



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

APPELLANT: Jaroslaw Malinowski  
DOCKET NO.: 13-32716.001-R-1 through 13-32716.002-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Jaroslaw Malinowski, the appellant(s), by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
13-32716.001-R-1	13-19-330-017-0000	3,750	23,511	\$27,261
13-32716.002-R-1	13-19-330-018-0000	3,750	25,489	\$29,239

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 contains a 64 year-old, two-story part retail and part residential building of masonry construction with 6,900 square feet of building area. Features of the building include a partial unfinished basement, central air conditioning and two two-car garages. The property has a 6,257 square foot site consisting of two contiguous parcels designated Property Index Numbers (hereinafter, "PIN") 017 and 018. The subject is located in Jefferson Township, Cook County and is a Class 2-12 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 based on the income and sales comparison approaches. The reconciled estimate of the subject property's market value was \$565,000 as of January 1, 2011. The appellant also submitted three suggested sales comparables, and evidence in support of an

income approach of market valuation separate from the appraisal. In support of this separate income approach, the appellant submitted a rent roll, and Supplemental Income and Loss income tax returns from 2010 through 2012. The appellant requested a total assessment reduction to \$31,472.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$32,845 for PIN 018. The board of review did not submit Notes on Appeal for PIN 017. The subject's assessment for PIN 018 reflects a market value of \$328,450 when applying the 2013 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment for PIN 018 the board of review submitted information on four unadjusted suggested equity comparables.

In rebuttal, the appellant argued that the comparables submitted as evidence by the board of review should be given diminished weight because they were dissimilar to the subject in various key property characteristics and were based on raw, unadjusted sales data. The appellant also argued that the board of review's equity comparables were not responsive to the appellant's overvaluation argument. The appellant reaffirmed the request for an assessment reduction.

### **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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant. In addition to a sales comparison approach, the appraisal included an income approach based on an analysis of actual and potential gross income, expenses, the application of a capitalization rate, and a comparison of similar mixed use income producing properties. The appraiser estimated the market value of the subject based on the income approach was \$575,000. The market value based on the sales comparison approach was \$555,000. The reconciled estimate of market value was \$565,000.

In contrast to the appraisal income approach, the appellant's separate income approach analysis was not based on market data. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the Illinois Supreme Court stated:

[I]t is clearly the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held by the owner... [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"... [M]any factors may prevent a property owner from realizing an income from property which 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.

*Supra*, at 430-31.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant made this argument in his separate income approach analysis, 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 in his separate income approach analysis and, therefore, the Board gives this argument no weight.

The Board finds the subject property had a market value of \$565,000 as of the assessment date at issue, in accord with the opinions and conclusions contained in the appraisal. Since market value has been established, the 2013 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance shall apply.

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.



Chairman



Member



Member



Member



Acting Member

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

### CERTIFICATION

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: \_\_\_\_\_

February 24, 2017



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.