



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

APPELLANT: Donna Fantozzi  
DOCKET NO.: 20-42537.001-R-1  
PARCEL NO.: 14-32-400-003-0000

The parties of record before the Property Tax Appeal Board are Donna Fantozzi, the appellant(s), by attorney Jerrold H. Mayster, of Mayster & Chaimson, 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:

**LAND:** \$27,500  
**IMPR.:** \$50,037  
**TOTAL:** \$77,537

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 2020 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 an approximately 122-year-old, three-story, mixed-use building of masonry construction with 4,350 square feet of building area. The building functions as a first-floor commercial establishment, a second-floor apartment, and a third-floor apartment. Features of the building include an unfinished partial basement and central air conditioning. The property has a 2,500 square foot site and is located in Chicago, North Chicago Township, Cook County. The subject is classified as a class 2-12 property under the Cook County Real Property Assessment Classification Ordinance.

The basis of the appellant's residential appeal is that of contention of law. Prior to the hearing the appellant's attorney submitted the following: a legal brief, a Google Earth printout of the building, unsigned Schedule E Forms from 2018, 2019, and 2020, a printout labeled "1147 W Armitage" that included calculations, and a handwritten chart that purported to show expenses

and rental income from “Jan thru Oct – 10 months.” In their brief, the appellant’s counsel argued that the subject property is an “income producing property” and then provided his own analysis for determining fair market value.

The legal brief cites Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970) as the legal authority behind the contention of law. The brief cites Marine Bank as holding that “earning capacity is properly regarded as the most significant element in arriving at ‘fair cash value’.” The brief then lists “actual gross rental income” and “actual expenses” for 2018, 2019, and 2020. The brief indicates that there was “no physical vacancy” but the subject experienced “economic vacancy” with some tenants not paying all of their rent. The attorney then made the following calculations: 2020 Gross Potential Income (\$90,600) minus 10% Vacancy and Collection Loss (\$9,060) to equal Effective Gross Income (\$81,540). The attorney then subtracted Expenses stabilized at 30% (\$24,462) to equal Net Operating Income (\$57,078). The attorney then calculated an overall capitalization rate. The attorney took an “Equalizer” of 2.9160 multiplied it by a “Tax Rate” of 6.890 and multiplied that by a “Level” of 10% to get a “Tax Load” of 2.01%. The attorney then added a “Capitalization Rate” of 10.00% to get an “Overall Capitalization Rate) of 12.01%. The attorney then divided the Net Operating Income (\$57,078) by the “Overall Capitalization Rate” of 12.01% to get a “Fair Market Value” of \$475,254. The attorney then multiplied the “Fair Market Value” (\$475,254) by the “Assessment Level” (10%) to reach an “Assessed Value” of \$47,521. Based on this the appellant argues that the subject’s assessment should be lowered to \$47,521.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$77,537. The subject's assessment reflects a market value of \$775,370 or \$178.25 per square foot of living area, including land, when applying 10% level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on four suggested comparables, two of which had sales data. Based on this evidence, the board of review requested that the assessment be confirmed.

This matter proceeded hearing on February 20, 2024, via the WebEx platform. Present at the hearing were Jerrold Mayster, attorney for the appellant, and Shaina Howell, representative for the Cook County board of review. Prior to beginning the hearing, both parties indicated that they would not be calling any witnesses to testify, and the hearing would proceed based only on the legal arguments of the parties. Mr. Mayster provided his argument first by describing the subject property and the basis of the appeal. Mr. Mayster cited Springfield Marine and then went over the arguments and his income analysis that were presented in his legal brief. Mr. Mayster further argued that the board of review did not object to the appellant’s evidence in their notes on appeal so therefore the appellant’s evidence is uncontroverted. Ms. Howell then presented argument for the board of review. The board of review argued that the income analysis was not appropriate because the subject property was classified as residential in nature.

### **Conclusion of Law**

The appellant selected “contention of law” as the basis for the appeal. The appellant’s brief argued that the subject property’s assessment should be lowered to reflect a market value

determined by the attorney's income analysis. The burden of proof for contention of law is governed by the following statute. "Standard of proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence." 5 ILCS 100/10-15.

The Board finds the appellant's argument unconvincing and not supported by credible market evidence in the record. The appellant's attorney prepared an income analysis utilizing the subject's actual income, unrealized income,<sup>1</sup> and actual expenses. In their legal brief, the appellant cites Springfield Marine as holding that "earning capacity is properly regarded as the most significant element in arriving at 'fair cash value.'" However, Springfield Marine does not stand for the proposition that this type income analysis is definitive proof of market value.

It is important to provide further context to Springfield Marine beginning first with a fuller quotation from the case:

[I]t is clearly 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.

Id at 430.

Springfield Marine involved a taxpayer whose predecessor in title subjected the property to a long-term lease that was unfavorable to the current owner. An appraiser for the petitioner testified that the market value of the subject property was lower than the assessed value due to unfavorable leases, arguing that actual income was more determinative than income capacity. The Illinois Supreme Court rejected this, as shown in the preceding paragraph. Springfield Marine does not stand for the proposition that an income analysis of a property is determinative of market value.

In their case, the appellant provided their actual income through unsigned Schedule E forms, a page of handwritten notes, and the attorney's brief. The brief also argued that some tenants did not pay their full rent due to the COVID-19 pandemic. The appellant then provided a figure they refer to as "Gross Potential Income" which would have been the appellant's actual income had the tenants each paid the full amount of their rents for the year. The appellant conflates what they refer to as "Gross Potential Income" with the subject property's "capacity for earning income" as the term is used in Springfield Marine. The appellant's actual income added to the unpaid portions of the rents does not necessarily equal "income capacity." Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning

---

<sup>1</sup> The Board here is using the term "unrealized income" as the amount of money the appellant would have received through rent payments had their tenants paid the full amount.

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 at 431. The appellant attempted to demonstrate through their attorney's analysis that the subject's actual income and unrealized income minus expenses are reflective of the market value, but they presented no market data in support of this contention.

While a subject property's actual income, or in this case actual income plus unrealized income, can be a factor in determining market value, it is insufficient evidence standing alone to show market value. The Board also finds it problematic that the appellant's income analysis was done by the appellant's attorney rather than an expert in the real estate valuation such as an appraiser. When an attorney/advocate provides the evidence and creates the analysis, that attorney begins to approach the line of becoming a witness themselves, which should be avoided. Section 1910.70(f).

Furthermore, Illinois courts have held that an appraisal is insufficient as a matter of law to establish the fair market value of a property if it relies solely on an income approach unless a sales comparison approach would not produce a reliable estimate for a reason such as the uniqueness of the property. Bd. of Educ. Of Meridian Cmty. School Dist. No. 223 v. Property Tax Appeal Bd., 2011 IL App (2d) 100068, ¶¶ 41-46; Cook County Bd. of Review v. Property Tax Appeal Bd., 384 Ill. App. 3d 472, 484-88 (1<sup>st</sup> Dist. 2004). Under these holdings, the income analysis performed by appellant's attorney is insufficient as a matter of law to establish the subject's market value where there is no evidence or argument that a sales comparison approach would not produce a reliable estimate of the subject's market value. For these above reasons, appellant has not shown entitlement to a reduction by a preponderance of the evidence.

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 19, 2024



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

Donna Fantozzi, by attorney:  
Jerrold H. Mayster  
Mayster & Chaimson, Ltd  
10 South LaSalle Street  
Suite 1150  
Chicago, IL 60603

COUNTY

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