



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

APPELLANT: Andrew L. Potempa  
DOCKET NO.: 15-00362.001-R-2  
PARCEL NO.: 30-07-07-304-057-0000

The parties of record before the Property Tax Appeal Board are Andrew L. Potempa, the appellant, by attorney Jessica Hill-Magiera in Lake Zurich; the Will County Board of Review; and Joliet Township High School Dist. No. 204 intervenor, by attorney Timothy J. Rathbun of Rathbun, Cservenyak & Kozol, LLC in Joliet.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** in the assessment of the property as established by the **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$57,064  
**IMPR.:** \$360,894  
**TOTAL:** \$417,958

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 improved with a three-story apartment building of brick construction with 19,716 square feet of building area. The building was constructed in 1973. The subject property has a concrete slab foundation and contains 22 apartments. The property has a 23,727-square foot site and is in Joliet, Joliet Township, Will County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on one comparable sale improved with a two-story apartment building with 12 units, each containing two-bedrooms and one bathroom, that was constructed in 1973. The property sold in February 2015 for a price of \$640,000 or \$53,333 per unit. The appellant provided a copy of the Multiple Listing Service (MLS) listing sheet for the comparable disclosing the transaction was a court ordered sale that was subject to court approval.

The appellant also submitted an "income approach" contained on one page using an average income of \$167, 771 and deducting \$48,231 for expenses to arrive at a net operating income (NOI) of \$112,540. The income approach used a loaded capitalization rate of 12.7%. Capitalizing the net income resulted in an estimated market value of \$886,139 according to the appellant's calculations. The "income approach" was not signed nor was there any evidence disclosing who prepared the document. The appellant provided a copy of the federal income tax form 8825, Rental Real Estate Income and Expenses of a Partnership or an S Corporation, for 2012, 2013 and 2014 to document the subject's income.

Based on this evidence the appellant requested the subject's assessment be reduced to \$295,350 to reflect the market value arrived at using the income approach.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$417,958. The subject's assessment reflects a market value of \$1,257,017 or \$57,137 per apartment and \$63.76 per square foot of building area, land included, when using the 2015 three-year average median level of assessment for Will County of 33.25% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted evidence provided by Joliet Township Assessor. The assessor developed a cost approach to value using Marshall & Swift cost tables and land sales. The assessor provided seven land sales that ranged in size from .71 to 4.44 acres or from 30,928 to 193,406 square feet of land area. The sales occurred from May 2011 to April 2014 for prices ranging from \$272,800 to \$2,472,500 or from \$9.34 to \$15.61 per square foot of land area. Adjustments were made for time and differences from the subject site to arrive at adjusted prices ranging from \$9.26 to \$15.92 per square foot of land area. The assessor estimated the subject property had a land value of \$10.00 per square foot of land area or \$235,000, rounded.

With respect to the improvements the assessor estimated the replacement cost new to be \$1,759,093, rounded. Deductions were made for physical depreciation of 33% or \$580,500, rounded; functional obsolescence of 5% or \$87,955, rounded; and economic obsolescence of 3% or \$52,773, rounded, to arrive at a depreciated cost of \$1,037,865. The cost approach also included \$58,325 for balconies, asphalt and sidewalks, however, the lump sums were not added by the assessor when he arrived at an indicated market value under the cost approach of \$1,272,865.

The assessor also identified seven sales of apartment buildings that were composed of one to three buildings with a total building area ranging in size from 4,144 to 42,624 square feet of building area. The comparables had from 6 to 36 apartments. The buildings were constructed from 1964 to 1994. Six of the comparables had basements with two having basement apartments and six comparables had detached garages. The sales occurred from May 2013 to November 2014 for prices ranging from \$594,000 to \$3,325,000 or from \$78.01 to \$143.34 per square foot of building area and from \$60,258 to \$99,000 per unit. Adjustments were made to the comparables for date of sale and differences from the subject property to arrive at adjusted prices ranging from \$58,767 to \$69,300, rounded. Using these sales, the assessor was of the opinion the subject property had a value of \$60,000 per unit or \$1,300,000, rounded.

In reconciling the two approaches to value the assessor was of the opinion the subject property had a market value of \$1,300,000, and recommended no change be made to the subject's assessment. Similarly, the board of review requested that no change be made to the assessment of the subject property.

The intervening school district adopted the evidence submitted by the board of review.

The appellant's counsel submitted rebuttal comments critiquing the sales used by the assessor and the cost approach to value.

### **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 best evidence of market value to be submitted by the board of review that included both the cost approach to value arriving at an estimated market value of \$1,270,000, rounded, and an estimated value using the sales comparison approach of \$1,300,000, rounded. The sales comparison approach included seven sales of apartment buildings with varying degrees of similarity to the subject property that sold for prices ranging from \$594,000 to \$3,325,000 or from \$78.01 to \$143.34 per square foot of building area and from \$60,258 to \$99,000 per unit, including land. The subject's assessment reflects a market value of \$1,257,017 or \$57,137 per apartment and \$63.76 per square foot of building area, land included, which is below the range established by the comparable sales provided by the board of review. These sales demonstrate the subject property is not overvalued.

Little weight was given the sale provided by the appellant as the documentation disclosed the transaction was a bank ordered sale and the sale was subject to court approval, calling into question the arm's length nature of the transaction and whether or not the sale was reflective of fair cash value.

The Board also gave little weight to the so-called "income approach" presented by the appellant as there was no evidence establishing who prepared the income approach or the qualifications of the preparer, which undermine the credibility of the conclusion of value.

Additionally, the Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach using on the subject's actual income and expenses as reported on federal income tax returns unconvincing and not supported by market derived evidence in the record. 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.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate using an expert in the field of real estate appraisal that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish using 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. Further, the appellant must establish with market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence in this record; therefore, the Property Tax Appeal Board gives the appellant's income approach to value little weight.

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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member

Member



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: March 20, 2018



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

AGENCY

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