



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

APPELLANT: Jill Halpern
DOCKET NO.: 15-23593.001-R-1
PARCEL NO.: 14-18-102-015-0000

The parties of record before the Property Tax Appeal Board are Jill Halpern, the appellant, by attorney Michael 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 **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: \$15,498
IMPR.: \$31,049
TOTAL: \$46,547

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 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 consists of a two-story, multi-family dwelling of frame construction. The dwelling is approximately 107 years old and has 2,278 square feet of living area. Features of the dwelling include two apartment units, a full unfinished basement and a two-car detached garage. The property has a 3,690-square foot site and is located in Chicago, Lakeview Township, Cook County. The subject is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted evidence disclosing the subject property was purchased on May 20, 2013, for a price of \$271,000. In Section IV – Recent Sale Data of the residential appeal form, the appellant stated the property was purchased from an individual; the parties to the transaction were not related; the property was sold by the owner; and the property had **not** been advertised for sale.

To document the transaction, the appellant submitted copies of the settlement statement, which revealed that no commissions had been paid to any realty firms. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price of \$271,000.

The appellant's attorney also argued the subject's income and expenses indicate the subject should have a market value of \$271,000 or \$118.96 per square foot of living area, land included. In support of this argument, the appellant projected the subject's income and expenses for 2015.¹ According to the appellant, the subject had gross income of \$52,800 and allowable expenses of \$20,525. The appellant determined the subject's stabilized net operating income was \$32,275. The attorney used a capitalization rate of approximately 10.00%, and an effective tax rate of 1.92% to arrive at an indicated market value of \$271,000, rounded. Based on this estimate of value, the attorney requested the subject's total assessment be reduced to \$27,100 (\$15,498 for land and \$11,602 for the improvement) after applying the 10% level of assessments for class 2 residential property as established by the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$46,547. The subject's assessment reflects a market value of \$465,470 or \$204.33 per square foot of living area, land included, after applying the 10% level of assessments for class 2 residential property 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 information on four comparable sales that sold from August 2012 to December 2013 for prices that ranged from \$521,000 to \$614,000 or from \$206.99 to \$282.56 per square foot of living area, land included. The comparables have the same assigned neighborhood and classification codes as the subject. Their sites range from 3,000 to 4,500 square feet of land area. The comparables are improved with two-story, one and one-half story, or three-story multi-family dwellings of frame or masonry construction. The dwellings range in age from 107 to 127 years old and contain from 2,173 to 2,517 square feet of living area. The comparables have full basements, one of which is finished for an apartment. One of the comparables has central air conditioning and a fireplace. Each comparable has either a one-car or two-car garage. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant's attorney asserted that the board of review had submitted "raw/unconfirmed" sales.

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

¹ The appellant's attorney stated that income history for the subject property was limited: "As the subject was recently purchased we have limited income and expense data. The subject was vacant from the time of purchase through all of 2014. We have imputed [sic] a rent to the owner occupied unit at the same level as the rent paid by the tenant in the other unit."

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 appellant's overvaluation argument was twofold: The appellant stated the subject sold in May 2013 as an arm's length transaction for a price of \$271,000. The appellant also formulated an overvaluation argument using the subject's actual and projected income for 2015 and determined that the subject property had a market value of \$271,000.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income unconvincing and not supported by 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 through any documentation or a real estate appraiser 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 through the use of market data the market rent, vacancy and collection losses, and the expenses deducted 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 capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds problematic the fact that the appellant's attorney developed the "income approach" 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 opinion testimony of value for that client's property. (See 86 Ill.Admin.Code 1910.70(f)).

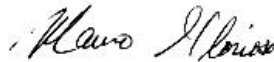
The Board also considered the May 2013 sale of the subject property relied on by the appellant and the four comparable sales submitted by the board of review. The Board gave less weight to the sale of the subject property. In Section IV – Recent Sale Data of the residential appeal form, the appellant stated the subject property had **not** been advertised for sale. The Board finds the

appellant failed to establish that the subject's sale was an arm's length transaction. The Board also gave less weight to board of review comparables #2 through #4 that sold from August 2012 to June 2013. The Board finds these sale dates were not proximate to the January 1, 2015 assessment date.

The Board finds the best evidence of market value in the record to be board of review comparable #1. This comparable sold most proximate in time to the assessment date than any other comparable sale in the record. Despite differences in story height, this comparable was very similar to the subject in location, exterior construction, age, living area and features. Board of review comparable #1 sold in December 2013 for a price of \$521,000 or \$206.99 per square foot of living area, land included, and undermines the appellant's claim that the subject's sale price was reflective of market value. The subject's assessment reflects a market value of \$465,470 or \$204.33 per square foot of living area, land included, which is supported by the best comparable sale in the record.

Based on this evidence, the Board finds a reduction in the subject's assessment is not warranted.

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(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) 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

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: June 19, 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

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