



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

APPELLANT: IH2 Property Illinois, L.P.  
DOCKET NO.: 14-01731.001-R-1  
PARCEL NO.: 09-02-176-004

The parties of record before the Property Tax Appeal Board are IH2 Property Illinois, L.P., the appellant, by attorney Jeffrey G. Hertz, of Sarnoff & Baccash, 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:** \$22,498  
**IMPR.:** \$16,364  
**TOTAL:** \$38,862

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 one-story brick and frame dwelling that has 1,495 square feet of living area. The dwelling was constructed in 1973. Features include an unfinished basement, central air conditioning, a fireplace and a 451 square foot attached garage. The subject property has 24,524 square feet of land area. The subject property is located in South Elgin, St. Charles Township, Kane County.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information pertaining to the sale of the subject property. The appellant's appeal petition indicated the subject property sold in April 2013 for \$116,600 or \$77.99 per square foot of living area, including land. The appellant submitted a copy of the Settlement Statement associated with the sale of the subject property and a copy of the recorded Quit Claim Deed. The appeal petition

depicts the subject property was listed for sale in the open market with a Realtor for unknown period of time and the parties to the transaction were un-related.

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 \$61,662. The subject's assessment reflects an estimated market value of \$185,227 or \$123.90 per square foot of living area including land when applying the 2014 three-year average median level of assessment for Kane County of 33.29%.

In support of the subject's assessment, the board of review submitted a letter addressing the appeal and four comparable sales. This evidence was prepared by the St. Charles Township Assessor. The assessor reported that the sale of the subject property was a bank REO transaction that was not advertised for sale on the Multiple Listing Service or any other real estate brokerage site which raises a question about the arm's length nature of the sale transaction.

The comparable sales, three of which are located in the subject's subdivision, had varying degrees of similarity and dissimilarity when compared to the subject. The comparables sold from July 2012 to September 2014 for prices ranging from \$182,000 to \$293,000 or from \$108.33 to \$167.34 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.

The Property Tax Appeal Board takes judicial notice of its decision in Docket No. 13-02177.001-R-1 that was issued in December 2015 on the subject property. (86 Ill.Admin.Code §1910.90(i)) In that decision, the Board found that the record included a copy of the Real Estate Transfer Declaration (PTAX-203) associated with sale of the subject property. Line 7 of the document was found to have depicted that the subject property was advertised for sale.

### **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 subject's sale price in April 2013 for \$116,600. The Board finds the subject's sale meets the fundamental elements of an arm's-length transaction. The buyer and seller appear to be un-related; the subject property was exposed to the open market; 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 \$185,107, which is considerably more than its recent sale price. The board of review did not present any credible evidence that would demonstrate the subject's sale was not an arm's-length transaction, particularly in light of the prior year decision issued by the Property Tax Appeal Board. The Board further finds the fact the subject sold through a Quit Claim Deed-REO sale does not demonstrate the subject's sale was not an arm's-length transaction.

The Board further finds the 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, two sales submitted by the board of review occurred in 2012, which are dated and less reliable indicators of market value as of the subject's January 1, 2014 assessment date. Finally, the Board finds the suggested comparable sales are dissimilar and/or superior to the subject in many respects.

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



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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.