



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

APPELLANT: IH3 Property Illinois, LP
DOCKET NO.: 14-01295.001-R-1
PARCEL NO.: 12-34-405-012

The parties of record before the Property Tax Appeal Board are IH3 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: \$18,511
IMPR.: \$67,489
TOTAL: \$86,000

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 construction with 3,105 square feet of living area. The dwelling was constructed in 1999. Features of the home include a full basement, central air conditioning, a fireplace and a 400 square foot garage. The property has a 12,049 square foot site and is located in North Aurora, Batavia 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 FNMA on October 21, 2013 for a price of \$258,000. In Section IV – Recent Sale Data of the appeal petition, the appellant reported the property was listed for sale with Resurrecting Real Estate in the Multiple Listing Service for a period of 104 days. The appellant reported the parties were not related and 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 \$98,887. The subject's assessment reflects a market value of \$297,047 or \$95.67 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 support of its contention of the correct assessment the board of review submitted data gathered by the township assessor. The board of review also noted that the subject dwelling "has been rehabbed since its sale being rented for \$2,375 per month." In a memorandum, the township assessor asserted that in accordance with the statutory definition of "fair cash value" the subject property sold by special warranty deed did not meet the terms of an arm's length sale transaction.

In further support of the subject's assessment, the assessor provided a grid analysis of four comparable sales where comparables #1 and #2 were both located in the same neighborhood code as the subject. The comparables consist of 2-story dwellings that have varying degrees of similarity to the subject dwelling in age, exterior construction, size and/or features. The comparables sold between January 2011 and July 2013 for prices ranging from \$260,000 to \$280,000 or from \$90.70 to \$108.51 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.

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 finds the best evidence of market value as of January 1, 2014 to be the purchase of the subject property in October, 2013, two months prior to the assessment date, for a price of \$258,000. The appellant 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 104 days.

In further support of the transaction the appellant submitted a copy of the Settlement Statement which also reflected the payment of "commissions." The Board finds the purchase price of \$258,000 is below the market value reflected by the assessment of \$297,047. 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 sufficient to refute

the contention that the purchase price was reflective of market value at the time of the sale. The Illinois Supreme Court 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). The sale price of the subject property is further supported by the most similar comparable sale presented by the board of review, sale #2, which is in the subject's neighborhood, similar in age, similar in size and sold in June 2013 for \$280,000 or for \$90.70 per square foot of living area, including land.

As to board of review comparable sales #1, #3 and #4, the Board further finds these comparable sales do not overcome the subject's arm's-length sale price as provided by the aforementioned controlling Illinois case law and the sale evidence of comparable #2. Finally, the Board finds these three suggested comparable sales occurred at times that are not proximate to the assessment date (sales #3 and #4) and/or are dissimilar in dwelling size when compared to the subject.

Based on this record the Board finds the subject property is overvalued and 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.



Chairman



Member



Member



Member

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



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.