



FINAL ADMINISTRATIVE DECISION ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: IH4 Property Illinois, LP
DOCKET NO.: 15-01282.001-R-1
PARCEL NO.: 05-24-452-010

The parties of record before the Property Tax Appeal Board are IH4 Property Illinois, LP, 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:	\$14,747
IMPR.:	\$63,578
TOTAL:	\$78,325

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 2015 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 2,708 square feet of living area. The dwelling was constructed in 2006. Features of the home include a full unfinished basement, central air conditioning and an attached two-car garage. The property has a 10,019 square foot site and is located in Elgin, Plato 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 in July 2014 for a price of \$235,000. The appellant completed portions of Section IV – Recent Sale Data disclosing the property was purchased from "Fannie Mae" (Federal National Mortgage Association), the property had been sold using a Realtor (Key Realty, Inc.) and the property had been advertised on the open market with the Multiple Listing Service (MLS). Supporting documentation revealed the property was on the market for 38 days prior to its sale and the Settlement Statement

depicts the distribution of brokers' fees to two entities. Based on this evidence, the appellant requested the subject's assessment be reduced to \$78,325 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 \$83,794. The subject's assessment reflects a market value of \$251,558 or \$92.89 per square foot of living area, land included, when using the 2015 three year average median level of assessment for Kane County of 33.31% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a memorandum and data prepared by Janet Roush, Plato Township Assessor. The assessor contends that the sale of subject was via "special warranty" or compulsory sale. She further noted, "This sale is 17% lower than the average sale of very similar homes within the same neighborhood." She also noted the subject's assessment was 11% lower than these sales.

In support of its contention of the correct assessment the board of review through the township assessor submitted information on nine comparable sales located within .31 of a mile of the subject. The comparables consist of two-story frame or brick and frame dwellings that were built between 2005 and 2009. The homes range in size from 2,708 to 2,886 square feet of living area. Each comparable has a full basement, central air conditioning, a fireplace and a garage of either 550 or 576 square feet of building area. The comparables sold between August 2012 and June 2015 for prices ranging from \$258,000 to \$325,000 or from \$95.27 to \$120.01 per square foot of living area, including land.

Based on this evidence, 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.

As to the assessor's contention that the subject sold by "special warranty" deed or was a compulsory sale, the Board finds that 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.

Moreover, 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:

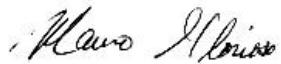
Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. 35 ILCS 200/16-183.

Based on these statutes, the Property Tax Appeal Board finds these statutes are instructive as to the subject's "compulsory sale" and the Board finds that it is appropriate to consider the sale of the subject property in revising and correcting the subject's assessment.

The Board finds the best evidence of market value to be the purchase of the subject property in July, 2014 for a price of \$235,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed portions of Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor and the property had been advertised on the open market with the Multiple Listing Service for a period of 38 days. The Board finds the purchase price of \$235,000 is below the market value reflected by the assessment of \$251,558. The 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. The Board has given little weight to the nine sales presented by the board of review as these sales do not overcome the apparent arm's length nature of the subject's sale transaction. Moreover, board of review comparables #7, #8 and #9 that sold in 2012 and 2013 are too remote in time to be indicative of the subject's estimated market value as of January 1, 2015.

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



Acting Member



Member



Member

DISSENTING:

C E R T I F I C A T I O N

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 21, 2017



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.