



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

APPELLANT: Don Nichols  
DOCKET NO.: 18-00939.001-R-1  
PARCEL NO.: 09-13-477-014

The parties of record before the Property Tax Appeal Board are Don Nichols, the appellant, by attorney Laura Godek, of Laura Moore Godek, PC in McHenry; 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:** \$65,081  
**IMPR.:** \$58,314  
**TOTAL:** \$123,395

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 2018 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 brick exterior construction with 4,364 square feet of living area. The dwelling was constructed in approximately 1990. Features of the home include a basement with finished area, central air conditioning, three fireplaces and a three-car garage. The property has a 21,218 square foot site and is located in St. Charles, St. Charles 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 on May 2, 2018 for a price of \$370,000. The appellant completed Section IV – Recent Sale Data disclosing the subject was sold with the assistance of a Realtor and that the property was advertised in the Multiple Listing

Service (MLS) for a period of 43 days.<sup>1</sup> The appellant submitted the subject's MLS listing sheet describing the seller as "motivated" and the property as being sold in "as is" condition and advertised the property to be in need of painting and carpet. The settlement statement submitted by the appellant reported commissions were paid to real estate agents. The appellant submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration which disclosed the property was transferred via warranty deed and that the subject had been listed on the open market. The appellant also provided a copy of the purchase contract. Based on this evidence, the appellant 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 \$209,507. The subject's assessment reflects a market value of \$628,207 or \$143.95 per square foot of living area, land included, when using the 2018 three year average median level of assessment for Kane County of 33.35% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted a September 2017 LIS Pendens and Notice of Foreclosure along with a brief associated with the subject property. The board of review argued that the subject was not listed in the MLS until February 2018 and that January 1, 2018 assessed value was determined using sales from 2015, 2016 and 2017. The submission questioned the arm's length nature of the subject sale, arguing that the seller was not a willing party to the transaction. Based on this evidence, the board of review offered to reduce the subject's total assessment to \$166,317, reflecting the original list price of the subject property of \$499,000 when applying the statutory level of assessment of 33.33%.

In rebuttal, the appellant's attorney respectfully declined the County's offer to stipulate.

### **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 Board finds the best evidence of market value to be the purchase of the subject property in May 2018, five months after the relevant valuation date, for a price of \$370,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the property was sold using a Realtor, the property had been advertised in the Multiple Listing Service and it had been on the market for 43 days. In further support of the transaction the appellant submitted a copy of the real estate contract, settlement statement and PTAX-203 Illinois Real Estate Transfer Declaration. The Board finds the purchase price is below the market value reflected by the assessment.

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<sup>1</sup> The appellant did not respond to the question in Section IV asking if the transaction was between family members or related corporations.

The board of review submitted a copy of a LIS Pendens and Notice of Foreclosure associated with the subject property. However, the Board finds that this evidence does not overcome the fact that the subject was listed on the open market for a reasonable period of time prior to acceptance of an offer between buyer and seller. The Board finds the board of review did not present any market evidence in support of the subject's assessed value or to refute the contention that the purchase price was reflective of market value.

The Illinois Supreme Court has held that a contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway co. of Chicago, 37 Ill.2d 158 (1967)

Based on this record the Board finds the subject property had a market value of \$370,000 as of January 1, 2018. Since market value has been determined the 2018 three year average median level of assessment for Kane County of 33.35% 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. 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: July 20, 2021



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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COUNTY

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