



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

APPELLANT: Vincent Incopero  
DOCKET NO.: 16-31241.001-R-1  
PARCEL NO.: 15-07-309-022-0000

The parties of record before the Property Tax Appeal Board are Vincent Incopero, the appellant(s); 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:** \$1,996  
**IMPR.:** \$8,216  
**TOTAL:** \$10,212

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 a one and one-half story, single-family dwelling with frame exterior construction. The approximately 63-year old dwelling includes amenities such as: a full basement, one full bath, and a two-car garage. The property has a 5,323 square foot site and is located in Proviso Township, Cook County. The subject is classified as a class 2, residential 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 submitted an appraisal estimating the subject property had a market value of \$80,000 as of August 21, 2016.

At hearing, the appellant testified that he had received a hearing notice for this appeal and confirmed that the notice he received was a copy of the hearing notice in this record. He then

disclosed that he was not calling his appraiser as a witness in this proceeding. The board of review's representative raised a hearing objection not to the timeliness of the appellant's evidence submission, but to the fact that the preparer of the appraisal was not being called as a witness in this proceeding. The Board referred the appellant to the last starred point on the hearing notice which states that: "If your argument is based on an appraisal, you must have the appraiser present to testify. PTAB Rule Section 1910.67(1)."

The appellant's responses were at different times: that he had submitted the appraisal into evidence, that he must have misinterpreted the letter sent to him, and that he could not afford to pay the appraiser to appear at the hearing.

The Board sustained the board of review's hearing objection and repeatedly explained to the appellant that the appraisal was in evidence, but that the Board would not accord any weight to the adjustments and conclusions within the report due to the absence of the preparer to be examined regarding the methodology used therein. However, the Board repeatedly indicated that the raw sales data submitted on the five suggested sale comparables within the appraisal would be considered.

The appraisal indicated that the subject's improvement: was in average to fair condition throughout the dwelling, contained 1,109 square feet of living area, no unfavorable neighborhood factors are known or anticipated, had an effective age ranging from 20 to 25 years, and that an interior and exterior inspection was conducted on August 21, 2016 while submitting photographs of said inspection. Moreover, the multiple interior photographs depict that in August, 2016 the subject's improvement was occupied with dishes on the stove and kitchen counters, children's toys scattered about the living room and bedrooms, toiletries and cleaning products in the bathroom, bed sheets and curtains in the bedrooms as well as a television set therein.

Thereafter, the appellant testified that the subject was not owner-occupied and had been vacant for two years or a little longer. In addition, he stated that he had no personal knowledge of the suggested comparables submitted in his appraisal report with the exception of property #4 and #5, which he stated were better homes than the subject. He also stated that property #4 had been upgraded, which he knew because he was in that property. Further, he testified that there was also flood damage to this home sometime within the summer of 2016.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$10,212. The subject's assessment reflects a market value of \$102,120 or \$98.19 per square foot of living area, using 1,040 square feet, when applying the 10% level of assessment for class 2, residential property under the Cook County Real Property Assessment Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted descriptive, assessment, and sales data on four suggested sale comparables. The properties were located in the Village of Berkeley and were improved with a one-story or one and one-half story, single-family dwelling of masonry, frame or frame and masonry exterior construction. They ranged: in age from 58 to 107 years; in improvement size from 1,066 to 1,254 square feet of living area;

and in improvement assessments from \$9.10 to \$10.99 per square foot. The properties sold from February, 2015, to May, 2016, for prices that ranged from \$150.72 to \$187.84 per square foot.

As to the board of review's suggested comparables, the appellant stated that property #4 was located in the high-end area of Berkeley. He also stated that he believed that the subject property was a 'tear down' in his opinion.

In further rebuttal at hearing, the appellant asserted again that the subject property had suffered from flood damage sometime in the summer of 2016 and that he had photographs to show the Board. The Board ruled that such evidence could not be submitted at hearing because the evidentiary time period had closed. The Board detailed the evidentiary process, while indicating that the appellant's initial pleadings were filed on March 10, 2017 without any mention that the subject suffered from flood damage and absent a request to submit additional evidence. Moreover, the appellant was accorded a 30-day period after receipt of the board of review's evidence within which to submit any written rebuttal evidence. The appellant did not submit any rebuttal 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. 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 notes that the appellant's appraisal identified the subject's improvement as containing 1,109 square feet of living area. The board of review's pleadings reflect that the subject contained 1,040 square feet. The Board finds that the appellant failed to call the appraiser as a witness to expound on the methodology used to determine the subject's improvement size; therefore, the Board finds that the subject contains 1,040 square feet of living area.

Second, the Board finds unpersuasive the assertion that the subject suffered from flood damage. The Board notes: that the appellant's pleadings were silent on this point even though the petition was submitted after the alleged flooding time period asserted by the appellant; that the appellant's appraisal did not identify any flood damage even though the appraisal indicated that an interior and exterior inspection was conducted on August 21, 2016; that the appraisal's multiple interior photographs of the subject's improvement reflect that the property was not vacant as of the appraisal's inspection date of August 21, 2016; and that based upon this inspection the appraisal stated that the subject was of average to fair condition throughout the dwelling, while being accorded an effective age from 20 to 25 year.

Lastly, in viewing the totality of the market value evidence, the Board finds that the appellant failed to call as a witness the appraiser whose work product was submitted. Specifically, the appraiser was not present at hearing to testify as to his qualifications, identify his work, testify

about the contents of the evidence, the conclusions or be cross-examined by the opposing party and the Board. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1<sup>st</sup> Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appellant's appraisal as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of size and/or value are given no weight. However, the Board will consider the raw sales data submitted by the parties.

The Board finds the best evidence of market value to be the *appellant's comparables #4 and #5 as well as the board of review's comparables #1, #2 and #4*. These five comparables were all located in the Village of Berkeley within a one-mile radius of the subject property. The improvements ranged in age from 58 to 68 years and in improvement size from 1,066 to 1,304 square feet of living area. Amenities included basement area, one or two baths, and a two-car garage. These comparables sold from February, 2015, through May, 2016, for unadjusted prices ranging from \$74.39 to \$187.84 per square foot of living area, including land. The subject's assessment reflects a market value of \$98.19 per square foot of living area, including land, which is within the range established by the best comparable sales in the record. After making adjustments to the comparables for pertinent factors such as location and/or proximity to the subject, exterior construction, improvement age, improvement size and/or amenities, the subject's market value is still at the low end of the range established by these comparables. Based upon this evidence, 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.

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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: January 15, 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

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