



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

APPELLANT: William Senne  
DOCKET NO.: 13-25575.001-R-1  
PARCEL NO.: 14-31-400-016-0000

The parties of record before the Property Tax Appeal Board are William Senne, the appellant, by attorney Timothy E. Moran of Schmidt Salzman & Moran, Ltd, in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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:** \$10,500  
**IMPR.:** \$35,000  
**TOTAL:** \$45,500

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 2013 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-story, four-unit mixed use building of masonry construction that was built in 1898. The building contains 2,420 square feet of building area. The subject was classified as a Class 2-12 property under the Cook County Real Property Assessment Classification Ordinance. The subject property is located in West Chicago Township, Cook County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming assessment inequity and overvaluation as the bases of the appeal. The subject's land assessment was not challenged.

In support of the inequity claim, the appellant submitted limited assessment information for five comparables. The comparables had varying degrees of similarity when compared to the subject. The comparables had improvement assessments ranging from \$25,824 to \$39,558 or from \$10.40 to \$15.05 per square foot of building area. The subject property had an improvement assessment of \$39,776 or \$16.44 per square foot of building area.

In support of the overvaluation argument, the appellant submitted portions of the subject's 2010-2012 federal tax returns and the 2013 rent roll in preparing an income analysis that was developed by legal counsel. In developing the income analysis, appellant's counsel utilized the subject's actual reported gross annual rental income from 2012 of \$65,792. Counsel next deducted 33% or \$21,977 for allowable expenses to arrive at a net operating income of \$43,815. Counsel next capitalized the net income by a rate of 11.88% to arrive at an indicated value under the income approach of \$368,813.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the market value derived from the income analysis.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessment of the subject property as required by section 1910.40(a) of the rules of the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.40(a). Therefore, the board of review was found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.69(a).

#### **Conclusion of Law**

The appellants contend 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 appellants did not meet this burden of proof and no reduction in the subject's assessment is warranted on this basis.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach prepared by legal counsel using the subject's actual income and expenses unconvincing and not supported by any credible market evidence in the record. Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not

demonstrate through an expert in the field of real estate valuation that the subject's actual income and expenses are reflective of the market. 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. In order to demonstrate or estimate the subject's market value using an income approach, as the appellant's counsel attempted, the taxpayer must establish through the use of market derived comparable data, the market rent, vacancy and collection losses and expenses used 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 market derived capitalization rate to convert the net income into an estimate of market value. The appellant did not provide any such evidence. As a result, the Property Tax Appeal Board gives this argument no weight.

The Board further finds it problematic the fact that appellant's counsel developed the "income analysis" 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 value evidence for that client's property.

The taxpayer also contends assessment inequity as an alternative basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted assessment information for five comparables for the Board's consideration. The comparables had varying degrees of similarity when compared to the subject. The comparables had improvement assessments ranging from \$25,824 to \$39,558 or from \$10.40 to \$15.05 per square foot of building area. The subject property had an improvement assessment of \$39,776 or \$16.44 per square foot of building area, which falls above the range established by the only assessment comparables contained in this record. Based on the evidence contained in this record, the Board finds a reduction in the subject's improvement assessment is warranted on the basis of uniformity.

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



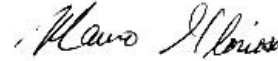
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DISSENTING: \_\_\_\_\_

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.