



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

APPELLANT: First Rockton, LLC  
DOCKET NO.: 14-03491.001-R-1  
PARCEL NO.: 08-35-256-021

The parties of record before the Property Tax Appeal Board are First Rockton, LLC, the appellant, by attorney Marvin L. Keys, of First Midwest Group in Rockford; and the Winnebago County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** in the assessment of the property as established by the **Winnebago** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$4,524  
**IMPR.:** \$24,214  
**TOTAL:** \$28,738

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Winnebago 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 part two-story and part one-story 4-unit townhouse condominium. The subject building is of brick and frame exterior construction built on a slab foundation. The condominium townhouse was built in 2006 and contains 1,376 square feet of living area. Features include air conditioning and an integral 200 square foot one-car garage. The subject is located in Loves Park, Harlem Township, Winnebago County.

The appellant contends overvaluation based on a recent purchase and on comparable sales as the bases of the appeal. In support of these arguments, the appellant, through counsel Marvin L. Keys, appeared before the Property Tax Appeal Board and submitted a grid analysis of four comparable sales, a photograph of the subject property, the board of review's final decision, a short brief, a warranty deed and closing statement.

Three of the four sale comparables of condominium properties were located in the same neighborhood code as the subject as defined by the local assessor. The comparables were located within 1.25 miles from the subject and consist of two-story dwellings that were built from 2002 to 2006. The exterior construction of the comparables are described as frame or brick and frame dwellings containing from 1,060 to 1,382 square feet of living area. One comparable has a basement and each comparable has air conditioning with three featuring a fireplace. Each comparable has a one-car or one and one-half-car garage. The comparables sold from February to September 2013 for prices ranging from \$41,600 to \$55,500 or from \$39.24 to \$49.10 per square foot of living area, including land. The land size of each comparable was not disclosed by either party.

The record disclosed the subject was purchased as part of a portfolio sale involving 14 condominium units on April 30, 2013 for a total portfolio price of \$775,000 or for \$55,357 per condominium unit or for \$40.23 per square foot of living area, including land. The appellant purchased the subject condominium from Northwest Bank. Appellant's brief depicts the subject property was "openly marketed for sale" by the original developer and was subsequently foreclosed upon by the bank which actively rented out the individual units prior to the appellant's purchase. The sale transaction of the subject involved active leases of the individual units at the time of purchase.

Appellant's counsel argued that the purchase of subject best represents the subject's market value. During questioning, counsel explained the subject was not advertised using the Multiple Listing Service. He described the subject's purchase as part of a bulk sale of 14 buildings. The size of each unit involved in the bulk sale varied from 1,336 to approximately 2,000 square feet of living area. Keys allocated the purchase price of the subject unit by using the total portfolio sale of \$775,000 divided by the 14 units. Keys did not believe the sales represented a lower transaction price than properties sold on the open market. Keys considered the subject's portfolio sale as being advertised on the open market. He explained that the bank contacted the appellant along with other potential buyers. He further explained that the subject property was not listed for sale in the paper. Keys negotiated the subject's purchase over a six-month period. He believed the bank may have advertised the subject's sale on its web page. The PTAX-203 Transfer Declaration Sheet for the subject's sale was introduced into the record without objection. The Transfer Declaration Sheet depicted the subject was not advertised for sale. In regard to the sale being advertised, Keys opined that the Transfer Declaration Sheet (Line 7) only referred to "media, sign, newspaper or realtor" and since neither of those forms of advertisement were used, the document Line 7 was marked "No."

In regard to the comparable sales, Keys disclosed comparable sale #1 was a foreclosure, sale #3 and #4 were HUD sales<sup>1</sup> and sale #2 was located in a different township from the subject. Keys felt the comparable sales he used were similar to the subject and were located in a similar market as the subject. He viewed each individual comparable.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

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<sup>1</sup> U.S. Department of Housing Urban Development, aka "foreclosed sales."

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total equalized assessment of \$28,738 was disclosed. The subject's assessment reflects a market value of approximately \$86,223 or \$62.66 per square foot of living area, including land, using the 2014 three-year average median level of assessments for Winnebago County of 33.33% as determined by the Illinois Department of Revenue.

Mark Sorrentino, Township Assessor of Harlem Township, was called as a witness. Sorrentino testified that the 14 units that were purchased were from a mix of 11 buildings within the complex. As part of the board of review's submission, Sorrentino described each of the four comparable sales that were submitted into the record. He stated that all of the four sales were located within the subject's complex, in the same market area and were similar to the subject. The sales consisted of two-story or part two-story and part one-story townhouse dwellings of frame construction with brick facing built from 2005 to 2008. The comparables ranged in size from 1,248 to 1,416 square feet of living area with each having air conditioning. Three of the comparables had a fireplace and a basement. Each comparable featured an attached garage ranging in size from 128 to 504 square feet of building area. The comparables sold from November 2012 to April 2014 for prices ranging from \$87,000 to \$112,000 or from \$67.97 to \$79.10 per square foot of living area. Sorrentino testified that all the comparable sales were advertised on the open market and were not part of a bulk sale.

The board of review then discussed the equity comparables that were previously submitted into the record.

On cross-examination, Sorrentino testified that there were very few foreclosure sales of condominium units within the subject's township in 2014. Sorrentino agreed that appellant's comparable #1 was located on the same street as the subject. He then stated that none of the sales submitted by the board of review were foreclosure or HUD sales.

### **Conclusion of Law**

After hearing the testimony and having considered the evidence, the Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellant contends overvaluation as the basis of the appeal. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002). 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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

Initially, the Board gives the board of review's equity evidence no weight in this decision as it does not address or refute the appellant's overvaluation arguments. The Board finds that the sale of the subject in April 2013 as part of a portfolio package for \$775,000 or \$55,357 per unit was a "compulsory sale." A "compulsory sale" is defined as: (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). The Board finds that the sale of the subject is a compulsory sale, in the form of a foreclosure, based on counsel's brief and explanation herein.

Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party. Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so. Board of Education of Meridian Community Unit School District No. 223 v. Ill. Prop. Tax Appeal Bd., 2012 IL App (2d) 100068, ¶ 36 (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill.App.3d 207, 211 (2d Dist. 1979)).

However, the Illinois General Assembly has provided guidance for the Board with regards to compulsory sales. Section 16-183 of the Illinois Property Tax Code states as follows: 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). Therefore, the Board is statutorily required to consider the compulsory sales of comparable properties submitted by the parties to revise and/or correct the subject's assessment. Id.

In considering the compulsory sale of the subject, the Board may look to the market value evidence submitted by the parties to determine whether the purchase price was at the subject's fair market value. (86 Ill.Admin.Code §1910.65(c)). Such evidence may consist of the sales of comparables properties. (86 Ill.Admin.Code §1910.65(c)(4)); see, Calumet Transfer, LLC v. Ill. Prop. Tax Appeal Bd., 401 Ill.App.3d 652, 655-56 (1st Dist. 2010) (“[The Board] allowed the [intervenor] to challenge the arm's-length nature of the transaction by offering evidence of comparable property sales. This was permissible under paragraph (4) of section 1910.65(c).”).

In the instant appeal, the board of review and the appellant each submitted information on four comparable sales. The Board finds the appellant's comparable #1 and board of review comparables #1, #2, and #3 to be most similar to the subject. These comparables sold for prices ranging from \$49.10 to \$72.92 per square foot of living area, including land. The subject's sale price reflects a market value of \$40.23 per square foot of living area, including land, which is below the range established by the best comparables in this record. Moreover, the subject's current assessment reflects a market value of \$62.66 per square foot of living area foot of living area, including land, which is within this range. Therefore, the Board finds that the sale of the subject in April 2013 for approximately \$55,357 was below the subject's fair market value.

As the appellate court stated in Calumet Transfer, evidence of comparable sales can be used to refute a sale under Board Rule 1910.65(c)(4). Id. That is what the board of review did in this appeal.

The Board finds the appellant argued in part that the subject's purchase as part of a bulk portfolio package was the best evidence of the subject's market value as of January 1, 2014. After further consideration of the subjects' sale, the Board still gives the subject's purchase little weight in its analysis. The Board finds and the record disclosed that the subject was not advertised on the open market but rather to only a select few of potential buyers, in addition to being a leased fee

purchase. Nothing was produced into the record to establish the value of the leases in place. Further, the Board finds nothing in the record supports the argument that the subject was openly advertised. The subject's purchase was the result of a foreclosure sale, which may still be considered, however, the PTAX-203 Transfer Declaration Sheet depicts the subject was not advertised.

Even assuming arguendo that the Board accepted the subject's sale as being representative of the subject's market value as of January 1, 2014, the record disclosed the subject's sale price was an allotted amount which was not supported in the record. Appellant's counsel simply allocated a sale price to the subject by dividing the number of units purchased by the \$775,000 total portfolio purchase price, even though, the individual units ranged in size from approximately 1,336 to 2,000 square feet of living area. The appellant called no witnesses to support the sale or the allocated sale amount for the subject from the bulk purchase. Therefore, the Board gave the purchase of the subject in April 2013 little weight.

The Board next examined the comparable sales submitted by each party. The Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued, and a reduction in the subject's assessment is not warranted. The Board further finds the best evidence of the subject's market value in this record is reflected in the best comparable sales submitted by each party.

The Board finds the best evidence of the subject's market value to be appellant's comparable #1, #3 and #4 and board of review comparable sales #1 through #3. Board of review comparable #4 was given less weight based on the date of sale being too remote in time to be indicative of the subject's market value as of January 1, 2014. In addition, the Board gave less weight to the appellant's comparable sales #2 based on this comparable being located in a different township than the subject while other sales in this record occurred closer in location to the subject and within the same township as the subject.

According to the board of review, comparables #3 and #4 were HUD sales. Section 1-23 of the Property Tax Code (35 ILCS 200/1-23) defines a 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.

Furthermore, section 16-183 of the Property Tax Code (35 ILCS 200/16-183) provides:

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.

Therefore, the Property Tax Appeal Board will consider these sales. The Board finds the best comparable sales in this record sold for prices ranging from \$52,000 to \$91,000 or from \$40.16 to \$72.92 per square foot of living area, including land. The subject's assessment reflects a market value of approximately \$86,223 or \$62.66 per square foot of living area, including land, which is within the range established by the best comparable sales in this record on both a total sale price value and on a per-square foot basis.

Based on the above analysis, the Board finds the appellant has not shown by a preponderance of the evidence herein that the subject is overvalued as reflected by its assessment. Therefore, the Board finds the subject's assessment is supported and no reduction 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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



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: September 15, 2020



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.



PARTIES OF RECORD

AGENCY

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