



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

APPELLANT: 1700 W. Carmen Development Corp.  
DOCKET NO.: 10-21763.001-R-1  
PARCEL NO.: 14-07-408-055-0000

The parties of record before the Property Tax Appeal Board are 1700 W. Carmen Development Corp., the appellant, by attorney Kevin B. Hynes of O'Keefe Lyons & Hynes, LLC in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$21,838  
**IMPR.:** \$69,913  
**TOTAL:** \$91,751

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 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 three-story multi-family dwelling with 7,446 square feet of living area of masonry construction. The dwelling is 87 years old. Features of the

building include a full unfinished basement and a two-car garage. The property has a 5,747 square foot site and is located in Chicago, Lake View Township, Cook County. The subject is classified as a class 2-11 apartment building under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends in part overvaluation as the basis of the appeal. In support of this argument the appellant submitted a brief prepared by counsel, which included an income analysis purportedly using the subject's income and expenses that were "grossed up based on four months of data" from 2010 to arrive at a stabilized net income of \$54,524. A capitalization rate of 13.49% was applied to the net income to arrive at a market value of \$404,181. Based on this analysis the appellant requested the subject's assessment be reduced to \$40,418.

As an alternative argument the appellant contends assessment inequity as the basis of the appeal, however, the appellant failed to submit comparable properties for an equity analysis.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$91,751. The subject's assessment reflects a market value of \$917,510 or \$123.22 per square foot of building area, including land, when applying the Cook County level of assessment for class 2 property of 10%.

In support of its contention of the correct assessment the board of review submitted information on four equity comparables.

The board of review's submission included a list of 19 sales that occurred from February 1990 to August 2010 for prices ranging from \$143,000 to \$1,050,000. No other information regarding the characteristics of the sale properties was submitted for analysis.

#### Conclusion of Law

The appellant contends in part 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 did not meet this

burden of proof and a reduction in the subject's assessment is not warranted on this basis.

In support of the market value argument the appellant's counsel prepared an income approach to value. The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses that were "grossed up based on four months of data" unconvincing and not supported by objective evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate through any documentation or objective market data that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds problematic the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an

attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion evidence of value for that client's property.

The Board finds the appellant failed to submit sufficient evidence to demonstrate the subject property was overvalued for assessment purposes and a reduction in the assessment is not justified on this basis.

As an alternative argument the appellant contends assessment inequity as a basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. 86 Ill.Admin.Code 1910.63(e). After an analysis of the assessment data, the Board finds the appellant has not met this burden and no reduction in the assessment is warranted on this basis.

The Board finds the only comparables in the record timely submitted were the board of review's comparables. These comparables have improvement assessments that ranged from \$10.44 to \$10.97 per square foot of building area. The subject's improvement assessment of \$9.39 per square foot of building area falls below the range established by the board of review's comparables. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement assessment was inequitable and no reduction in the subject's assessment is justified on this basis.

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.

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Chairman

*K. L. Fan*

*Klaus Albrecht*

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Member

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Member

*JR*

*Jerry White*

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Member

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Acting Member

*Robert Steffen*

\_\_\_\_\_  
Acting 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: November 20, 2015

*A. Proctor*

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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 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.