



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

APPELLANT: Robert & Zhen Nicholas  
DOCKET NO.: 14-02371.001-R-1  
PARCEL NO.: 06-21-376-002

The parties of record before the Property Tax Appeal Board are Robert & Zhen Nicholas, the appellants,<sup>1</sup> 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:** \$7,500  
**IMPR.:** \$18,831  
**TOTAL:** \$26,331

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellants 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<sup>2</sup> townhome of frame exterior construction with 1,444 square feet of living area. The dwelling was constructed in 1994. Features of the townhome include a concrete slab foundation, central air conditioning, a direct vent/gas fireplace and an attached 380 square foot garage. The property is located in Elgin, Elgin Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on January 14, 2013 for a

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<sup>1</sup> Attorney Jerri K. Bush withdrew her appearance as counsel for the appellants by a filing dated March 16, 2016.

<sup>2</sup> A copy of the subject's property record card was provided that described the townhome as a one story; however, the photographic evidence indicates that there is a second story portion to the townhome. The Board finds that in light of the evidence in the record, this questionable descriptive error does not prevent a determination of the correct assessment.

price of \$79,000. The appellants completed Section IV – Recent Sale Data of the appeal petition and reported the property was purchased from Lora L. Smith Trust, the parties to the transaction were not related, the property was sold through a realtor from CC Home Realty and was advertised with the Multiple Listing Service for a period of 288 days prior to the sale. In further support of these assertions, the appellants provided a copy of the Settlement Statement that reiterated the purchase price and date; the document also depicted the distribution of a brokers' fee. The appellants also submitted a copy of the Multiple Listing Service (MLS) data sheet that depicted the original asking price of \$109,000, that the property was offered for cash financing and that the seller was "motivated." The length of time on the market was further confirmed by a copy of the Listing & Property History Report which depicted the original listing date of February 23, 2012. Based on this evidence, the appellants 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 \$34,824. The subject's assessment reflects a market value of \$104,608 or \$72.44 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 Elgin Township Assessor. The assessor noted that the subject's sale in January 2013 was for cash and was on the market for 288 days.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on four comparable sales, one of which was located in the same townhome development as the subject. The comparables consist of frame townhomes that were built between 1990 and 1999. The townhomes range in size from 1,444 to 1,584 square feet of living area. Two of the comparables have a fireplace and each has an attached garage ranging in size from 211 to 400 square feet of building area. The comparables sold between April 2012 and November 2013 for prices ranging from \$108,500 to \$135,000 or from \$75 to \$85 per square foot of living area, including land, rounded. The data also reflected that the comparables were on the market for 8 to 26 days and three of the sales were "cash" sales.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, former counsel for the appellants reiterated the assertion that the subject's sale was an arm's-length transaction between unrelated parties that had been listed on open market for a period of 288 days. It was further argued that the assessing officials submitted no evidence to dispute the arm's-length nature of the sale transaction nor that the sale price was not reflective of market value at the time of sale.

### **Conclusion of Law**

The appellants contend 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the purchase of the subject property in January, 2013 for a price of \$79,000. The appellants provided evidence demonstrating the sale had the elements of an arm's-length transaction. The evidence disclosed that 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 288 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement and the MLS data sheet. Additionally, the Listing & Property History Report depicted that the subject property had been on the market as reported and the assessing officials confirmed the marketing time period.

On this record, the Board finds the purchase price of \$79,000 is below the market value reflected by the assessment of \$104,608. 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 the assessor were given less weight. Moreover, only board of review comparable #2 is truly similar to the subject; however, given the arm's-length nature of the sale transaction, the Board finds that the sale of the subject is the best evidence of its market value in the record.

In conclusion, the Property Tax Appeal Board finds the board of review did not present any substantive evidence to challenge the arm's-length nature of the transaction or to refute the contention that the purchase price was reflective of market value. Based on this record, the Board finds the subject property is overvalued and a reduction in the subject's assessment to reflect the purchase price 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



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.