



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

APPELLANT: Thomas Davis  
DOCKET NO.: 18-01165.001-R-1  
PARCEL NO.: 14-12-17-416-022-0000

The parties of record before the Property Tax Appeal Board are Thomas Davis, the appellant, by attorney Dennis D. Koonce in Frankfort; and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$16,400  
**IMPR.:** \$67,599  
**TOTAL:** \$83,999

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Will 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 vinyl siding and brick exterior construction with 2,978 square feet of living area.<sup>1</sup> The dwelling was constructed in 2006. Features of the home include an unfinished basement, central air conditioning, a fireplace and a 3-car garage containing 664 square feet of building area. The property has an approximately .234-acre site and is located in Manhattan, Manhattan Township, Will 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 November 20, 2017 for a price of \$229,000 minus \$4,837 in concessions. The appellant's counsel reported that the subject property was purchased from Saleem Mohammed, the parties to the transaction were not related

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<sup>1</sup> Counsel for the appellant failed to complete Section III – Description of the Property. The descriptive information for the subject property was drawn from the Multiple Listing Sheet associated with the sale of the subject property provided by the appellant and the subject's property record card provided by the board of review.

and the property was advertised using a realtor. The appellant submitted a copy of the Multiple Listing Service (MLS) sheet depicting the property had been listed for 27 days. In further support of the appeal, the appellant provided a copy of the closing disclosure statement disclosing the seller was Saleem Mohammed and reiterated the purchase price, date and depicting lender paid broker's compensation to one entity. 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 \$86,300. The subject's assessment reflects a market value of \$259,081 or \$87.00 per square foot of living area, land included, when using the 2018 three-year average median level of assessment for Will County of 33.31% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review provided copies of the subject's property record card and the PTAX-203 Real Estate Transfer Declaration associated with the purchase of the subject property, along with a statement from the Manhattan Township Assessor's Office. The property record card had a hand-written notation stating that, "SSA lien not reflected in sale." There was no indication of when or who inserted the statement. The township assessor asserted the subject property is located in a special service area (SSA) called Brookstone Springs Subdivision where bonds have been issued to construct public infrastructure. The property owners are required to pay the SSA tax to retire bonds. The township assessor asserts the price of the property is understated by the amount of the prepayment voucher of \$22,996.10 for the balance of the special tax. The assessor provided a copy of the prepayment voucher that indicated the prepayment amount was valid through January 15, 2019. The assessor also provided a copy of an opinion from the Office of the State's Attorney of Will County to the Will County Supervisor of Assessments Office dated November 10, 2008, which concluded that a buyer of a property subject to an SSA lien agrees to take on the SSA assessment and the present value of the assessment should be included in the calculation of the fair market value. In the opinion, the Assistant State's Attorney cited section 31-1 of the Real Estate Transfer Tax Law (35 ILCS 200/31-5) defining "value" as the amount of the full actual consideration for the real property or the beneficial interest in real property located in Illinois, including the amount of any lien on the real property assumed by the transferee. The Assistant State's Attorney also cited Black's Law Dictionary, Fifth Addition, for the definitions of "Special Assessment" and "Lien", which states as follows:

#### Special Assessment

A 'special assessment' is in the nature of a tax levied upon property according to benefits conferred on the property. A levy upon the owners of property adjacent to a public improvement to defray the capital cost thereof. It differs from a tax in that it is levied for a specific purpose and in an amount proportioned to the direct benefit of the property assessed.

#### Lien

A charge or security or encumbrance upon property. [cite] A claim or charge on property for payment of some debt, obligation or duty. [cite] Qualified right of property which a creditor has in or over specific property of his debtor, as security for the debt or charge or for performance of some act. [cite] Right or claim against

some interest in property created by law as an incident of contract. Right to enforce charge upon property of another for payment or satisfaction of debt or claim. [cite] Right to retain property for payment of debt of demand. [cite] Security for a debt, duty or other obligation. [cite] Tie that binds property to a debt or claim for its satisfaction. [cite] The word "lien" is a generic term and, standing alone, includes liens acquired by contract or by operation of law.

The Assistant State's Attorney concluded that a buyer of a property subject to an SSA lien agrees to take on the SSA assessment and the present value of the SSA assessment should be included in the calculation of the fair market value.

Based on this opinion, the assessor concluded that the subject's assessment should reflect the subject's purchase price of \$229,000 plus the remaining principle balance of the SSA lien of \$22,996.10 as indicated on the Village of Manhattan Prepayment Voucher and applying the 2018 equalization factor of 1.028 resulting in a market value of \$259,051.99. The assessor arrived at an adjusted 2018 total assessment of \$86,342 using the statutory level of assessment of 33.33%.

The board of review requested confirmation of the subject's assessment.

Appellant's counsel did not submit any rebuttal evidence to dispute the assertion made by the board of review through the township assessor that the SSA lien should be considered as part of the value of the subject property.

### **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 appellant provided evidence that the subject property was purchased in November 2017 for a price of \$229,000. The parties were not related, the appellant further reported the property was advertised with the Multiple Listing Service and was on the market for 27 days prior to the sale. The board of review, however, provided evidence that at the time of sale the subject property had an SSA lien of approximately \$22,996, which, it argued, would need to be considered as part of the consideration owed by the buyer to release the lien. Thus, the board of review contends that the purchase price reflected on the closing statement and transfer declaration understates the "value" of the subject property as defined in the Real Estate Transfer Tax Law (35 ILCS 200/31-5).

The law in Illinois requires real property to be valued at fair cash value, estimated at the price it would bring at a voluntary sale. Cook County Board of Review v. Illinois Property Tax Appeal Board, 384 Ill.App.3d 472, 480, 894 N.E.2d 400, 323 Ill.Dec. 633 (1<sup>st</sup> Dist. 2008). Correspondingly, fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a

willing buyer and a willing seller." (35 ILCS 200/1-50). Fair cash value is synonymous with fair market value. Cook County Board of Review v. Illinois Property Tax Appeal Board, 384 Ill.App.3d 472, 480 (1<sup>st</sup> Dist. 2008). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970).

The Board finds the best and only evidence of market value in the record to be the purchase of the subject property in November 2017 for a price of \$229,000 plus the present value of the outstanding SSA lien associated with the Special Service Area No. 2004-1 of approximately \$22,996. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant disclosed 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 27 days. In further support of the transaction the appellant submitted a copy of the closing disclosure statement and the board of review provided a copy of the PTAX-203 Illinois Real Estate Transfer Declaration. The board of review provided evidence of the lien amount for the Special Service Area No. 2004-1 on the subject property prior to the purchase of approximately \$22,996. The argument of the board of review that the outstanding amount of the special tax should be added to the purchase price to arrive at the fair market value of the property for assessment purposes was not refuted by the appellant. Therefore, the Property Tax Appeal Board finds the purchase price of \$229,000 plus the SSA lien amount of \$22,996 totaling approximately \$251,996 represents the fair cash value of the property for assessment purposes. This total is less than the estimated market value of the subject property based upon its assessment at the three-year median level of assessment of \$259,081.

Based on this record, the Board finds the subject's assessment is not reflective of market value and 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.



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: November 17, 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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