



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

APPELLANT: Encon Enviromental Concepts, Inc.  
DOCKET NO.: 19-08133.001-I-1  
PARCEL NO.: 03-32-205-009

The parties of record before the Property Tax Appeal Board are Encon Enviromental Concepts, Inc., 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:** \$61,460  
**IMPR.:** \$176,670  
**TOTAL:** \$238,130

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 2019 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 industrial building of masonry exterior construction with 9,940 square feet of gross building area. The structure was built in 1966 and is approximately 53 years old. The building includes 840 square feet of office space or 8.45% of the building area, has an exterior height of 17 feet and features one loading dock. The subject property has a 24,300 square foot site resulting in a land-to-building ratio of 2.44:1. The property is located in Addison, Addison Township, DuPage County.

The parties appeared before the Property Tax Appeal Board on November 2, 2021 via video conferencing technology using the Webex virtual platform pursuant to prior written notice from the Property Tax Appeal Board. Upon inquiry at the commencement of the virtual hearing, neither party posed any objection to use of this virtual hearing format. Appearing virtually on behalf of the appellant was its attorney, Dennis M. Nolan, and appearing virtually on behalf of

the DuPage County Board of Review was Carl Petersen, board of review member, along with his witness appearing virtually, Frank A. Marack, Jr., Chief Deputy Assessor in Addison Township.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted what has been identified as Appellant's Group Exhibit #1, consisting of a spreadsheet with information on five comparable sales located in Addison and Bensenville. Included in the appellant's evidence were also copies of applicable CoStar data sheets and a brief prepared by appellant's counsel.

At the hearing, Attorney Nolan summarized the grid data set forth in Appellant's Group Exhibit #1 to the appellant's appeal. The comparable properties have sites ranging in size from 15,000 to 24,038 square feet of land area which have each been improved with a one-story industrial building of masonry exterior construction built between 1958 to 1968. The buildings range in size from 6,000 to 11,338 square feet of building area. The comparables have office space ranging in size from 450 to 1,136 square feet or from 6% to 14% of building area. The buildings' exterior heights were not reported on the CoStar data sheets. The properties present land-to-building ratios ranging from 1.86:1 to 3.33:1. The comparables reportedly sold from June 2016 to December 2017 for prices ranging from \$258,500 to \$525,000 or from \$43.08 to \$60.81 per square foot of building area, including land.

Upon questioning by the board of review representative, Nolan stated that the appellant's comparable properties were prepared by his law firm based upon CoStar reports and a review of assessment records. Nolan further explained that his law firm was not presenting testimony nor does his firm have any appraisal designations or qualifications. Nolan reiterated several times that, despite contrary language in the brief accompanying this appeal,<sup>1</sup> no adjustments were made to any of the comparable properties for differences, e.g., ceiling height and age, as the law firm is not an appraiser and does not set pricing for individual characteristics. The "adjustments" were merely meant to acknowledge differences between the comparable properties and the subject. He further asserted comparables were chosen that relate to the subject property in terms of land size, building size, land-to-building ratio, and similar salient characteristics. Nolan also acknowledged that three out of the six comparables are located outside of Addison.

The Administrative Law Judge (ALJ) made inquiry of Nolan as to the inconsistencies in the data contained in the CoStar reports, specifically regarding whether the properties were leased or owner occupied, single tenant versus multi-tenant occupancy, and lack of information in some reports regarding exterior building height. Nolan acknowledged some inconsistencies and missing data in the CoStar reports.

Based on the foregoing evidence and argument, the appellant contends that the subject should have a reduced estimated market value of \$596,400 or \$60.00 per square foot of building area, including land, using the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$238,130. The subject's assessment reflects a market value of

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<sup>1</sup> The appellant's brief filed herein and signed by Attorney Nolan stated, in pertinent part on page 2, Item #7, "After adjustments, a per square foot unit value of \$60.00/SF is established for the Subject Property (*Sic*). . . ."

\$721,825 or \$72.62 per square foot of building area, land included, when using the 2019 three-year average median level of assessment for DuPage County of 32.99% as determined by the Illinois Department of Revenue.

The board of review called Frank A. Marack, Jr., as its witness. Marack testified that he along with Aaron Crocker of Addison Township prepared the board of review's evidence and report. Marack has extensive experience in the assessment field in the Addison Township Assessor's Office. Besides including a copy of the subject's property record card and a photograph of the subject building, the report contains a summary of the subject's salient facts, information on five comparable sales of industrial properties along with a summary sheet for each comparable, photographs, PTAX-203 transfer declarations related to the sales, a summary grid analysis, and an adjustment grid.

As set forth in the report, each board of review comparable is located in Addison and has a parcel ranging in size from 20,078 to 32,058 square feet of land area. The lots have each been improved with a one-story masonry industrial building built between 1968 and 1979. The buildings range in size from 7,218 to 14,500 square feet of building area and feature from 7.65% to 15.74% of office space. The buildings present exterior heights ranging from 16 to 18 feet. The properties present land-to-building ratios ranging from 2.14:1 to 3.37:1. The comparables sold from June 2016 to April 2018 for prices ranging from \$450,00 to \$1,079,000 or from \$60.81 to \$82.43 per square foot of building area, including land.

The adjustment grid was prepared by Marack and depicted qualitative +/- and/or = adjustments applied to the five comparables for factors of location, time (date of sale), building size, land-to-building ratio, construction, age, condition, number of units, building height and/or percentage of office space. On the adjustment grid from this process, Marack set forth adjusted sales prices for the five comparables ranging from \$58.71 to \$76.73 per square foot of building area, including land. Marack believed that board of review comparable #3 was most similar to the subject in terms of building size, land to building ratio, age, exterior construction, and building height, and presented with a sale price of \$798,000 or \$76.73 per square foot of building area. Based on his analysis of the comparable properties, Marack chose \$75.00 as a price per square foot for the subject property, which calculates to a market value of \$745,000, land included, rounded. Marack noted that the subject's assessment reflects a market value lower than his estimate of value.

In the course of selecting comparable properties, Marack reiterated that three of the appellant's comparables are located outside of Addison, while all of the board of review comparables are in Addison. Furthermore, Marack noted that appellant's comparable #6 is the same property as board of review comparable #2. In further critique of the appellant's comparables, Marack indicated that appellant's comparable #2 was not an arm's-length transaction as it was not advertised for sale on the open market. Upon request from the Administrative Law Judge, Marack provided the Real Estate Transfer Declaration (PTAX-203) form associated with the sale of the appellant's comparable #2 which was marked as board of review Exhibit #2 and admitted into evidence to be given appropriate weight.

Under cross-examination, counsel for the appellant inquired why Marack did not place most weight on the parties' common comparable. Marack testified that board of review comparable

#3 was more equivalent to the subject and, therefore, he put most weight on that comparable. As to the percentage of office space for the subject and each of the board of review comparables, Marack testified that in the adjustment grid which he prepared, he deemed each of the five comparables to be equal (=) to the subject's 8.45% building as office space. Marack opined that typical office space for a 1966 building like the subject would be from approximately 5% to 15% of building area and, therefore, no adjustments for percentage of office space was needed to board of review comparable #3 in spite of its 15.46% office space. Similarly, even though board of review comparables #2, #4, and #5 each have percentage office space greater than the subject's they were each within the general range of typical office space for this type of building. He acknowledged that depending upon the individual user, the amount of office space could be a benefit, or it could be a detriment.

Upon further cross-examination, Marack testified that on the adjustment schedule, he made both qualitative and quantitative adjustments to the board of review comparables. He indicated that his quantitative percentage adjustments for each category are based upon paired analyses, his 40-years of experience, personal judgment and his intimate knowledge of Addison Township values that he reviews on a daily basis. When questioned about which properties were leased versus owner occupied, Marack testified that to the best of his knowledge, each board of review comparable was owner occupied at the time of the sale, however, he cannot say whether they remained that way after the sale. To rebut Marack's testimony, appellant's counsel produced a CoStar report associated with board of review comparable #2 which was marked as appellant's exhibit #2 and admitted into evidence to be given its appropriate weight over the board of review's objection. The said exhibit depicts that the board of review comparable #2 is 100% leased by a single tenant.

Additionally, under cross-examination, Marack acknowledged that two of his five comparable sales in the report present greater land-to-building ratios than the subject property. Marack testified that the land-to-building ratio could impact market value; however, Marack made no adjustments to these two comparables for land-to-building ratio. With respect to the number of overhead doors, Marack testified that it is the policy of the Addison Township not to value overhead doors. If a comparable has a greater or lower number of overhead doors, Marack stated that generally speaking he would make no adjustments to the comparable.

On re-direct, Marack reiterated that the percentage of office space and land-to-building ratio fell within the general acceptable range of the comparable properties given the subject's building size and, therefore, no adjustments to the comparables were needed for these characteristics.

The ALJ made inquiry of Marack as to the origin of the quantitative percentages and specific ranges that he applied to the comparables. Marack testified that the numerical percentages and ranges come from the "sales in the marketplace in my jurisdiction." Marack further acknowledged to the ALJ that he had no information as to whether or not the comparables were purchased as investment properties or continued to be owner-occupied.

Based upon the foregoing evidence and argument, the board of review requested an increase in the subject's assessment.

### **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 based on the evidentiary record herein that no change in the subject's assessment is warranted.

The parties submitted a total of ten comparable sales (including the parties' common comparable) with varying degrees of similarity to the subject in order to support their respective positions before the Property Tax Appeal Board. The Board appreciates the fact that Marack made qualitative and quantitative adjustments to the comparables he selected to account for differences between the properties. However, these adjustments are subjective in nature as Marack testified that the percentage adjustments applied to each category was based on his personal judgment, experience, and familiarity of market values in Addison Township in addition to paired analyses of unspecified properties that is not in the record. Therefore, the Board finds it difficult to place reliance on the adjustment calculations.

Moreover, in the course of the hearing, questions were raised as to whether the comparables were leased at the time of sale. The documentary evidence of either CoStar sheets or PTAX-203A filings which the respective parties have relied upon clearly display that five of the ten sales presented by the parties were 100% leased. Nevertheless, without knowing the terms of the leases, the Property Tax Appeal Board is not able to draw a conclusion as to how the leases may have impacted the purchase prices.

The Board has given reduced weight to appellant's comparable sales #1, #4, #6/board of review comparable #2, and board of review comparable #3 due to their sales in 2016, dates less proximate in time and thus less likely to reflect subject's market value as of the January 1, 2019 assessment date at issue than the remaining comparables in the record. Furthermore, appellant's comparables #2, #3, and #5 were given less weight due to their locations in Bensenville when other comparable sales similar to the subject were available in Addison. Additionally, appellant's comparable sale #2 does not appear to be an arm's-length transaction as it was not advertised for sale on the open market as depicted in the PTAX-203 form associated with that sale. (See board of review Exhibit #2). The Board has also given reduced weight to board of review sale #5 based on its significantly larger building size and larger percentage of office space relative to the subject.

The Board finds the best evidence of market value in the record to be board of review comparable sales #1 and #4 as these two comparables are most similar to the subject in terms of exterior building height, building size, percentage of office space and/or land-to-building ratio. These two most similar comparables sold in November 2017 and April 2018 for prices of \$595,000 and \$930,000 or for \$82.43 and \$80.51 per square foot of building area, including land, respectively. The subject's assessment reflects a market value of \$721,825 or \$72.62 per square foot of building area, including land, which is bracketed by the two best comparables in this record in terms of overall value and is below the two best comparables on a per square foot basis. Based on the best evidence in the record, the Board finds the appellant did not demonstrate by a

preponderance of the evidence that the subject property is overvalued and, therefore, no change in the subject's assessment is 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 21, 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

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