



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

APPELLANT: Luis Martinez
DOCKET NO.: 15-36125.001-C-1 through 15-36125.005-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Luis Martinez, the appellant, by attorney Edward P. Larkin 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
15-36125.001-C-1	16-02-202-001-0000	25,500	50,048	\$75,548
15-36125.002-C-1	16-02-202-002-0000	38,250	74,889	\$113,139
15-36125.003-C-1	16-02-202-003-0000	12,750	26,511	\$39,261
15-36125.004-C-1	16-02-202-004-0000	25,500	8,772	\$34,272
15-36125.005-C-1	16-02-202-005-0000	25,427	97,667	\$123,094

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 is improved with a part one-story and part two-story multi-tenant strip center of brick and glass construction with approximately 12,100 square feet of building area. The improvement is approximately nine years old. The property has a 27,000 square foot site and is located in Chicago, West Chicago Township, Cook County. The property is classified as a class 5-17 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's counsel submitted an income analysis he prepared purportedly using the subject's 2014 income and expenses. The attorney estimated the subject's net income to be \$194,391.92

and quoted a loaded capitalization rate of 17.65%, which he converted to an estimated value of \$1,084,373. Based on this estimated market value the appellant requested an assessment of \$271,093.

Counsel also asserted that retail units #5, #6 and #7, comprising 3,200 square feet of building area, have never been occupied and are not completed. The appellant's counsel stated the vacancy of these three units comprise 26.45% of the building area. The appellant's counsel argued that applying an occupancy factor of 73.55% (1.00-.2645) to the subject's improvement assessment of \$257,887 would result in a revised assessment for the improvements of \$189,676 and a total revised assessment of \$317,103.

The appellant submitted a copy of the decision of the board of review disclosing a total assessment for the subject property of \$385,314, which reflects a market value of \$1,541,256 when applying the Cook County Real Property Assessment Classification Ordinance level of assessment for class 5-17 property of 25%.

The board of review did not timely submit its "Board of Review Notes on Appeal" and evidence in support of its assessment of the subject property.

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 appellant's counsel developed an income approach to value using the subject's actual 2014 income and expenses. 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 and expenses is to be given no weight. 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 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's counsel attempted, 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. 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's counsel did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

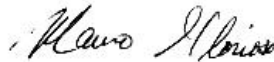
The Board further finds problematic the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and provide unbiased, objective evidence of value for that client's property.

Likewise, the Board gives no weight to the appellant's counsel's argument that the subject's improvement assessment should be reduced to account for the property's actual vacancy. As stated previously, it is market derived vacancy that is to be considered when valuing property for ad valorem real estate assessment purposes not the actual vacancy of the property. Furthermore, the appellant presented no actual objective market data to demonstrate the subject's assessment is excessive when considering the property's occupancy level.

As a final point, the Board finds the appellant did not satisfy the burden of going forward by failing to provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment. (See 86 Ill.Admin.Code 1910.63(b)). Because of the appellant's failure, the burden of proof did not shift, which would require the board of review to go forward with the appeal and provide substantive, documentary evidence or legal argument sufficient to support its assessment or some other, alternative valuation. (See 86 Ill.Admin.Code 1910.63(c)).

Based on this record the Board finds a reduction in the subject's assessment is not justified.

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



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: December 18, 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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