



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

APPELLANT: IH2 Property Illinois, LP  
DOCKET NO.: 14-01291.001-R-1  
PARCEL NO.: 09-35-253-001

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:** \$26,997  
**IMPR.:** \$36,003  
**TOTAL:** \$63,000

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 two-story dwelling of frame and brick exterior construction with 1,865 square feet of living area. The dwelling was constructed in 1979. Features of the home include a partial basement with finished area, central air conditioning, a fireplace and a 420 square foot garage. The property has an 8,494 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 Donald and Diane Robertson on December 11, 2013 for a price of \$189,000. In Section IV – Recent Sale Data of the appeal petition, the appellant reported the property was listed for sale with Fresh Horizon Realty in the Multiple Listing Service for a period of three days. The appellant failed to report in this section of the appeal petition whether the parties were or were not related. In further

support, the appellant submitted a copy of the Settlement Statement reiterating the date of sale and sale price and which depicted that brokers' commissions were afforded to two realty companies.

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 \$75,462. The subject's assessment reflects a market value of \$226,681 or \$121.54 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 submitted a memorandum from the St. Charles Township Assessor along with additional documentation. The township assessor reported the sale of the subject was via a short sale. The assessor also reported that since the 2013 sale, the subject property was remodeled. The building permit issued in February 2014 for \$16,000 was referenced in the property record card for the subject. The assessor also 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 six comparable sales located in the subject's Cambridge subdivision and within .54 of a mile of the subject. The comparables consist of two-story frame or frame and brick dwellings that were built between 1976 and 1988. The comparables range in size from 1,830 to 1,882 square feet of living area and feature full or partial basements, three of which has finished areas, central air conditioning, a fireplace and a garage of 420 square feet of building area. The properties sold between May 2013 and April 2014, with comparable #1 selling twice, for prices ranging from \$146,251 to \$280,000 or from \$79.92 to \$153.01 per square foot of living area, including land. In the memorandum, the assessor noted that comparable #1 was sold, remodeled and then resold.

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 December, 2013, a month prior to the assessment date, for a price of \$189,000. The appellant provided evidence demonstrating the sale had elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing 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 3 days. The assessor did not assert that the parties to the transaction were related nor did the assessor assert that the property was not offered on the open market. The appellant's submission of the Settlement Statement also reflected the payment of "commissions" to two brokers. Instead, the assessor's primary dispute with the sale price was that it was a "short sale" and an "outlier," although the assessor also provided an "outlier" in comparable #1 that sold in May 2013 for \$146,251 prior to its renovations.

The Board finds the purchase price of \$189,000 is below the market value reflected by the assessment of \$226,681. 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 six suggested comparable sales presented by the board of review are not sufficient to refute the contention that the purchase price of \$189,000 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 in the subject's market value as of January 1, 2014.

Based on the foregoing analysis, the Property Tax Appeal Board finds a reduction in the subject's assessment commensurate with the appellant's request is warranted.

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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Member



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Member



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Member

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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



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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.