



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

APPELLANT: Kevin Maloney  
DOCKET NO.: 16-20782.001-R-1 through 16-20782.002-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Kevin Maloney, the appellant, by attorney Timothy E. Moran, of Schmidt Salzman & Moran, Ltd. in Chicago; 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:

<b>DOCKET NO</b>	<b>PARCEL NUMBER</b>	<b>LAND</b>	<b>IMPRVMT</b>	<b>TOTAL</b>
16-20782.001-R-1	05-28-217-025-0000	9,072	84,198	\$93,270
16-20782.002-R-1	05-28-217-037-0000	2,835	28,066	\$30,901

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 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 two parcels improved with a 2-story, mixed-use building of masonry construction. The building is approximately 60 years old and has 6,996 square feet of building area. Features include three commercial units, two apartment units, a partial unfinished basement and central air conditioning. The property has a 5,040 square-foot site and is located in Kenilworth, New Trier Township, Cook County. The subject is classified as a class 2-12 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity and overvaluation as the bases of the appeal. In support of the inequity argument, the appellant submitted information on five equity comparables with the same classification code as the subject. Only one of the comparables has the same neighborhood code as the subject. The comparables are improved with one, 3-story and four, 2-story, mixed-use buildings of masonry construction. The buildings are from 28 to

140 years old and contain from 4,340 to 7,300 square feet of building area. The comparables have from three to six apartment units; however, the number of commercial units was not disclosed. The buildings have full or partial unfinished basements, and three buildings are described as having central air conditioning. One of the comparables has a 3½-car garage. The comparables have improvement assessments that range from \$31,101 to \$111,522 or from \$5.81 to \$15.28 per square foot of building area.

In support of the overvaluation argument, the appellant's attorney argued the subject property should have a market value of \$795,520. The appellant's attorney presented the subject's income and expenses for 2013 through 2015. According to the appellant's attorney, the subject had gross income ranging from \$127,364 to \$133,203 and allowable expenses ranging from \$21,183 to \$28,958. Counsel determined the subject's stabilized net operating income for 2015 was \$100,872. The attorney used a 12.68% capitalization rate (which apparently included an effective tax rate of 2.68%) to arrive at an indicated market value of \$795,520. Based upon this estimate of value, the attorney requested the subject's assessment be reduced to \$79,552.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's combined total assessment of \$124,171 for the subject's two parcels was disclosed. The subject's combined assessment reflects a market value of \$1,241,710 or \$177.49 per square foot of building area, land included, when applying the statutory 10% level of assessments for class 2 property in Cook County. The subject property's two parcels have a combined improvement assessment of \$112,264 or \$16.05 per square foot of building area.

The board of review presented descriptions and assessment information on three comparable properties that have the same classification code as the subject. The comparables do not have the same neighborhood code as the subject. The comparables are improved with three, 2-story, mixed-use buildings of masonry construction. The buildings are from 68 to 98 years old and contain from 5,824 to 6,905 square feet of building area. The number of commercial and apartment units per building was not disclosed. The buildings have partial unfinished basements; one building has central air conditioning; and one has a 3-car garage. The comparable properties have improvement assessments that range from \$97,407 to \$116,334 or from \$16.72 to \$16.85 per square foot of building area.

As part of their submission, the board of review provided a sale price for one of the comparables. Comparable #3 sold in June 2014 for a price of \$1,100,000 or \$188.87 per square foot of living area, land included. The board of review also presented a supplemental brief prepared by a board of review analyst. In the brief, the analyst argued the appellant had submitted a flawed income approach analysis. Based on this evidence, the board of review requested confirmation of the subject's assessment.

### **Conclusion of Law**

The taxpayer contends in part assessment inequity as one of the bases of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties

showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment based upon inequity is not warranted.

The Board finds the parties presented assessment data on a total of nine suggested comparables. The appellant's comparable #2 was found to be an outlier with an improvement assessment that is considerably lower than any other comparable submitted for this appeal. The appellant's comparable #1 also received reduced weight, because it is significantly older than the subject. The Board finds the best evidence of assessment equity to be the appellant's comparables #3 through #5 and the three comparables submitted by the board of review. The Board finds these comparables, despite differences in location, are similar to the subject in their 2-story design, masonry construction, age, building area and foundation. The six best comparables have improvement assessments that range from \$11.63 to \$16.85 per square foot of building area. The subject's improvement assessment of \$16.05 per square foot of building area falls within the per-square-foot range established by the best comparables in this record. After considering adjustments to the comparables for differences from the subject, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment based on inequity is not justified.

The appellant also argued overvaluation as an alternative basis of the appeal. 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). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

The Board finds the subject's combined total assessment of \$124,171 reflects a market value of approximately \$1,241,710 or \$177.49 per square foot of building area, land included, when applying the 10% level of assessments for class 2 property in Cook County.

The appellant's counsel formulated an overvaluation argument using the subject's actual income and expenses from 2013 through 2015. The Board finds unconvincing 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. This argument is 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 an expert appraisal witness 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 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 did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds it questionable that the 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 also provide unbiased, objective opinion testimony of value for that client's property. (See 86 Ill.Admin.Code 1910.70(f)).

The Board finds the subject's assessment reflects a market value of \$177.49 per square foot of living area, land included. The Board finds that one of the board of review comparables sold in June 2014 for a price of \$188.87 per square foot of building area, land included. The Board finds this sale, although somewhat dated, supports the conclusion that the subject's total assessment is reflective of the property's market value. Based on this record, the Board finds a reduction to the subject's assessment based on overvaluation 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.

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Chairman





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Member

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Member





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Member

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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: September 17, 2019



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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

Kevin Maloney, by attorney:  
Timothy E. Moran  
Schmidt Salzman & Moran, Ltd.  
111 West Washington Street  
Suite 1300  
Chicago, IL 60602

COUNTY

Cook County Board of Review  
County Building, Room 601  
118 North Clark Street  
Chicago, IL 60602