35,822  
**TOTAL:** \$61,919

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 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 one-story and part two-story dwelling of frame and brick exterior construction with 1,968 square feet of living area. The dwelling was constructed in 1968. Features of the home include a partial basement with finished area, central air conditioning and a 440 square foot garage. The property has a 14,288 square foot site and is located in St. Charles, St. Charles 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 from Wells Fargo Bank on November 1, 2013 for a price of \$185,000. In Section IV – Recent Sale Data of the appeal petition, the appellant reported the property was listed for sale with Rising Realty, LLC in the Multiple Listing Service for 47 days. The appellant also reported that the parties to the transaction were not related. In further support, the appellant submitted a copy of the settlement

statement reiterating the date of sale and sale price which also depicted the payment of Broker's Commissions.

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 \$77,843. The subject's assessment reflects a market value of \$233,833 or \$118.82 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.

In response to the appeal, the board of review contended that the subject property was renovated shortly after its purchase and the sale was believed to be below market. A memorandum from the St. Charles Township Assessor was submitted with additional documentation. The township assessor reported the sale of the subject was via a Special Warranty Deed as a bank REO sale. A copy of the applicable PTAX-203 Illinois Real Estate Transfer Declaration was submitted which depicted that the property was advertised prior to the sale and sold in October 2013 for a price of \$186,000.

The assessor reported that since the 2013 sale, the subject property has been renovated as a permit was issued by the municipality in February 2014 with a completion date of March 6 to remodel the dwelling as depicted on the property record card. The assessor contends that given other comparable sales, the sale of the subject was an "outlier."

In support of its contention of the correct assessment the board of review through the township assessor submitted information on five comparable sales located within .52 of a mile of the subject. None of the comparables are in the same neighborhood as the subject property. The comparables consist of two-story frame or frame and brick dwellings that were built between 1967 and 1975. The comparables range in size from 1,750 to 2,247 square feet of living area and feature basements with finished areas, central air conditioning, a fireplace and a garage ranging in size from 440 to 572 square feet of building area. The properties sold between October 2012 and May 2014 for prices ranging from \$246,000 to \$342,400 or from \$122.39 to \$169.84 per square foot of living area, including land.

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 Property Tax Appeal Board takes judicial notice of Section 1-23 of the Property Tax Code which defines compulsory sale as:

"Compulsory sale" means (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 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 these provisions are instructive in the consideration of revising and correcting the subject's assessment based upon its recent short sale.

On this record, the Property Tax Appeal Board finds the best evidence of market value as of January 1, 2014 to be the purchase of the subject property in November, 2013, a few months prior to the assessment date, for a price of \$186,000. The Board finds the recorded PTAX-203 reflects the best evidence of the sales price of the subject property as opposed to the Settlement Statement submitted by the appellant that reflected a purchase price of \$185,000. The appellant also provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal 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 and it had been on the market for 47 days. A copy of the Settlement Statement also reflected the payment of "commissions" to two brokers.

The Board finds the purchase price of \$186,000 is below the market value reflected by the assessment of \$233,833. The Board further finds the board of review did not present sufficient evidence to challenge the arm's length nature of the transaction and the five suggested comparable sales presented were not located in the subject's neighborhood, differed in size and each had a fireplace which is not a feature of the subject property. The Board finds that the comparable sales presented by the board of review are not sufficient to refute the contention that the purchase price of \$186,000 was reflective of market value as of the date of sale. Furthermore, the post-sale renovation work, for which a permit was issued in February 2014, would not be reflected the subject's market value as of January 1, 2014.

Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$186,000 on January 1, 2014. Since fair market value has been established, the

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Board finds that the 2014 three-year median level of assessment for Kane County of 33.29% 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.

*Mario Albino*

Chairman

*K. L. Fen*

Member

*JR*

Member

*Robert Hoffmann*

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: July 22, 2016

*A. H. ...*

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.