



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

APPELLANT: Miguel Espitia  
DOCKET NO.: 13-28212.001-R-1  
PARCEL NO.: 17-19-317-039-0000

The parties of record before the Property Tax Appeal Board are Miguel Espitia, the appellant; 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:** \$ 5,625  
**IMPR.:** \$ 13,509  
**TOTAL:** \$ 19,134

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 consists of two improvements on one parcel of land. Improvement #1 is a two-story dwelling of masonry construction with 2,407 square feet of living area. It is 119 years old. Features of Improvement #1 include a basement apartment with two additional rental units on floors one and two. Improvement #2 is a two-story coach house located behind Improvement #1, and is of frame construction with 782 square feet of living area. It is 124 years old. Features of Improvement #2 include two bedrooms and one full bath. The property has a 3,125 square foot site and is located in Chicago, West Township, Cook County. Improvement

#1 is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance. Improvement #2 is classified as a class 2-05 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 \$165,000 as of December 30, 2013. The appraiser indicated this value is for both structures on the lot, as he valued the subject using an aggregate square footage of living area. The appellant also provided Multiple Listing Service printouts for the five sale comparables contained in the appraisal. The evidence reflected the following: appraisal sale #1 was a foreclosure sale for cash only; appraisal sale #3 was sold "as is" in a cash transaction; appraisal sale #4 was a bank-owned property; and appraisal sale #5 was a court-ordered sale.

The appellant also submitted black and white photographs and a vacancy affidavit, which indicated the owner/appellant occupied one unit while the remaining three units were vacant during 2013.

Finally, the appellant included a narrative statement indicating comparable properties in his neighborhood had received greater reductions in assessed value than he had. He provided printouts from the Cook County Property Tax Portal for eight suggested comparable properties. These properties had 2013 Assessor total assessments ranging from \$19,746 to \$26,030, with the subject having a final 2013 assessment of \$27,561. This data failed to include the square footage of living area for each property as well as the assessment breakdown for land and improvement.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$27,561. The subject's assessment reflects a market value of \$275,610, or \$86.43 per square foot, including land, when applying the 2013 assessment level of 10% as established by the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted assessment and sales information on four comparables for each of Improvement #1 and Improvement #2.

In written rebuttal, the appellant submitted a map indicating the board of review's comparables #1 through #3 were not located in close proximity to the subject. He also submitted an appraisal valuing the subject as of May 23, 2014. The new appraisal evidence submitted by the appellant as rebuttal was not considered in the Board's analysis. 86 Ill.Admin.Code §1910.66(c).

At hearing, the appellant appeared before the Board and argued that his assessment is higher than neighboring properties. He relied on his written submissions as evidence of overvaluation.

The board of review objected to the appraisal valuation as the appraiser was not present at the hearing to testify. The board of review also argued that the appraisal valued the subject property as of December 2013, almost a year after the January 1, 2013 valuation date.

### 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.

Initially, the Board does not find the appraisal submitted by the appellant persuasive. The appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. 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 (1<sup>st</sup> 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 court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined, and in this case, as to adjustments made regarding date of sale and condition [of property].

Secondly, no weight was given to the appellant's uniformity argument as the appellant failed to provide several key elements of comparability, including: square footage of living area; land assessment; and building assessment. Accordingly, the Board is unable to make a meaningful comparison between the subject and suggested comparables.

Additionally, the Board gives the appellant's vacancy argument no weight. The Board finds no evidence in the record that the subject's assessment is incorrect when vacancy is considered. The mere assertion that vacancy in a property exists does not constitute proof that the assessment is incorrect or that the fair market value of a property is negatively impacted. There was

no showing that the subject's market value was impacted by its vacancy during 2013 and the appellant failed to address this argument at the hearing.

The Board, however, will consider the 13 sale comparables contained in the record without regard to the appraiser's value conclusion. The appellant's sale comparables, which combine the square footage of living area for both improvements, contain between 3,100 and 3,700 square feet of living area and sold from April 2013 to December 2013 for prices ranging from \$130,000 to \$180,000, or \$39.39 to \$53.23 per square foot of living area, including land. The board of review's sale comparables for Improvement #1 contain between 1,953 and 2,637 square feet of living area and sold from June 2011 to September 2013 for prices ranging from \$170,000 to \$280,412, or \$76.00 to \$115.40 per square foot of living area, including land. The board of review's sale comparables for Improvement #2 contain between 1,097 and 1,408 square feet of living area and sold from March 2010 to June 2012 for prices ranging from \$175,000 to \$455,500, or \$159.53 to \$346.92 per square foot of living area, including land.

The Board notes that the board of review's comparables #1 through #3 are located between one and two miles away from the subject property. Additionally, the board of review's suggested comparables for Improvement #2 are not coach house properties. After examining other similarities and differences between the remaining suggested comparables, including amenities, location, sale conditions, and square footage of living area, the Board finds the best comparables contained in the record to be the appellant's comparables #1 through #3, as well as the board of review's comparable #4. These comparables range in size from 2,637 to 3,600 square feet of living area and are all located within a half-mile of the subject property. They range in value from \$39.39 to \$76.00 per square foot, including land. In comparison, the subject's assessed value reflects a market value of \$86.43 per square foot of living area, including land, which is above the range of these comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot value is not supported and a reduction in the subject's assessment is warranted based on the market data submitted into evidence.

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. Ferr*

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Member

*JR*

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Member

*Mark Morris*

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Member

*Jerry White*

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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: August 21, 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.