



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

APPELLANT: Joseph Ghaben  
DOCKET NO.: 18-00978.001-C-1  
PARCEL NO.: 08-20-101-025

The parties of record before the Property Tax Appeal Board are Joseph Ghaben, the appellant, by attorney John P. Fitzgerald, of Fitzgerald Law Group, P.C. in Burr Ridge; and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$178,598  
**IMPR.:** \$273,698  
**TOTAL:** \$452,296

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Lake County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2018 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 commercial building of masonry and steel construction with 43,775 square feet of gross building area which includes multi-use area, restaurant space, office area, warehouse space and an unfinished mezzanine. The building was constructed in approximately 1972. Features of the property include a concrete slab foundation, five washrooms, forced warm air heat, central air conditioning and ceiling mounted heat units in the warehouse area. The property has an irregular shaped site with approximately 145,643<sup>1</sup> square feet of land area which reflects a land-to-building ratio of approximately 3.33:1. The

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<sup>1</sup> The appellant reports the subject's site as 145,643 square feet of land area which reflects a land-to-building ratio of 3.33:1 and a single tenant building. The board of review reports the subject's site size as 256,002 square feet of land area which reflects a land-to-building ratio of 5.58:1. The Property Tax Appeal Board finds this difference is insignificant in ruling on the subject's assessment.

subject site is zoned B2; Community Shopping District and is located in Waukegan, Waukegan Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted evidence of a May 2015 purchase and an appraisal of the subject property.

The appellant's recent sale evidence disclosed the subject property was purchased in May 2015 for a price of \$1,200,000 or \$27.41 per square foot of building area, land included. The appellant's evidence supporting the purchase included the purchase contract, PTAX-203 Illinois Real Estate Transfer Declaration and the HUD settlement statement. Information disclosed in the PTAX-203 form indicates the subject property was advertised for sale and that the sale was between related individuals or corporate affiliates. The HUD settlement statement identified a commission payment to Mega USA Properties, Inc. Comments in the appraisal report regarding the sale of the subject state that the property was "reportedly a short sale" and that an appraisal was ordered prior to the purchase. Based on the fact that an appraisal was completed in support of the sale, the appraisers state they consider the transaction to be arm's-length. The appraisers also note that the subject property was listed for approximately 12 months with an original list price of \$2,300,000.

The appellant also submitted an appraisal estimating the subject property had a retrospective market value of \$1,200,000 as of January 1, 2018. The appraisal was prepared by Sterling Valuation and signed by Thomas W. Grogan and John T. Setina, III, both Certified General Real Estate Appraisers.

The purpose of the appraisal was to determine market value of the subject property, as of January 1, 2018 to provide a basis for an equitable real estate tax assessment. The appraisers described the subject's improvements as a single-tenant commercial building in average condition for its age as of the time of the site visit in August 2018. The appraisers reported that the current use of the subject is a video/game arcade with fast food restaurant. Based on zoning, site and building characteristics the highest and best use of the subject was determined to be its existing use. The appraisers further state that the subject property is currently leased for \$20,600 per month or \$5.65 per square foot on a gross lease basis, where owner/operator is responsible for all expenses including real estate taxes.

In support of the subject's opinion of market value, the appraisers developed the comparable sales and income approaches to value. The appraisers utilized seven closed sales and two active listings in developing their comparable sales approach to value. The comparable sites have land-to-building ratios that range from 2.32:1 to 17.49:1 and are improved with one-story or two-story commercial buildings that range in size from 20,956 to 95,888 square feet of gross building area. The improvements were built from 1965 to 1994 with the oldest building being renovated in 2010. The appraisers noted that comparable #3 was sold at auction, comparable #5 was an REO sale and that comparable #4 had a listing time of four years and 10 months and was described as a "shell" in condition at the time of sale. The seven closed comparables sold from July 2015 to March 2018 for prices ranging from \$217,000 to \$2,125,000 or from \$10.36 to \$35.78 per square

foot of building area, land included. The two listings have prices of \$1,150,000<sup>2</sup> and \$2,495,000 or \$32.06 and \$27.34 per square foot of building area, land included. After adjusting the comparables for active listing status, date of sale, location, building size, age, condition and land-to-building ratio the appraisers estimated the adjusted unit values of the comparables from \$25.00 to \$30.00 and determined \$27.50 to be a reasonable price per square foot for the subject property. Applying \$27.50 to the subject's 43,775 gross building area results in a value of \$1,203,813 or \$1,200,000 when rounded. Therefore, the appraisers' opinion of value for the subject, based on comparable sales was \$1,200,000.

In developing the income approach to value, the appraisers presented six market rental comparables and adjusted the market rents per square foot for conditions of leases, location of comparables, age and condition, land-to-building ratios and gross building area to arrive at a reconciled market rent per square foot of the comparables of \$3.50 to \$4.00 and determine an appropriate net lease rate of \$3.75 per square foot for the subject property. The appraisers next estimated a vacancy and collection loss rate for the subject of 15%. This rate is approximately 50% higher than their quoted sources for vacancy and collection loss rates in the subject's market which they explain is warranted due to the subject's larger building area. Effective gross income was then reduced by their estimates of expenses for management fees, insurance and replacement reserves resulting in a net operating income for the subject property of \$110,573. Applying a reconciled capitalization rate of 9.50% to the subject's net operating income produced an estimated conclusion of value based on income for the subject of \$1,163,926. After rounding, the appraisers have estimated the subject's value opinion based on the income approach to be \$1,160,000.

In the final reconciliation, the appraisers give the sales comparison approach to value primary consideration and the income approach to value a secondary consideration arriving at a reconciled final value conclusion for the subject of \$1,200,000. Based on this evidence, the appellant requested the subject's assessment be reduced to \$399,960 which reflects a market value of \$1,200,000 or \$27.41 per square foot of gross building area, land included when applying the statutory assessment level of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$452,296. The subject's assessment reflects a market value of \$1,367,279 or \$31.23 per square foot of living area, land included, when using the 2018 three year average median level of assessment for Lake County of 33.08% as determined by the Illinois Department of Revenue.

The board of review submitted comments indicating the appellant has submitted appraisals in support of the subject's market value for tax years 2016, 2017 and 2018. In each case, the appraised value of the subject was \$1,200,000. They noted that the same appraisal firm had prepared each of the three appraisal reports and that some comparables were used in all three reports. The board of review questioned the comparable selection of the appraisers noting that while the subject property is a retail strip center, an auto sale facility and bowling alley are among the comparable sales and further assert that some of the comparable are vacant, suffer

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<sup>2</sup> The listing sheet submitted for the appraisal comparable #9 showed a listing price of \$1,050,000 while the appraisal report indicated the property was listed for \$1,150,000.

from deferred maintenance or were bank owned properties at the time of sale. They also stated that appraisal comparable #1 had multiple sales with the most recent reflecting a sale price of \$3,775,000 which was not utilized in the report. The board of review also noted that the appraisal used a rental rate below the actual rental rate in developing the opinion of value based on the income approach. Based on these observations, the board of review believes the appraisal report to be inaccurate and therefore does not provide a credible opinion of value for the subject.

In support of its contention of the correct assessment the board of review submitted a grid analysis and property record cards on the subject and their six comparables. The board of review also submitted Multiple Listing Service (MLS) sheets on most of the appraisal comparables along with relevant pages from the subject's 2016 and 2017 appraisal reports submitted by the appellant for prior tax year complaints. The board of review's six comparable sales are located from 1.30 to 17.0 miles from the subject property. The comparables have sites that range in size from 80,240 to 186,088 square feet of land area and have land-to-building ratios ranging from 1.92:1 to 4.28:1. The comparables are improved with one-story or one and two-story buildings of steel or brick and masonry exterior construction that range in size from 27,400 to 43,522 square feet of gross building area. The improvements were built from 1967 to 1997 with one being renovated in 2017 and have from one to fourteen units. The comparables sold from January 2016 to December 2018 for prices ranging from \$1,165,000 to \$2,291,667 or from \$35.23 to \$65.43 per square foot of building area, land included. Based on this evidence, the board of review requested the subject's assessment be confirmed.

### **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 Board finds the parties submitted evidence of the subject's May 2015 purchase, an appraisal report and six comparable sales for the Board's consideration.

The Board gave less weight to the appellant's evidence of the May 2015 purchase of the subject for a price of \$1,200,000. The HUD settlement statement disclosed a commission was paid to Mega USA Properties, Inc and the PTAX-203 Illinois Real Estate Transfer Declaration indicated the subject property had been advertised. However, the PTAX-203 also disclosed that the sale of the subject was between related individuals or corporate affiliates, which calls into question the arm's-length nature of the purchase transaction. The Board further finds that the subject's May 2015 purchase of the subject is somewhat dated and as the sale was between related parties or corporate affiliates is less likely to be reflective of market value as of the January 1, 2018 assessment date at issue.

The Board gave less weight to the opinion of value contained in the appraisal report. Evaluation of property record cards and MLS sheets on the appraisal comparables disclosed that four of the seven closed sales were bank owned, sold at auction or in significantly inferior condition with

“no utilities to the building”. One of the listings was also disclosed as being in foreclosed status. In addition, the three year history of appraisals for the subject property which were performed by the same appraisal firm and had identical value conclusions further calls into question the due diligence of the appraisers with respect to their opinion of value.

The Board gave less weight to the board of review comparables #4 and #5 which have significantly smaller gross building area compared to the subject.

The Board finds the best evidence of market value to be the board of review comparable sales #1, #2, #3 and #6 which sold more proximate in time to the subject's January 1, 2018 assessment date and are similar to the subject in building size and land-to-building ratios. These board of review comparable sales sold from January 2016 to December 2018 for prices ranging from \$1,300,000 to \$2,291,667 or from \$35.23 to \$65.43 per square foot of gross building area, including land. The subject's assessment reflects a market value of \$1,367,279 or \$31.23 per square foot of living area, including land, which falls within the sale prices and below the per square foot price established by the best comparable sales in the record. After considering adjustments to the comparables for differences with the subject, the Board finds a preponderance of the evidence does not support a reduction in the subject's assessment.

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:

November 17, 2020



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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