



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

APPELLANT: 116th & Michigan, LLC  
DOCKET NO.: 10-29475.001-C-1 through 10-29475.002-C-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are 116th & Michigan, LLC, the appellant(s), by attorney Richard J. Caldarazzo, of Mar Cal Law, P.C. 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
10-29475.001-C-1	25-22-307-018-0000	12,853	36,800	\$49,653
10-29475.002-C-1	25-22-307-019-0000	5,859	36,800	\$42,659

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 two parcels of land totaling 9,980 square feet and improved with an approximately eight-year old, one-story, masonry, gas station/mini mart building. The property is located in Hyde Park Township, Cook County. The property is a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

In support of the market value argument, the appellant submitted an appraisal undertaken by Arthur J. Murphy and Brian P. Johnson of Urban Real Estate Research Inc. The appraisal indicated an

estimated market value of \$155,000 as of January 1, 2009. The appraisal report utilized the three traditional approaches to value to estimate the market value for the subject property. The appraiser lists the subject's size as 1,225 square feet of building area.

In the cost approach to value, the appraisers utilized the assessor's value to estimate the land at \$750,000. The appraisers used the replacement cost new to determine value for the subject with indirect costs and entrepreneurial profit of \$272,603. The subject was then depreciated for a value of \$29,640. Site improvements and the land value were then added in to estimate the subject under the cost approach at \$155,000, rounded.

In the income approach to value, the appraisers analyzed three properties to estimate the subject's gross effective income after a 10% vacancy and collection rate of \$28,123. Expenses were estimated at \$3,408 to arrive at a net operating income of \$24,716. This income was then capitalized at a rate of 10% to estimate the subject's value under the income approach at \$155,000, rounded.

Under the sales comparison approach, the appraisers analyzed two sales and two active listings. These properties described as one-story, gasoline or free standing retail buildings between 2 and 29 years old. They contain between 1,760 and 3,840 square feet of building area. The two comparables sold in July 2008 and March 2010 for \$125.00 and \$117.05 per square foot of building area, respectively. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$155,000, rounded.

The appellant also submitted a letter prepared by the appraiser, Arthur J. Murphy, opining as to the credibility of the appraisal.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$92,312 was disclosed. The subject's final assessment reflects a fair market value of \$369,248 when the Cook County Real Property Assessment Classification Ordinance level of assessment of 25% for Cook County Class 5 properties is applied. The board of review lists the subject's size at 350 square feet of building area.

In support of the subject's assessment, the board of review presented sales data on six properties suggested as comparable. The properties are described as one-story, masonry, gas station/mini mart buildings. They contain between 416 and 888 square feet square feet of building area and sold from April 2005 to June 2010 for prices that ranged from \$1,063.32 to \$3,238.64 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney rested on the evidence previously submitted and did not call the appraisers to testify.

The board of review's representative, Jose Rodriguez, raised an objection to the appellant's appraisal because the appraisers were not present at the hearing to testify or be cross-examined; and therefore, he argued that the appraisal is hearsay. Mr. Rodriguez testified that the appraiser's sales comparables were older than the subject and three comparables are retail buildings no similar to the subject.

### Conclusion of Law

As to the subject's size, the board finds the appraisal did not provide a picture of the subject or any data on how the appraiser arrived at the subject's size while the board of review included the property record card with a description of the property along with a drawing of the improvement's parameters. Therefore, the Board finds the subject contains 350 square feet of building area.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c).

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the Board. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 objected to the appraisal as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. The Board also gives no weight to the appraiser's letter in regards to the appraisal's credibility as this is a self serving opinion. However, the Board will consider the raw sales data submitted by the parties.

In totality, the parties submitted sales information on 10 suggested comparables. The Board finds appellant's sale comparable #1 and the board of review's sales comparables #1, #3 and #4 the most probative comparables and are given the most weight. These sales occurred from February 2008 to June 2010 for unadjusted prices ranging from \$125.00 to \$2,403.85 per square foot of building area. In comparison, the appellant's assessment reflects a market value of \$1,054.99 per square foot of building area which is within the range established by the sales comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot assessment is supported and a reduction is not 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.

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Chairman



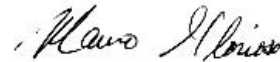
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DISSENTING: \_\_\_\_\_

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: March 18, 2016



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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.