



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

APPELLANT: Karen Smith  
DOCKET NO.: 16-06131.001-I-1  
PARCEL NO.: 03-29-301-019

The parties of record before the Property Tax Appeal Board are Karen Smith, the appellant, by attorney Dennis M. Nolan, of the Law Office of Dennis M. Nolan, P.C. in Bartlett; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$44,440  
**IMPR.:** \$174,190  
**TOTAL:** \$218,630

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2016 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 one-story, single-tenant industrial building of masonry construction with 10,000 square feet of building area, including 1,428 square feet of office space. The building was constructed in 1973. The building is situated on a site containing approximately 21,000 square feet of land area and has a land-to-building ratio of 2.10:1. The building has an exterior height of 19 feet. The subject property is located in Addison, Addison Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. A consolidated hearing was held before the Property Tax Appeal Board via video conferencing technology covering appeals for the 2016, 2017, and 2018 tax years. Appearing before the Property Tax Appeal Board on behalf of the appellant was her attorney, Dennis M. Nolan. A representative for each of the parties along with the board of review witness appeared for the proceeding remotely with the use

of the WebEx virtual platform pursuant to notice from the Property Tax Appeal Board and neither party objected to the virtual hearing format.

In support of overvaluation argument, attorney Nolan summarized the evidence submitted on behalf of the appellant which consisted of six comparable sales located in either Addison or Bensenville.<sup>1</sup> These properties had sites ranging in size from 23,310 to 31,085 square feet of land area and were each improved with a one-story industrial building of masonry exterior construction ranging in size from 9,660 to 12,800 square feet of building area, resulting in land-to-building ratios ranging from 1.90:1 to 3.22:1. The buildings were constructed from 1963 to 1982. The comparables sold from May 2012 to December 2014 for prices ranging from \$300,000 to \$500,000 or from \$27.71 to \$51.76 per square foot of building area, including land. Attorney Nolan noted that the comparable properties were selected based on their similarities to the subject in terms of percentage of office space, building size, and age. Attorney Nolan argued that most weight should be given to comparables #3, #4, and #6 based on these properties being most similar to the subject, and less weight should be given to comparables #1, #2, and #5 as these are multi-tenant buildings compared to the subject which is a single-tenant building.<sup>2</sup> Attorney Nolan acknowledged that the evidence was compiled by his office staff and that he is not a licensed appraiser.

Based on the evidence submitted, attorney Nolan requested the subject's assessment be reduced to \$199,980 to reflect a market value of \$600,000 or \$60.00 per square foot of building area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$218,630. The subject's assessment reflects a market value of \$656,744 or \$65.67 per square foot of building area, land included, when using the 2016 three-year average median level of assessment for DuPage County of 33.29% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on five comparable sales located in Addison. These properties had sites ranging from 20,800 to 32,500 square feet of land area and were each improved with a one-story industrial building of masonry exterior construction ranging in size from 9,940 to 11,750 square feet of building area, resulting in land-to-building ratios ranging from 2.00:1 to 3.27:1. The buildings were constructed from 1966 to 1973 and have building heights ranging from 16 to 20 feet. The comparables sold from April 2014 to June 2016 for prices ranging from \$650,000 to \$798,000 or from \$62.13 to \$76.73 per square foot of building area, including land.

In addition, the board of review submitted a report prepared by the Chief Deputy Assessor for Addison Township, Frank A. Marack, Jr. consisting of property record cards for the subject and each comparable sale, "summary of salient facts" for each property, grid analysis, color

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<sup>1</sup> The Co-Star information sheet for comparable #5 (669 W. Winthrop) was inadvertently left out of the appellant's original submission and was submitted at the hearing without objection by the board of review.

<sup>2</sup> The Co-Star information sheets submitted by the appellant depict appellant's comparables #1, #2, #5, and #6 as multi-tenant buildings.

photographs of each property, and Illinois Real Estate Transfer Declaration (PTAX-203) form associated with each comparable sale.

The board of review called as its witness Frank A. Marack, Jr. who testified that he prepared all the evidentiary documents submitted on behalf of board of review.

Mr. Marack critiqued the comparable sales submitted by the appellant contending that each of the six comparable sales submitted by the appellant occurred between May 2012 and November 2014, and three were located outside Addison. Conversely, Mr. Marack stated that the board of review comparables were all located in Addison and sold more proximate to the January 1, 2016 assessment date at issue. Furthermore, Mr. Marack testified that appellant's comparable #1 was an estate sale based on the information in the Illinois Real Estate Transfer Declaration (PTAX-203) form associated with that sale, thus it may not have the elements of an arm's-length transaction. Mr. Marack also asserted that appellant's comparable #1 was a multi-tenant building, unlike the subject's single-tenant design; appellant's comparable #2 was a bank-owned real estate (REO) sale, it was a 3-unit building, and the sale was part of a bulk sale, thus not representative of fair cash value; appellant's comparable #3 had significant amount of deferred maintenance and the buyer received credit for a new roof; appellant's comparable #4 was located outside of Addison and sold in 2013, too remote from the subject's January 1, 2016 lien date; appellant's comparable #5 sold in 2012 which is approximately four years removed from the 2016 lien date and also had significant deferred maintenance; and appellant's comparable #6 is a multi-tenant building and located in Bensenville.

With respect to the board of review evidence, Mr. Marack testified that the comparable sales support the subject's assessment and that his final estimate of subject's value was \$782,500, which is higher than the subject's market value of \$656,744 as reflected by its current assessment. Mr. Marack testified that the comparable sales submitted by the board of review were each located in Addison and that he applied positive, negative, or no adjustments to these comparables for characteristics such location, time on market, building size, land-to-building ratio, construction, age, number of units, building height, and percentage of office space. Mr. Marack also testified that he analyzed the subject property individually, rather than applying a mass appraisal technique due to the subject's assessment being appealed. In doing so, Mr. Marack determined that the subject's adjusted market value is greater than the value as reflected by its assessment based in part on quantitative (calculable) factors such as land-to-building ratio versus price per square foot, and in part based on his personal experience related to property values.

Based on this testimony and evidence, the board of review requested a confirmation of the subject's assessment.

Under cross-examination, Mr. Marack affirmed that he is not a licensed appraiser and he did not prepare an appraisal report but rather a summary report of his opinion of value as requested by the DuPage County Board of Review. As part of his report, Mr. Marack prepared the grid analysis, "summary of salient facts" and "market approach to value" and "summary sheet of adjustments" depicting a "plus", "minus" or "equal" symbols to reflect whether a particular feature of the comparable sale is superior, inferior or equal to the subject property, respectively.

Mr. Marack testified that the purpose of the report was to “estimate fair market value” of the subject property as of January 1, 2016.

Upon further cross-examination, Mr. Marack testified that he did not update his report nor obtain any new sales in response to the appeals for the following two years because the only increase to the subject’s assessment from 2016 tax year was the application of the township equalization factor which was applied equally to all properties in DuPage County. Mr. Marack affirmed that it would be appropriate to use newer sales for the 2017 and 2018 appeals if he was “coming up with a new market value for each of those years,” however, he was not asked to prepare a new report for 2017 or 2018 tax year appeals as it relates to the subject property. Mr. Marack also affirmed that in his opinion, the market in Addison Township did in fact change from 2016 to 2018, however, he did not specify whether market values generally increased or decreased.

Attorney Nolan then questioned Mr. Marack regarding the clear ceiling height and roof height of the comparable properties in relation to the subject property. Mr. Marack testified that the height adjustments he made to the comparables were on the basis of exterior building heights rather than interior ceiling height as a measure of comparison even though the ceiling height may impact the overall value of the building. Attorney Nolan submitted two exhibits at the hearing, the first being a page extracted from the *Dictionary of Real Estate Appraisal, 6<sup>th</sup> Edition*, defining “clear height” (marked as “Appellant Hearing Exhibit #1”); and the second being a 70-page document containing Co-Star property information data sheets related to the six board of review comparables (marked as “Appellant Hearing Group Exhibit #2”). Upon objection from the board of review as to group exhibit #2, the hearing officer allowed the documents to be used for limited purpose under cross-examination of the witness for impeachment purposes. However, the hearing officer denied the introduction of said documents to be admitted into evidence. Section 1910.67(k) of the rules of the Property Tax Appeal Board provide:

- k) In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless:
  - 1) Such evidence has been submitted to the Property Tax Appeal Board prior to the hearing pursuant to this Part;
  - 2) The filing requirement is specifically waived by the Board; or
  - 3) The submission of the written or documentary evidence is specifically ordered by the Board or by a Hearing Officer.

(86 Ill.Admin.Code §1910.67(k))

The Board finds that Appellant Hearing Group Exhibit #2 was not submitted to the Property Tax Appeal Board prior to the hearing pursuant to the filing requirement of Section 1910.67(k); the filing requirement was not waived by the Board; and the submission of said documents was not specifically ordered by the Property Tax Appeal Board or the hearing officer. 86 Ill.Admin.Code 1910.67(k). The board of review did not have an objection, however, to Appellant Hearing Exhibit #1 being admitted into evidence.

### **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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002), 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 finds that the documents prepared by Mr. Marack (including his "Market Approach to Value") are within the scope of his authority as the Chief Deputy Township Assessor. A well-grounded exception in the Illinois Real Estate Licensing Act allows assessors to testify regarding the value of subject property as well as the comparables. Section 5-5(e) of the Real Estate Appraiser Licensing Act states as follows:

This Act does not apply to a county assessor, township assessor, multi-township assessor, county supervisor of assessments, or any deputy or employee of any county assessor, township assessor, multi-township assessor, or county supervisor of assessments who is performing his or her respective duties in accordance with the provisions of the Property Tax Code.

225 ILCS 458/5-5(e)

As the Chief Deputy Township Assessor, Mr. Marack's job is to assess values of properties. The "Market Approach to Value" prepared by Mr. Marack was prepared pursuant to his duties as an assessor under the Property Tax Code in support of the assessment of the subject property. There is no evidence in the record that Mr. Marack was purporting to perform an "appraisal" of the subject property. Moreover, the Board finds that the documents prepared by the Chief Deputy Township Assessor and submitted by the board of review (including any opinion of market value) goes to the weight of the evidence, not its admissibility. The Board has given little weight to the "plus" or "minus" adjustments presented by Mr. Marack as there is no evidence in the record of specific market data (other than raw sales data) upon which he relied to calculate the adjusted sale prices per square foot of building area for each of the comparable properties. Consequently, the Board gave little weight to Mr. Marack's value conclusion of the subject property as it was based in part on unsupported adjusted sale price per square foot of the comparable properties.

The record contains a total of eleven comparable sales in support of the parties' respective positions before the Property Tax Appeal Board. The Board gave less weight to appellant's comparables along with board of review comparables #1 and #3 based on their sale dates in 2012, 2013, or 2014 being less proximate in time to the subject's January 1, 2016 assessment date than the remaining comparable sales in the record and therefore less likely to be indicative

of subject's market value as of the assessment date at issue. Additionally, appellant's comparables #1, #2, #5, and #6 are each multi-tenant buildings compared to the subject, a single-tenant building, and #3, #4, and #5 are located in Bensenville while the subject is located in Addison.

The Board finds the best evidence of market value to be board of review comparables #2, #4, and #5 which were similar to the subject in location, design, exterior construction, age, building size, land size, and land-to-building ratio. These three most similar comparables also sold proximate to the January 1, 2016 assessment date at issue. These three comparables sold from February 2015 to June 2016 for prices ranging from \$730,000 to \$798,000 or from \$62.13 to \$76.73 per square foot of building area, including land. The subject's assessment reflects a market value of \$656,744 or \$65.67 per square foot of living area, including land, which is below the range established by the most similar comparable sales in this record, on an overall value basis but within the range on a per square foot basis.

After considering the evidence and testimony provided, and after considering adjustments to the best comparable sales in the record for differences from the subject property, the Board finds that the appellant has not demonstrated by a preponderance of the evidence that the subject was overvalued. The Board further finds that the subject's assessment is well supported by the evidence in the record and the testimony of the witness and, therefore, no reduction in the subject's assessment is 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



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:

May 18, 2021



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

State of Illinois  
Property Tax Appeal Board  
William G. Stratton Building, Room 402  
401 South Spring Street  
Springfield, IL 62706-4001

APPELLANT

Karen Smith, by attorney:  
Dennis M. Nolan  
Law Office of Dennis M. Nolan, P.C.  
221 West Railroad Avenue  
Bartlett, IL 60103

COUNTY

DuPage County Board of Review  
DuPage Center  
421 N. County Farm Road  
Wheaton, IL 60187