



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

APPELLANT: El Chisme  
DOCKET NO.: 10-31975.001-C-1  
PARCEL NO.: 16-26-229-021-0000

The parties of record before the Property Tax Appeal Board are El Chisme, the appellant, by attorney Terry L. Engel, of Deutsch Levy & Engel 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:** \$ 24,609  
**IMPR.:** \$ 100,640  
**TOTAL:** \$ 125,249

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 is a 91 year-old, one-story restaurant commercial usage building of masonry construction containing 5,894 square feet of improvement area. The property has a 6,250 square foot site and is located in West Chicago Township, Cook County. The property is a class 5-17 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$350,000 as of January 1, 2012. The appraiser based the appraisal report on

the sales, income and cost approaches. For the sales approach, he used four unadjusted sales in a paired comparison analysis. These sales occurred from June 2006 through September 2009. They ranged from 1,992 to 7,361 square feet of improvement area and from \$31.19 to \$68.45 per square foot of building area including land. The appraiser identified four sale comparables that sold from September 2009 through July 2010 and from \$11.63 to \$16.01 per square foot of building area. No property characteristics other than improvement square footage were provided for these comparables. For the income approach, the appraiser analyzed the subject without comparable properties or an operating statement, and assumed a 10% vacancy factor and an 11.00% market capitalization rate without further information. For the cost approach, the appraiser obtained a \$105 replacement cost new factor from R.S. Means Square Foot Costs Manual. The appraiser assumed a 60% factor for depreciation for the subject without further information and analysis.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$125,249. The subject's assessment reflects a market value of \$500,996, or \$85.00 per square foot of total building area including land, when applying the 25% level of assessment for class 5 property under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted information on five suggested sale comparables. These sales occurred from June 2006 through September 2009. They ranged from 4,500 to 9,393 square feet of improvement area and from \$254.55 to \$442.03 per square foot of improvement area including land.

#### **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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the appraisal is without adjustments to the sale comparables and does not disclose their specific property characteristics. The appraisal presents only raw data of improvement size, date of sale and unit sale price for four sale comparables. As for the appraiser's application of the cost approach, the evidence submitted lacked information and analysis to support the assumptions that the subject suffered a 60% depreciation factor and detailed information about replacement costs for the key property characteristics. The assumptions in

the income approach for vacancy rates and an 11.00% market capitalization rate are also without supporting evidence. The appellant did not submit an income and expense analysis, and asserts that the net income of the subject property should be reduced by a 10% vacancy factor. 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. *Id.* at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant did not demonstrate that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, 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. The appellant did not provide such evidence and, therefore, the Board gives this argument no weight.

The Board finds the best evidence of market value to be the appellant's comparable sales #2 and #3, and the board of review comparable sales #2, #3, #4 and #5. These comparables sold for prices ranging from \$31.19 to \$325.83 per square foot of living area, including land. The subject's assessment reflects a market value of \$85.00 per square foot of building area including land, which is within the range established by the best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is not 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.

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Chairman



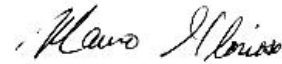
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DISSENTING: \_\_\_\_\_

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: November 20, 2015



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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.