



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

APPELLANT: Walter Naziemiec  
DOCKET NO.: 19-08179.001-I-1  
PARCEL NO.: 03-33-301-013

The parties of record before the Property Tax Appeal Board are Walter Naziemiec, 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:** \$56,920  
**IMPR.:** \$101,010  
**TOTAL:** \$157,930

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 6,068 square feet of gross building area that was built in 1970. The building contains 786 square feet of office space or 12.95% of the building area and has an exterior height of 15 feet. The subject property has a 22,500 square foot site resulting in a land-to-building ratio of 3.71:1. The property is located in Addison, Addison Township, DuPage County.

Pursuant to prior written notice dated September 9, 2021 and with the consent of all of the parties stated in the record, the parties appeared virtually before the Property Tax Appeal Board on November 12, 2021 via video conference using the WebEx virtual platform. Attorney Dennis M. Nolan appeared on behalf of the appellant, and Carl Petersen, board of review member, appeared on behalf of the DuPage County Board of Review, along with his witness, 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 a spreadsheet with information on six comparable sales of properties all located in Addison Township, in the cities of Addison or Bensenville, along with copies of CoStar data sheets for each of the six sales.

At the hearing, Attorney Nolan summarized the grid data set forth in the appellant's appeal. The comparable properties have sites ranging in size from 15,000 to 24,038 square feet of land area, each of which is improved with a one-story industrial building of brick exterior construction that range in size from 6,000 to 11,338 square feet of building area. The properties have land-to-building ratios ranging from 1.86:1 to 3.33:1. The buildings were constructed between 1958 and 1968 and have from 600 to 1,253 square feet of office space or from 6% to 14% of the building area. 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 Carl Peterson, the board of review representative, Nolan stated that the appellant's comparable properties were chosen by his law firm and that the sale data on the CoStar reports was reviewed against the township assessment records and amended or corrected as shown in the handwritten notes found on some of the CoStar reports submitted into evidence. Nolan further explained that his law firm was not presenting testimony and that neither he nor his firm have any appraisal designations or qualifications. When questioned about the statement found in the appellant's brief on page 2, Item #7, that "[a]fter adjustments, a per square foot unit value of \$45.32/SF is established for the subject property..." Nolan replied that, despite language to the contrary in the brief accompanying this appeal, no adjustments were made to any of the comparable properties; the "adjustments" referred to in that statement were merely meant to refer the selection of the comparable properties. He further asserted that comparables were chosen for their similarity to the subject property in factors such as location, building size, age, building height, square footage and similar salient characteristics.

Mr. Peterson next went through each of the appellant's six comparables, asking if they were leased at the time of sale. Nolan stated that according to the Co-Star reports for each sale, comparables #1, #2, #3, and #4 were each identified as single-tenant, 100% leased at the time of sale, and comparable #5 was identified as owner-occupied, 100% leased at the time of sale. Peterson directed Nolan's attention to the CoStar report for appellant's comparable #5 on which no buyer or seller is shown. Nolan stated that he had not verified that sale. When questioned about the lease status of appellant's comparable #6, Nolan pointed out that appellant's comparable #6 is the same property as board of review comparable #3. Nolan asserted that having an income-stream at the time of sale typically results in a higher price per square foot.

Based on the foregoing evidence and argument, the appellant contends that the subject should have a reduced estimated market value of approximately \$275,000 or \$45.32 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 \$157,930. The subject's assessment reflects a market value of \$478,721 or \$78.89 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 prepared the board of review's evidence for the subject property. Marack has been employed by the Addison Township Assessor's Office since 1979 and has extensive experience in the assessment field. Besides including a copy of the subject's property record card and a photograph of the subject building, the report contains information on seven comparable sales of industrial properties along with a summary sheet for each comparable, photographs, PTAX-203 transfer declarations related to the sales, and a market adjustment grid.

As set forth in the report, the board of review comparable sales are all located in Addison Township, in the cities of Addison, Bensenville, or Elk Grove Village, and are situated on sites ranging in size from 7,500 to 29,626 square feet of land area. The lots have each been improved with masonry industrial buildings built between 1960 and 1989, six of which are one-story structures and one of which is a part-one story and part two-story structure. The buildings range in size from 4,219 to 9,166 square feet of building area and contain from 5.55% to 21.43% of office space. The properties have land-to-building ratios ranging from 1.78:1 to 3.37:1 and have exterior heights ranging from 12 to 18 feet. The comparables sold from July 2016 to June 2019 for prices ranging from \$300,000 to \$950,000 or from \$58.28 to \$103.64 per square foot of building area, including land.

In the course of selecting comparable properties, Marack testified that he rarely finds a property that is identical to the subject in every respect. As such, he noted you have to make adjustments to the comparables for the differences. Marack prepared an adjustment grid in which he applied qualitative +, - and = adjustments to the seven comparables for factors of time (date of sale), building size, land-to-building ratio, age, number of units, building height, and/or percentage of office space. From this process, Marack set forth adjusted sales prices for the seven comparables ranging from \$60.81 to \$103.64 per square foot of building area, including land.

In estimating the subject's market value, Marack testified that he chose the middle of the range of adjusted sales prices to conclude that the subject's market value should be \$485,000 or \$80.00 per square foot of building area, including land, and requested confirmation of the subject's assessment.

Under cross-examination, counsel for the appellant directed Marack's attention to the board of review comparable grid which is entitled "Market Comp Grid." Nolan asked Marack if the grid was supposed to set forth the market approach to value. Marack testified that he was not an appraiser and the grid was not meant to be an appraisal but only a representation of his opinion or interpretation of the comparable properties looking at such factors as the size, age, height, office space, and land to building ratio compared to that of the subject property.

Nolan next pursued a line of questioning related to whether the board of review comparables were leased or owner-occupied at the time of sale. As a general proposition, Marack agreed that it makes a difference whether a property is owner-occupied or leased when it is offered for sale; the difference being whether the property is immediately available for occupancy after the sale as opposed to a leased property already having an income stream which may be attractive to a

buyer. Nolan questioned Marack as to whether each of the seven board of review comparables were leased or owner-occupied at the time of sale. Nolan asked Marack whether board of review comparable #3, which comparable was submitted by both parties, was leased at the time of sale. Marack testified that comparable #3 was not leased at the time of sale. Nolan showed Marack the CoStar report submitted as part of appellant's evidence which indicates that the property was leased at the time of sale. Nolan presented Marack with the CoStar reports filed in rebuttal for board of review comparables #4, #5 and #7. Marack acknowledged that the CoStar reports state that the comparables were all leased or partially leased at the time of sale. Nolan next queried Marack about the building sizes of each of the board of review comparables. Marack acknowledged that all but one of the comparables are larger than the subject.

Nolan asked Marack to differentiate between the terms "exterior building height" and "clear ceiling height." Marack testified that exterior building height is a measurement from the ground to the top of the roof. Clear ceiling height is a measurement of the interior from the floor to the trusses. Marack testified that comparables #2, #3, #5, #6 and #7 all have greater heights when compared to the subject but only from one foot to three feet higher than the subject. Upon further inquiry, Marack testified that did not consider clear ceiling height in the selection of his comparables, nor does he consider clear ceiling height in the assessment of a property, as the assessor does not have access to the interiors of the buildings. The assessor's office relies on the exterior building height.

On the adjustment schedule, Marack presented no specific quantitative data and/or explanation to support the respective qualitative +, - and = adjustments in his report. He testified the adjustments are based upon his experience, personal judgment, and his intimate knowledge of Addison Township values which he reviews on a daily basis. Marack agreed with Nolan that, both before and after Marack's adjustments, board of review comparables #3, #5 and #6 all support a reduction in the subject's assessment, even though comparable #5 received an upward adjustment.

On redirect examination by Mr. Peterson, Marack testified that he would not consider CoStar reports reliable without verification. He stated that he had mislabeled "ceiling height" on his market comp grid; it should have said "building height" as stated on his adjustment grid. He further testified that board of review comparables #1, #2, #4 and #7 all have a higher price per square foot value than the subject and support the subject's assessment.

Based upon the foregoing evidence and argument, the board of review requested confirmation of 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 contained herein that no change in the subject's assessment is warranted.

The parties submitted a total of twelve comparable sales with varying degrees of similarity to the subject in order to support their respective positions before the Property Tax Appeal Board, as appellant's comparable #6 was the same property as board of review comparable #3. The Board recognizes that Marack made qualitative adjustments to the comparables he selected to account for differences between the properties.

In the course of the hearing various disputes were raised and contested as to whether the comparables were leased at the time of sale. The parties submitted documentary evidence of either CoStar sheets or PTAX-203A filings which they relied upon in determining that several of the twelve sales presented by the parties were leased at the time of sale. However, without knowing the terms of the leases, the Property Tax Appeal Board is not able to draw a conclusion as to how, if at all, the leases may have impacted the purchase prices.

The Board has given reduced weight to appellant's sales #1, #3 and #4, along with board of review sales #1, #5, #6 and #7, which differ from the subject in building size, site size, land to building ratio, style, percentage of office space, and/or age.

Thus, the Board finds the best evidence of market value in the record to be appellant's comparable sales #2, #5 and #6, along with board of review comparable sales #2, #3 and #4, which includes the parties' one common comparable. These five most similar comparables bear varying degrees of similarity to the subject in age, exterior building height, building size, site size, percentage of office space, and/or land-to-building ratio. These comparables sold between December 2016 and April 2018 for prices ranging from \$265,000 to \$605,000 or from \$44.17 to \$82.43 per square foot of building area, including land. Removing the low and high comparables on a per-square-foot basis results in a range of from \$52.99 to \$79.32 per square foot of building area, including land. The subject's assessment reflects a market value of \$478,721 or \$78.89 per square foot of building area, including land, which is within the range established by the best comparable sales in this record on both an overall and price per square foot basis and appears to be justified when considering appropriate adjustments for differences in age, building height and/or building size. Based on this evidence, the Board finds 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:

February 15, 2022



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

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