



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

APPELLANT: Courtenay Bowman  
DOCKET NO.: 14-02310.001-R-1  
PARCEL NO.: 09-06-452-003

The parties of record before the Property Tax Appeal Board are Courtenay Bowman, the appellant, by Terrence J. Benshoof, Attorney at Law, in Glen Ellyn, 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:** \$37,496  
**IMPR.:** \$115,638  
**TOTAL:** \$153,134

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 approximately 3,704 square feet of living area. The dwelling was constructed in 1997. Features of the home include a full basement with finished area, central air conditioning, two fireplaces and an attached three-car garage of 630 square feet of building area. The property has an approximately 1.0-acre site and is located in St. Charles, St. Charles Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant completed Section IV – Recent Sale Data reporting on the recent purchase price of the subject property, provided a grid analysis of three suggested comparable sales in the Section V grid analysis of the appeal petition and submitted an appraisal estimating the subject property had a market value of \$470,000 as of March 10, 2014.

As to the recent purchase information, the appellant reported that the subject property was purchased on March 26, 2014 for \$460,000. The property was purchased from Charles & Kimberly Stone after the property had been advertised by a Realtor on the market with the local paper, Multiple Listing Service and internet for a period of 124 days.

In the Section V grid analysis, the appellant set forth three comparable properties that were two-story dwellings that were 13 to 18 years old. The homes range in size from 3,369 to 4,251 square feet of living area and feature basements, two of which have finished areas, central air conditioning, a fireplace and a garage of either 630 or 640 square feet of building area. The comparables sold between May 2013 and June 2014 for prices ranging from \$375,600 to \$515,000 or from \$111.49 to \$130.71 per square foot of living area, including land.

The appraisal presented by the appellant was prepared by Paul Horney for purposes of a purchase transaction in which the fee simple rights of the property was appraised. The appraiser utilized the sales comparison approach to value and analyzed six sales and one active listing of comparable properties located within 1.08-miles of the subject. The appraiser made adjustments to the comparables for differences from the subject property. From this process, the appraiser estimated market value of the subject property of \$470,000 as of March 10, 2014.

Based on this evidence, the appellant requested an assessment reflective of the purchase price of \$460,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$189,336. The subject's assessment reflects a market value of \$568,747 or \$153.55 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 and data prepared by the St. Charles Township Assessor's Office. The assessor contends that the sale of the subject was "compulsory" as a short sale and that 2014 assessments are based upon sales that occurred in 2011, 2012 and 2013. The assessor further argued that the appraiser's value conclusion for the subject was below six of the seven comparable properties set forth in the report. The assessor also criticized the per square foot improvement adjustment of \$45.00 "which is not reflective of the quality of these custom built homes."

Furthermore, the assessor reported that appraisal sale #1 had mold issues at the time of sale which have since been remedied. Appraisal sale #3 is reportedly inferior to the subject in quality of construction and lack of a finished basement. Appraisal sale #6 is also inferior to the subject based on its quality of construction according to the assessor. Appellant's comparable sales #1 and #2 reportedly back to a busy road and present sales that occurred in 2014. The assessor disputed the notion that the sale of the subject property should be used to determine its value and instead argued that sales in the neighborhood should be taken into consideration to determine property value.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on six comparable sales located either in the subject's subdivision

or a nearby subdivision; two of the comparables were reflected in the appellant's appraisal report as sales #2, #1 and #5 with different dates of sale and sale prices than were reported by the assessor. The comparables consist of two-story frame or frame and brick dwellings that were built between 1998 and 2003. The homes range in size from 3,259 to 4,192 square feet of living area. Each comparable has an English or a walkout-style basement with one comparable having both of those features. Each dwelling has finished basement area, central air conditioning, one to three fireplaces and a garage ranging in size from 734 to 1,231 square feet of building area. Comparable #3 also had a pool added after the August 2012 purchase. The comparables sold between August 2012 and May 2014 for prices ranging from \$517,000 to \$740,000 or from \$154.79 to \$191.78 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.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill. App. 3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). The Illinois Supreme Court has held that a contemporaneous sale of the subject property between parties dealing at arm's length is relevant to the question of fair market value. People ex rel. Korzen v. Belt Ry. Co. of Chicago, 37 Ill. 2d 158, 161, 226 N.E.2d 265, 267 (1967). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1<sup>st</sup> Dist. 1983); People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970); People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). In light of this holding, the comparable sales submitted by both parties and the appellant's appraisal were given less weight.

The Board finds the best evidence of the subject's fair market value in the record is the March 2014 sale for \$460,000 which occurred shortly after the assessment date at issue of January 1, 2014. The Property Tax Appeal Board finds the sale was not a transfer between family or related parties; the property was advertised for sale in the local newspaper, the Multiple Listing Service and on the internet with the sale also involving a realtor. Furthermore, the Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value. Moreover, the board of review did not contest the arm's-length nature of the subject's sale beyond characterizing it as a "compulsory sale" and a "short sale."

The Property Tax Appeal Board also takes judicial notice of Section 1-23 of the Property Tax Code 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. [Emphasis added.]

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 it is appropriate to consider the sale of the subject property in revising and correcting the subject's assessment.

Therefore, the Board finds the subject property had a market value of \$460,000 as of the assessment date at issue. Since market value has been established the 2014 three year average median level of assessments for Kane County of 33.29% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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: October 21, 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.