



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

APPELLANT: Austin Holdings  
DOCKET NO.: 16-01619.001-R-1  
PARCEL NO.: 06-11-429-001

The parties of record before the Property Tax Appeal Board are Austin Holdings, the appellant, by attorney Jessica Hill-Magiera in Lake Zurich; 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:** \$7,844  
**IMPR.:** \$21,156  
**TOTAL:** \$29,000

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 2016 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 is improved with a part one-story and part two-story dwelling of frame construction with 1,592 square feet of living area. The dwelling was constructed in 1890. Features of the property include a full basement, an open frame porch and a detached garage with 280 square feet of building area. The property has a 6,336 square foot site and is located in Elgin, Elgin Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant disclosed the subject property was purchased in July 2014 for a price of \$72,100. The appellant provided a copy of the settlement statement disclosing the seller was the Secretary of Housing and Urban Development (HUD). The settlement statement disclosed that real estate broker's fees were paid. The appellant also submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration disclosing the property was advertised for sale and the seller was a financial institution or government agency.

In further support of the overvaluation argument the appellant submitted information on five comparable sales improved with part one-story and part two-story dwellings that were built in 1890 and ranged in size from 1,416 to 1,748 square feet of living area. Each comparable has a full basement and a garage ranging in size from 252 to 480 square feet of building area. One comparable has a fireplace and two comparables have central air conditioning. The sales occurred from March 2015 to January 2016 for prices ranging from \$39,654 to \$88,993 or from \$27.97 to \$59.97 per square foot of living area, including land. Based on this evidence the appellant requested the subject's assessment be reduced to \$15,239 to reflect a market value of \$45,722.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$33,658. The subject's assessment reflects a market value of \$101,166 or \$63.55 per square foot of living area, land included, when using the 2016 three-year average median level of assessment for Kane County of 33.27% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on five comparable sales identified by the township assessor. The comparables were improved with two, part one-story and part two-story dwellings and three, two-story dwellings of frame construction that range in size from 1,406 to 1,676 square feet of living area. The dwellings were built from 1890 to 1930. Each comparable has a basement with one having finished area and central air conditioning. Two comparables have fireplaces and four comparables have garages ranging in size from 261 to 484 square feet of building area. Each comparable also has an open frame porch or an enclosed frame porch ranging in size from 110 to 270 square feet of building area. These properties have sites ranging in size from 3,968 to 11,000 square feet of land area and are located within .86 miles from the subject property. The assessor stated that comparable #1 has no garage and a smaller lot, which is why it sold for less than the subject property. However, comparable #1 actually sold for more than the subject property sold for. The sales occurred from April 2014 to July 2015 for prices ranging from \$87,000 to \$145,000 or from \$57.05 to \$92.32 per square foot of living area.

In rebuttal the township assessor asserted that all five of the appellant's comparables were Bank REOs, short sales or not on the open market. The assessor contends the Multiple Listing Service (MLS) listing for appellant's comparable #2 stated the dwelling is being "sold without repair." The assessor also stated that comparable #4 was sold by Fannie Mae to Habit for Humanity and the MLS noted, "home will need to be purchased with cash in that home is not financeable in its current condition. To gain entry, signed disclosure by all parties entering at their own risk." The assessor further stated that comparable #5 was an Executor's Deed and was not listed on the open market. The assessor also asserted that none of the comparables used by the appellant were located closer than .75 miles from the subject property. The assessor submitted a map depicting the location of the comparables submitted by the parties relative to the subject property.

The board of review also submitted a copy of the subject's property record card disclosing the property was sold at a Court-Ordered – Auction Sale in October 2013, purchased for a price of \$34,980 and transferred via a Sheriff's Deed. The property was subsequently sold in July 2014 for a price of \$72,100.

In rebuttal the appellant's counsel asserted that pursuant to section 16-183 of the Property Tax Code (35 ILCS 200/16-183) the Property Tax Appeal Board is to consider compulsory sales. She also critiqued the sales submitted by the board of review.

### **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 record contains ten comparable sales submitted by the parties to support their respective positions. The Board gave less weight to appellants' comparable sale #2 based on its condition as stated by the assessor; less weight was given to appellant's comparable #4 due to its condition at the time of sale as explained by the assessor; and less weight was given to appellant's comparable #5 due to the property not being listed on the open market as stated by the assessor. The Board also gave less weight to board of review sales #2 through #4 as these properties were superior to the subject in features and/or age, which would require downward adjustments.

The Board gives little weight to the board of review argument that the appellants' comparables were foreclosures or short sales. Section 1-23 of the Property Tax Code (35 ILCS 200/1-23) 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.

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

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.

Based on these statutory provisions, the Property Tax Appeal Board finds it is to consider compulsory sales, including short sales and foreclosures of comparable properties, in determining the correct assessment.

The Board finds the best evidence of market value to be appellants' comparable sales #1 and #3 as well as board of review sale #1. These comparables were relatively like the subject in most respects. These comparables sold from June 2014 to April 2015 for prices ranging from \$45,100

to \$87,000 or from \$28.72 to \$57.05 per square foot of living area, including land. The subject's assessment reflects a market value \$101,166 or \$63.55 per square foot of living area, including land, which is above the range established by best comparable sales in this record.

Additionally, the appellant provided evidence that the subject property was purchased in July 2014 for a price of \$72,100, which was significantly below the market value reflected by the subject's assessment. Although the property was sold by the government (HUD) following a court ordered sale, the property was exposed on the open market and sold through a Realtor. The Board finds some weight should also be given the sale of the subject property.

After considering the comparable sales and the sale of the subject property, the Board finds a reduction in the subject's assessment 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. 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.

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Chairman



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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: July 16, 2019



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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 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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