



State of Illinois

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

DECIDED BY THE BOARD

During Calendar Year 2016

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Chairman

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PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
Printed by Authority of the State of Illinois

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State of Illinois
PROPERTY TAX APPEAL BOARD

Wm. G. Stratton Office Bldg.
401 South Spring St., Rm. 402
Springfield, Illinois 62706
(T) 217.782.6076
(F) 217.785.4425
(TTY) 217.785.4427

MAURO GLORIOSO
Chairman

LOUIS G. APOSTOL
Executive Director & General Counsel

Suburban North Regional Office
9511 W. Harrison St., Suite LL-54
Des Plaines, Illinois 60016
(T) 847.294.4121
(F) 847.294.4799

2016 FOREWORD

In the following pages, representative decisions of the Property Tax Appeal Board are reported. An index is also included. The index is organized by subject matter, and is presented in alphabetical sequence. Section 16-190(a) of the Property Tax Code (35 ILCS 200/16-190(a)) requires the Board to publish a volume of representative cases decided by the Board during that year.

Should the reader wish to become more completely informed about an appeal than is permitted by a reading of this volume, he or she need only access the Property Tax Appeal Board's website at www.ptab.illinois.gov and click on the link that says "Appeal Status Inquiry." Access to Board records is addressed in Section 1910.75 of the Official Rules of the Property Tax Appeal Board. Additional Property Tax Appeal Board decisions may also be accessed via the "Appeal Status Inquiry" link.

The reader should note that a docket number is created as follows: the first two digits indicate the assessment year at issue; the digits following the first hyphen identify the particular case; the letter following the second hyphen indicates the kind of property appealed ("R" for residential, "F" for farm property, "C" for commercial property, and "I" for industrial property), and the number which follows the final hyphen indicates the amount of assessed valuation at issue ("1" indicates less than \$100,000 in assessed valuation is at issue, "2" indicates between \$100,000 and \$300,000 is at issue, and "3" indicates \$300,000 or more is at issue). Thus, a docket number might appear as: 03-01234.001-I-3.

The reader should also note that Property Tax Appeal Board appeals are docketed according to the particular appeal form filed by the appellant rather than on the basis of the kind of property that is the subject matter of the appeal. Thus, a property that is actually an income producing or commercial facility might have a letter in the docket number that is inconsistent with the actual property type in the appeal.

The Property Tax Appeal Board anticipates this volume of the 2016 Synopsis will continue to aid in the understanding of the issues confronted by the Board, and the kinds of evidence and documentation that meet with success.

BOARD MEMBERS

Kevin L. Freeman
Chicago

Jim Bilotta (Acting)
Lockport

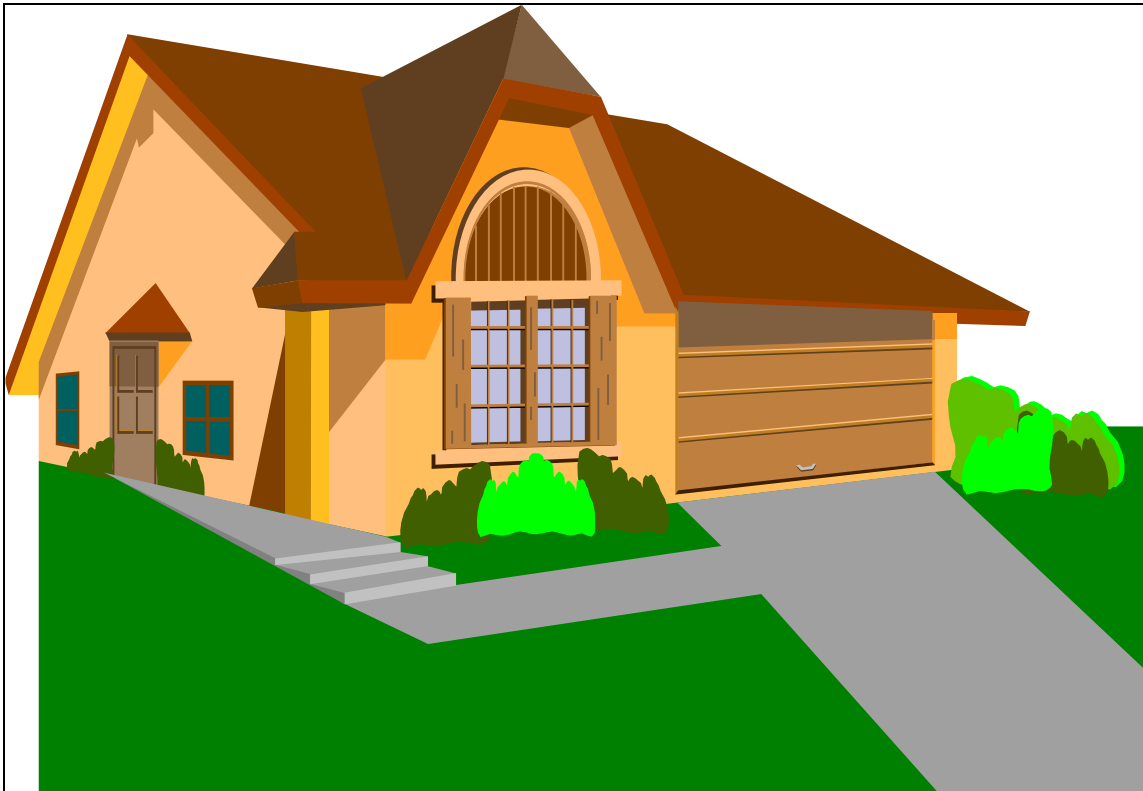
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South Barrington

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Springfield

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2016 RESIDENTIAL DECISIONS



PROPERTY TAX APPEAL BOARD
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2016 SYNOPSIS – RESIDENTIAL CHAPTER

2016 RESIDENTIAL CHAPTER

Table of Contents

<u>APPELLANT</u>	<u>DOCKET NUMBER</u>	<u>RESULT</u>	<u>PAGE NO.</u>
6819-35 North Seeley Ave. Condo Assoc	10-20740.001-R-3 thru 10-20740.037-R-3	Reduction	R-3 to R-4
Ahmed, Khaleel	13-03831.001-R-1	Reduction	R-5 to R-6
Al Asfar, Lama & F Aldo	13-20688.001-R-1	Reduction	R-7 to R-9
Baranowska, Teresa	12-26502.001-R-1	Reduction	R-10 to R-11
Barrett Homes LLC	13-23268.001-R-1	No Change	R-12 to R-13
Bautista, Martha	13-01760.001-R-1	No Change	R-14 to R-15
Bos, Daniel	13-00605.001-R-1	No Change	R-16 to R-17
Colakovic, Rada	13-00647.001-R-1	Reduction	R-18 to R-19
Conti, Mark & Alma	13-03143.001-R-1	Reduction	R-20 to R-22
Forest Trails	11-24902.001-R-3 thru 11-24902.226-R-3	No Change	R-23 to R-27
Gerth, Maggie	13-04077.001-R-1	No Change	R-28 to R-29
Graham, Leslie	11-22880.001-R-1	Reduction	R-30 to R-31
Hotza, Alex	10-35800.001-R-1	Reduction	R-32 to R-33
JMG Realty Group, LLC	11-30880.001-R-1	No Change	R-34 to R-35
Jones, Russell & Susan	13-00614.001-R-1	Reduction	R-36 to R-37
Mazade, Glen & Gloria	10-03099.001-R-1	No Change	R-38 to R-43
McDonnell, Steven	13-03807.001-R-1	No Change	R-44 to R-45

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Meza, Nayeli	13-04987.001-R-1	Reduction	R-46 to R-47
Richards, Edward	12-34250.001-R-1	Reduction	R-48 to R-51
Roiniotis, Konstantinos	14-00843.001-R-1	Reduction	R-52 to R-53
Spears, Joe & Lisa	13-02390.001-R-1	Reduction	R-54 to R-56
Sveiteriene, Janina	13-31829.001-R-1	No Change	R-57 to R-60
Usiskin, Dorothy	12-26202.001-R-1	No Change	R-61 to R-62
Zucker, Michael (Receiver)	12-31011.001-R-2 thru 12-31011.026-R-2	No Change	R-63 to R-64
INDEX			R-65 to R-66

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>6819-35 North Seeley Avenue Condo Assoc</u>
DOCKET NUMBER:	<u>10-20740.001-R-3 thru 10-20740.037-R-3</u>
DATE DECIDED:	<u>July, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject property consists of 36 units in a 38-unit condominium building, or 94.503% ownership of the condominium. The building is 51 years old and is situated on a 31,179 square foot parcel located in Rogers Park Township, Cook County. It is classified as class 2-99 property under the Cook County Real Property Classification Ordinance.

The appellant, via counsel, submitted evidence before the Board arguing overvaluation based on the sale of 11 of the building's 38 units. In support of this claim, the appellant included: printouts from the assessor's website; printouts from the Cook County Recorder of Deeds website, and a list of each PIN with its unit number and sale information. The evidence disclosed that the aggregate purchase price for the units sold was \$330,500. The sales occurred in 2009 and 2010 for prices ranging from \$22,000 to \$43,500. Based on this evidence, the appellant requested a reduction in the subject's total assessment which reflects a 10% level of assessment and a 94.503% factor for participating units.

The board of review submitted its "Board of Review-Notes on Appeal" disclosing the subject's total assessment of \$582,302 for the 38 units. The assessment reflects a total market value of \$5,823,020 for the building when applying the assessment level of 10% as established by the Cook County Real Property Classification Ordinance. The board of review also submitted a memorandum from William E. Cahill, Cook County Assessor Analyst. The board's analysis relied on several identical sales in the subject's building as the appellant's analysis, plus additional sales from 2007, 2008 and 2011. Based on the evidence presented, 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 the appellant did meet this burden of proof and a reduction in the subject's assessment is warranted.

The Board was provided with several identical sales from both parties, plus sales submitted by the board of review from 2007 and 2008. The Board gives no weight to the board of review's sales from 2007, as they are not indicative of the subject's market value as of January 1, 2010. Additionally, the 2008 sale was re-sold in 2011. All relevant sales occurred in 2009, 2010 and 2011 and were for units located in the subject building.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Based on evidence submitted, the Board finds that the subject property had a market value of \$1,151,553 for the 2010 assessment year. Since the market value has been determined, the assessment level of 10% as established by the Cook County Real Property Classification Ordinance shall apply. This yields an assessed value for the condominium building of \$115,155 as a whole. As the current assessed value is above this amount, this Board finds a reduction is warranted based on the sales evidence contained in the record.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Khaleel Ahmed</u>
DOCKET NUMBER:	<u>13-03831.001-R-1</u>
DATE DECIDED:	<u>May, 2016</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>Reduction</u>

The subject property consists of a split-level dwelling of frame and brick construction with 1,200 square feet of living area. The dwelling was constructed in 1959. Features of the home include a lower level, central air conditioning and a detached two-car garage. The property has a 6,669 square foot site and is located in Addison, Addison Township, DuPage County.

The appellant's appeal is based on overvaluation. In support of this assertion, the appellant completed Section IV – Recent Sale Data of the appeal petition reporting the subject property was purchased on December 30, 2011 for a price of \$80,000. The appellant reported the seller was Citi Bank, the parties to the transaction were not related, the property was sold by a Realtor and the property was advertised on the market through the Multiple Listing Service for 173 days. In further support of the transaction the appellant submitted a copy of the Settlement Statement which reiterated the purchase price and date while also depicting the payment of brokers' fees as part of the transaction. The appellant also submitted a copy of the Multiple Listing Service data sheet depicting that the property was sold as an REO/Lender Owned, Pre-Foreclosure for cash "as-is." Also submitted was a copy of the Listing & Property History Report reflecting the original asking price in July 2011 of \$122,000 with four subsequent price reductions for a final asking price of \$88,200 commencing December 5, 2011 prior to the sale transaction.

Based on this evidence, the appellant requested an assessment reflective of the purchase price at 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 \$54,020. The subject's assessment reflects a market value of \$162,125 or \$135.10 per square foot of living area, land included, when using the 2013 three year average median level of assessment for DuPage County of 33.32% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a letter from the Addison Township Assessor's Office. The township assessor reported a policy that to consider a recent purchase price of a property the owner/representative is required to submit a fully executed HUD-1 which clearly identifies any unusual transactions in the purchase. Having contacted former counsel for the appellant on several occasions to obtain the documents, the assessor reported that the HUD-1 which was submitted was not fully executed and the signature page was also missing. The assessor opined "this should not be considered evidence without signatures." The assessor concluded that "based on the lack of evidence submitted, we feel the subject is assessed both uniformly [*sic*] and fairly. . . ." No property record card for the subject property nor any comparable sales evidence was presented by the board of review to support the subject's estimated market value as reflected by the assessment.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

The board of review requested confirmation of the subject's assessment based on the foregoing policy argument.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best and only evidence of market value in the record is the purchase of the subject property in December, 2011 for a price of \$80,000. The appellant provided evidence demonstrating the sale had the elements of an arm's length transaction. The appellant completed Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open market with the Multiple Listing Service and it had been on the market for 173 days. In further support of the transaction the appellant submitted a copy of the Settlement Statement. The Board finds the purchase price of \$80,000 is below the market value reflected by the assessment of \$162,125. The Board finds the board of review did not present any substantive evidence to challenge the arm's length nature of the transaction or to refute the contention that the purchase price was reflective of market value. The township assessor merely relied upon an internal policy that a recent sale price would not be considered without certain documentation which was not provided in the township assessor's opinion. The documentary requirements before the Property Tax Appeal Board are set forth in the Board's procedural rules (see 86 Ill.Admin.Code §1910.65). Based on this record and in the absence of any contradictory market value evidence, the Property Tax Appeal Board finds the subject property had a market value of \$80,000 as of January 1, 2013. Thus, a reduction in the subject's assessment commensurate with the appellant's request is warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Lama Al Asfar & F Aldo</u>
DOCKET NUMBER:	<u>13-20688.001-R-1</u>
DATE DECIDED:	<u>December, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject consists of a one-story dwelling of masonry construction with 1,235 square feet of living area. The dwelling is 60 years old. Features of the home include a crawl space foundation, central air conditioning, a fireplace, and a two-car garage. The property has a 21,990 square foot site, and is located in Palos Hills, Palos Township, Cook County. The subject is classified as a class 2-03 property under the Cook County Real Property Assessment Classification Ordinance.

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on December 13, 2012 for a price of \$100,000. The printout from the MLS submitted by the appellants state that the sale of the subject was an estate sale. Based on this evidence, the appellants requested a reduction in the subject's assessment to 10.00% of the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$16,186. The subject's assessment reflects a market value of \$161,860, or \$131.06 per square foot of living area, including land, when applying the 2013 statutory level of assessment for class 2 property of 10.00% 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 equity comparables, and four sale comparables. The board of review's evidence also states that the subject was purchased in December 2012 for \$100,000. The board of review also submitted a supplemental brief arguing that the sale of the subject was not reflective of the subject's fair cash value because it was an estate sale. The board of review cites Matter of Estate of Pirie, 141 Ill.App.3d 750 (2d Dist. 1986), for the proposition that "it is the executors' duty to close out an estate as quickly as possible." The board of review also cites In re Busby's Estate, 288 Ill.App. 500 (1st Dist. 1937), for the proposition that "[t]he duty of the executor is to wind up the estate rather than to increase its value." Based on these cases, the board of review argues that the seller(s)/executor(s) of the subject were under duress to sell the property because it was an estate sale, and that the sale was not at fair cash value. In support of this argument, the board of review submitted the printout from the MLS that was previously submitted by the appellant.

In rebuttal, the appellants argued that the board of review's argument regarding the nature of the sale of the subject was not supported by any evidence. The appellants also argued that the board of review's comparables were not similar to the subject for various reasons. The appellants also reaffirmed the evidence previously submitted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Conclusion of Law

The appellants contend 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board gives no weight to the board of review's argument that the sale of the subject in December 2012 was not at the subject's fair cash value simply because it was an estate sale. The Board finds that the board of review's reliance on Busby is misplaced. That case involved the death of an attorney who held securities valued at a considerable amount at the time of his unexpected passing. Busby, 288 Ill.App. at 502-03. The decedent died on September 9, 1930, which was a little less than a year after September 29, 1929, also known as "Black Tuesday" and what is commonly accepted as the start of the Great Depression. Id. at 502. Due to various delays, the executor of Mr. Busby's estate, which was a bank, was not able to sell the securities it wanted to liquidate. Id. at 503-15. When the securities were finally placed on the market, the executor placed them at an offering price above the prevailing market rate, which further delayed their sale. Id. at 515. By the time the securities were sold, they had lost considerable value due to the dire economic circumstances engulfing the nation at the time, and the loss in value rendered the estate insolvent. Id. at 516-17. The estate's residual beneficiaries filed suit against the executor on negligence grounds. Id. at 504. In its analysis, the Court began by addressing the unprecedented and volatile market conditions at the time. Indeed, the Court stated that "No case has been cited and we have been unable to find one, in this or any other jurisdiction, where the duty and responsibility of an executor has been determined **under such extreme and unusual circumstances** as are here involved." Id. at 521-22 (emphasis added). Therefore, the Court concluded that "[a]s has been heretofore stated, each case of this character must be decided on its own particular and distinctive facts." Id. at 522. In looking to the unique facts of the case, the Court found that:

No authority has been cited, and we venture to say none exists, which sanctions the operation of an estate incumbered as this one was by a fiduciary, corporate or otherwise, as though it were one large margin account, placing orders to sell the securities at prices above the market when it was declining and changing those prices to lower ones as the market went down.

Id. at 524. It is only under these circumstances that the Court found that "[The executor] was under no obligation to increase the assets of the estate but was bound only in the exercise of reasonable care and prudence to liquidate the securities within a reasonable time in view of their condition." Id. at 529. Additionally, "[t]he conclusion is inescapable that it was the imperative duty of the executor to liquidate the securities in this estate as promptly as the circumstances permitted." Id. at 531.

Busby is wholly different from the instant appeal, and is mischaracterized by the board of review in its brief. The board of review states that "[t]he duty of the executor is to wind up the estate rather than to increase its value." That is not what the Busby Court said. Instead, the Busby

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Court stated that under the critical financial environment that the nation was in, it was the executor's duty to wind up the estate in order to prevent the estate from losing value, which seemed reasonably certain to the economic advisors that testified at the Busby trial. In essence, the board of review ignores the Great Depression, and seeks to have the Board impose a uniform rule based on a case that was decided in its shadow. The Board declines to do so. Moreover, there is no evidence in the record to suggest that the sale of the subject needed to commence immediately to prevent a substantial decrease in its market value, as was the case in Busby.

The board of review's reliance on Pirie is also misplaced. The board of review states that this case stands for the proposition that "it is the executors' duty to close out an estate as quickly as possible." However, the Pirie Court only mentions this view in passing, and only when distinguishing between the sometimes competing duties of a trustee and an executor. Pirie at 764. Moreover, the Pirie Court found that "the actions of the executor[] in...Busby...were so unreasonable in light of the facts in [that case], the appellate court found liability." Pirie at 762. Thus, nearly half a century after the Busby decision, the Court still found that Busby's executor's actions were unreasonable in light of the economic circumstances. For these reasons, the Board finds the board of review's argument regarding the nature of the sale of the subject as an estate sale to be without merit.

The Board finds the best evidence of market value to be the purchase of the subject property in December 2012 for a price of \$100,000. In support of the transaction, the appellant submitted the printout from the MLS and the settlement statement. The Board finds the purchase price is below the market value reflected by the assessment. Based on this record the Board finds the subject property had a market value of \$100,000 as of January 1, 2013. Since market value has been determined the 2013 statutory level of assessment for class 2 property of 10.00% under the Cook County Real Property Assessment Classification Ordinance shall apply. 86 Ill.Admin.Code §1910.50(c)(2).

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Teresa Baranowska</u>
DOCKET NUMBER:	<u>12-26502.001-R-1</u>
DATE DECIDED:	<u>April, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject consists of a two-story, single-family property of frame construction. The dwelling is 90 years old. The property has a 6,224 square foot site, and is located in Leyden Township, Cook County. The subject is classified as a class 2-06 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 \$140,100 as of January 1, 2012.

The appellant also submitted a settlement statement indicating the property transferred on July 11, 2011 for \$115,000 pursuant to a foreclosure.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$18,800. The subject's assessment reflects a market value of \$194,014 when applying the 2012 three year median level of assessments for class 2 property of 9.69% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on four suggested equity comparables, each of which contained sales data.

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 has met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds that the sale of the subject in July 2011 for \$115,000 was a "compulsory sale" through the documentation submitted by the appellant. A "compulsory sale" is defined as:

- (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Additionally, real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 2011 IL App (2d) 100068, ¶ 36 (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill.App.3d 207, 211 (2d Dist. 1979)).

However, when there is a recent sale of the subject, and that sale is compulsory, the Board may consider evidence which would show whether the sale price was representative of the subject's fair cash value. See 35 ILCS 200/16-183 ("The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer."). Such evidence can include the descriptive and sales information for recently sold properties that are similar to the subject. See Id.

In this case, the appellant submitted an appraisal opining to a market value of \$140,100 as of January 1, 2012, which the Board finds to be the best evidence of fair market value contained in the record. Less weight was given to the appellant's foreclosure purchase and the board of review's unadjusted sale comparables. The subject's assessment reflects a market value above the best evidence of market value in the record. Therefore, the Board finds the subject property had a market value of \$140,100 as of the assessment date at issue. Since market value has been established the 2012 three year average median level of assessment of 9.69% as determined by the Illinois Department of Revenue shall apply. 86 Ill.Admin.Code §1910.50(c)(2).

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Barrett Homes LLC
DOCKET NUMBER:	13-23268.001-R-1
DATE DECIDED:	October, 2016
COUNTY:	Cook
RESULT:	No Change

The subject property consists of a 3,125 square foot parcel of land improved with a one-year old, two-story, frame, single-family dwelling containing 2,810 square feet of living area. The property is located in Lake View Township, Cook County. The subject is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. The appellant argued that the subject was originally purchased in 2011, the improvement was demolished, a new improvement was built, and that the property was then sold in March 2013 for \$1,190,000. In support of this argument the appellant submitted: a copy of the settlement statement for the 2011 sale; a copy of the June 2012 demolition permit; a copy of a 2012 invoice for the demolition costs; an undated black and white photograph of the new improvement being built; and a copy of the March 2013 settlement statement for the sale of the property for \$1,190,000. In addition, the appellant submitted an affidavit attesting: that the property was purchased; the improvement demolished; construction of a new single-family residence commenced; the property sold in March 2013; that no occupancy permit was issued prior to the closing; and that the improvement was not substantially completed, leased, or occupied prior to the closing. The appellant requests an assessment of \$94,782 which accounts for the vacancy of the improvement from the lien date to the date of purchase as codified in 35/ILCS 200/9-180.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$119,000. The subject's assessment reflects a market value of \$1,190,000 using the Cook County Real Estate Classification Ordinance level of assessment for class 2 property of 10%.

In support of its contention of the correct assessment the board of review submitted evidence on four equity comparables and one sales comparable.

In rebuttal, the appellant submitted a letter reiterating the appellant's arguments and included a color photograph as the property existed in 2014.

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).

2016 SYNOPSIS – RESIDENTIAL CHAPTER

The Board finds the best evidence of market value to be the purchase of the subject property in March 2013 for a price of \$1,190,000. The appellant provided evidence demonstrating the sale was not between related parties and the board of review did not refute the arm's length nature of the sale. However, the Board gives little weight to the appellant's argument that the subject should receive a reduction based on the vacancy of the property from the lien date until the date of the sale.

Section 9-180 of the Property Tax Code (35 ILCS 200/9-180) provides in part:

The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year.

The Board further finds the appellant failed to show the subject was not inhabitable or fit for occupancy as of the lien date. The Board finds, based on the real estate broker fees within the settlement statement, that the subject was advertised for sale. By advertising the sale, the appellant indicated the subject was fit for occupancy or for its intended customary use prior to the closing date. The fact that the property was vacant at the time of sale, establishes its fee simple value which is an accurate reflection of the subject's market value.

Based on this record the Board finds the subject property had a market value of \$1,190,000 as of January 1, 2013. Therefore, the Board finds the subject is not overvalued and a reduction to that requested by the appellant is not warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Martha Bautista
DOCKET NUMBER:	13-01760.001-R-1
DATE DECIDED:	February, 2016
COUNTY:	Lake
RESULT:	No Change

The subject property consists of a tri-level frame dwelling that has 1,110 square feet of above grade living area. The dwelling was constructed in 1956. Features include a finished lower level, central air conditioning, a fireplace and a 480 square foot garage. The subject has a 7,500 square foot site. The subject property is located in Libertyville Township, Lake County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a limited "Property Tax Analysis" of five comparable sales. The analysis was dated March 5, 2014. Neither the name nor the professional credentials of the person(s) who prepared the report was disclosed. The comparables are located from .11 of a mile to 1.37 miles from the subject property. The comparables had varying degrees of similarity when compared to the subject in design, dwelling size, age and features. The comparables sold from February 2012 to June 2013 for prices ranging from \$65,000 to \$111,000 or from \$63.44 to \$96.77 per square foot of living area including land. The analysis included "Property Equalization Values" (adjustments) to the comparables for sale date, land¹, quality/condition, age, square footage, basement area, bath & fixtures, fireplaces, air conditioning and garage area. Based on the Property Equalization Values, the analysis conveys a value estimate for the subject property of \$89,943 or a total assessment of \$29,978. No explanation pertaining to the calculation of the adjustment amounts was provided. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$48,788. The subject's assessment reflects an estimated market value of \$146,775 or \$132.23 per square foot of living area including land when applying the 2013 three-year average median level of assessment for Lake County of 33.24%. In support of the subject's assessment, the board of review submitted an analysis of four comparable sales and a letter addressing the appeal.

The comparable sales submitted by the board of review are located from .04 to .79 of a mile from the subject. The comparables had varying degrees of similarity when compared to the subject in land area, design, dwelling size, age and features. The comparables sold from April 2013 to October 2013 for prices ranging from \$161,000 to \$169,900 or from \$144.65 to \$153.06 per square foot of living area including land.

With respect to the evidence submitted by the appellant, the board of review argued that the adjustments in the appellant's grid should be given no weight because they lacked support and

¹ The appellant failed to disclose the land sizes for the subject and comparables.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

there was no evidence they were applied by a qualified licensed individual such as a state licensed appraiser. The board of review also argued the comparables submitted by the appellant were foreclosure or sheriff sales and comparables #4 and #5 are located in a different township, exceeding one mile in distance from the subject. Based on this evidence, 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 the appellant failed to meet this burden of proof.

The parties submitted nine comparable sales for the Board's consideration. The Board gave less weight to comparables #2 through #5 submitted by the appellant due to distant location in different neighborhoods than the subject. The Board also gave less weight to comparable #2 submitted by the board of review due its newer age when compared to the subject. The Board finds comparable #1 submitted by the appellant and comparables #1 and #3 submitted by the board of review were more similar when compared to the subject in location, land area, age, size, design and most features. They sold for prices ranging from \$111,000 to \$169,900 or from \$96.77 to \$153.06 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$146,775 or \$132.23 per square foot of living area including land, which falls within the range of the most similar comparable sales contained in the record. Therefore, the Board finds no reduction in the subject's assessment is warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Daniel Bos
DOCKET NUMBER:	13-00605.001-R-1
DATE DECIDED:	January, 2016
COUNTY:	Will
RESULT:	No Change

The subject property consists of a two-story brick and frame dwelling that has 3,452 square feet of living area. The dwelling was built in 1980. Features include an unfinished basement, central air conditioning, two fireplaces and a 528 square foot attached garage. The subject's land size was not disclosed. The subject property is located in Homer Township, Will County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information pertaining to the sale of the subject property. The appellant's appeal petition indicated the subject property sold in August 2012 for \$275,000. The appellant submitted the settlement statement associated with the sale of the subject property. The evidence did not disclose if the subject property was listed for sale on the open market or if the parties to the transaction were related. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$115,641.¹ The subject's assessment reflects an estimated market value of \$348,421 or \$100.93 per square foot of living area including land when applying the 2013 three-year average median level of assessment for Will County of 33.19%.

In support of the subject's assessment, the board of review submitted a letter addressing the appeal and six comparable sales. This evidence was prepared by the Homer Township Assessor. The comparable sales had varying degrees of similarity when compared to the subject. The comparables sold from January 2010 to July 2013 for prices ranging from \$336,000 to \$435,000 or from \$115.41 to \$138.52 per square foot of living area including land.

The assessor argued the subject's transaction was not an arm's-length transaction because the property was not exposed to the open market and the sale was between related family members. The assessor submitted the complaint form filed with the board of review wherein appellant's counsel disclosed the sale was between related parties. The seller was a "distant uncle." The assessor submitted the Real Estate Transfer Declaration (PTAX-203). Line 7 of the document shows the property was not advertised for sale. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

¹ The board of review notes on appeal depicts an incorrect assessment amount of \$120,280. The final decision issued by the board of review, as submitted by the appellant, shows a final assessment of \$115,641 for the 2013 tax year.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

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 no reduction in the subject's assessment is warranted.

The Board gave no weight to the subject's August 2012 sale price. The Board finds the subject's sale does not meet the fundamental elements of an arm's-length transaction. The buyer and seller were related and the subject property was not advertised for sale on the open market

The board of review submitted six suggested comparable sales to support its assessment of the subject property. The Board gave less weight to comparables #4, #5 and #6. These sales occurred in 2010 or 2011, which are dated and less reliable indicators of market value as of the subject's January 1, 2013 assessment date. The Board finds the three remaining comparables are relatively similar to the subject in location, design, age, size, features and sold more proximate in time to the subject's January 1, 2013 assessment date. They sold for prices ranging from \$336,000 to \$429,900 or from \$115.41 to \$120.76 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$348,421 or \$100.93 per square foot of living area including land, which falls below the range established by the most similar comparable sales contained in this record on a per square foot basis, suggesting the subject property is undervalued.

Based on this analysis, the Board finds the appellant failed to demonstrate the subject property was overvalued by a preponderance of the evidence.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Rada Colakovic</u>
DOCKET NUMBER:	<u>13-00647.001-R-1</u>
DATE DECIDED:	<u>June, 2016</u>
COUNTY:	<u>Will</u>
RESULT:	<u>Reduction</u>

The subject property consists of a one-story dwelling of frame construction with 918 square feet of living area. The dwelling was constructed in 1973. Features of the home include a concrete slab foundation and central air conditioning. The property has a .045 of an acre site and is located at 930 White Oak Lane, University Park, Monee Township, Will County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on five comparable sales located within .36 of a mile from the subject property. The comparables have varying degrees of similarity when compared to the subject.¹ The dwellings range in size from 865 to 1,016 square feet of living area. The properties sold from February 2012 to June 2013 for prices ranging from \$7,000 to \$11,000 or from \$8.09 to \$12.25 per square foot of living area, land included.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$14,000. The subject's assessment reflects a market value of \$42,181 or \$45.95 per square foot of living area, land included, when using the 2013 three year average median level of assessment for Will County of 33.19% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales located within one mile from the subject property. The comparables range in size from 918 to 1,632 square feet of living area. The comparables have varying degrees of similarity when compared to the subject. The properties sold from April 2010 to December 2011 for prices ranging from \$27,000 to \$69,000 or from \$29.41 to \$42.57 per square foot of living area, land included.

Former counsel filed rebuttal arguing, in part, that the board of review sales occurred in 2010 and 2011, whereas the appellant's sales were closer in time to the January 1, 2013 assessment date.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

¹ The appellant did not disclose the exterior construction or site size for the comparables submitted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

The parties submitted eight comparable sales to support their respective positions before the Property Tax Appeal Board. The Board gave little weight to the board of review comparables. These comparables sold from April 2010 to December 2011, which is less indicative of fair market value as of the subject's January 1, 2013 assessment date, also comparables #2 and #3 are a two-story design when compared to the subject's one-story design. The Board finds the best evidence of market value to be the appellant's comparable sales. These most similar comparables sold from February 2012 to June 2013 for prices ranging from \$7,000 to \$11,000 or from \$8.09 to \$12.25 per square foot of living area, including land. The subject's assessment reflects a market value of \$42,181 or \$45.95 per square foot of living area, including land, which is above the range established by the best comparable sales in this record. Based on this evidence the Board finds a reduction in the subject's assessment is justified.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Mark & Alma Conti
DOCKET NUMBER:	13-03143.001-R-1
DATE DECIDED:	April, 2016
COUNTY:	McHenry
RESULT:	Reduction

The subject property consists of a 1.5-story dwelling of frame construction with 2,035 square feet of living area. The dwelling was constructed in 1905 with an addition that was constructed in 1988. Features of the home include a partial unfinished basement, central air conditioning, a fireplace and a detached one-car garage. The property has a .425-acre site and is located in Fox River Grove, Algonquin Township, McHenry County.

The appellants contend overvaluation as the basis of the appeal. In support of this argument the appellants submitted information on four comparable sales. The comparables were located up to 2.11-miles from the subject property. The parcels range in size from 12,652 to 57,064 square feet of land area and are improved with a two-story and three, 1.5-story Cape Cod-style dwellings that were 63 to 100 years old. The comparables range in size from 1,265 to 1,940 square feet of living area and feature basements, two of which are finished. Two of the comparables have central air conditioning and three comparable have one or two fireplaces. Each dwelling has a garage ranging in size from 234 to 616 square feet of building area. The comparables sold between August 2012 and April 2013 for prices ranging from \$67,101 to \$126,500 or from \$34.59 to \$100.00 per square foot of living area, including land. Supporting documentation included Multiple Listing Service data sheets for the comparable properties along with several interior color photographs for each comparable.

Also as part of the appeal, the appellants included three pages of color photographs depicting the exterior and interior of the subject dwelling. Several of the photographs have handwritten descriptions. Several photographs are identified in this matter as depicting a non-standard bedroom located over a porch which lacks heat and air conditioning, has a non-standard interior entry door beneath a staircase and a depiction of non-standard ceiling heights within this bedroom. Another bedroom was described as having no closet.

Based on this evidence and argument, the appellants requested a total assessment of \$36,179 which would reflect a market value of approximately \$108,537 or \$53.34 per square foot of living area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$54,410. The subject's assessment reflects a market value of \$163,197 or \$80.20 per square foot of living area, land included, when using the 2013 three year average median level of assessment for McHenry County of 33.34% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a grid analysis prepared by the township assessor which reiterated three of the appellants' comparables and also set forth four comparables in support of the subject's assessment. The township assessor contended that the appellants'

2016 SYNOPSIS – RESIDENTIAL CHAPTER

comparable #3 "did not reflect the same property characteristics and condition as when last assessed" as outlined in the Property Tax Code, 35 ILCS 200/16-55, concerning the consideration of compulsory comparable sales and should not be considered. Also submitted was a copy of the listing when this comparable property was sold in April 2013 as-is for \$67,101 (Exhibit B) and a copy of the listing when this property sold in March 2014 as renovated "with new kitchen granite, SS appliances," "newly refinished hardwood floors" and "new roof, furnace, CAC, water htr" for \$201,000 (Exhibit C).

In support of its contention of the correct assessment the board of review through the township assessor submitted information on four comparable sales. The parcels range in size from .224 to .326 of an acre of land area and are improved with a two-story and three, 1.5-story frame or frame and brick dwellings that were 7 or 11 years old. The comparables range in size from 1,611 to 2,568 square feet of living area and feature basements, three of which have finished areas. Two of the comparables have one and three fireplaces, respectively. Each comparable has central air conditioning and each has a garage ranging in size from 240 to 648 square feet of building area. The comparables sold between June 2011 and March 2013 for prices ranging from \$115,000 to \$220,000 or from \$56.54 to \$115.46 per square foot of living area, including land.

Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellants addressed the arguments that were made against consideration of appellants' comparable sale #3. The appellants contend that the submitted data which reflect a total renovation of the property between the April 2013 sale date and the subsequent sale for \$201,000 in March 2014 support consideration of the 2013 sale price for this appeal. As shown by Exhibit A the taxes due in 2014, the 2013 assessment of this property reflected its 2013 sale price.

The appellants also made arguments noting differences between the evidence presented by the assessing officials before the McHenry County Board of Review and the evidence presented before the Property Tax Appeal Board. As to this issue, the Board notes the law is clear that proceedings before the Property Tax Appeal Board are de novo "meaning the Board will only consider the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review" (86 Ill.Admin.Code §1910.50(a)). This also means that either party may present different evidence before the Property Tax Appeal Board than was presented before the local board of review.

The appellants also contend that comparable sales from 2011 presented by the board of review should be given less weight because they are more remote in time to the valuation date at issue.

Next the appellants utilized the Multiple Listing Service data sheets (Exhibits D, E, F & G) for the comparables presented by the board of review. In a brief, the appellants noted differences in descriptive information such as a walkout basement feature, recent rehab work and "gut and rehabbed down to the bone." Based on these arguments, the appellants contend that the comparables are dissimilar to the subject and/or require additional downward adjustments in the sales prices to make the properties comparable to the subject.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Conclusion of Law

The appellants contend 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The parties submitted a total of eight comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to board of review comparables #1 and #2 as the sales occurred in 2011, dates more remote in time to the valuation date of January 1, 2013 and thus less likely to be indicative of the subject's estimated market value as of the assessment date.

The Board finds the best evidence of market value to be the appellants' comparable sales along with board of review comparable sales #3 and #4. These six comparables have varying degrees of similarity to the subject property and sold between August 2012 and April 2013 for prices ranging from \$67,101 to \$220,000 or from \$34.59 to \$115.46 per square foot of living area, including land. The subject's assessment reflects a market value of \$163,197 or \$80.20 per square foot of living area, including land, which is within the range established by the best comparable sales in this record, but does not appear to be justified when giving due consideration to the renovations performed on board of review comparables #3 and #4 prior to their recent sale prices which reflect the high end of the range of sale prices. After giving due consideration to adjustments necessary to the various comparables for differences, the Board finds that a reduction in the subject's assessment is justified.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Forest Trails
DOCKET NUMBER:	11-24902.001-R-3 thru 11-2401.226-R-3
DATE DECIDED:	August, 2016
COUNTY:	Cook
RESULT:	No Change

The subject property consists of 112 individual residential condominium units and 114 deeded interior garage spaces contained in seven individual four-story buildings of masonry construction. The residential units contain central air conditioning and either one or two bedrooms. Each unit contains from 1,200 to 1,308 square feet of living area. The parties differed as to the size of the site. The subject is located in Bremen Township, Cook County, and is a Class 2-99 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 and ten sales comparables. The appraisal was based on the sales comparison and income approaches. The appraisal disclosed five bulk sales of condominium developments that sold from 2008 through 2011 for prices that ranged from \$1,190,000 to \$9,520,000. The appraisal disclosed that the appraiser defined bulk sale valuation as assuming the subject property was sold to a single purchaser/investor. The appraisal included a section (page 61) that the proper valuation of a condominium is under the provision of the Illinois Condominium Property Act (765 ILCS 605/1 *et seq.*). The appraisal also included a seven-page spreadsheet (pages 38-45) of the residential and parking units in the subject, with information of the date of sale, if any, and the sale price. The sales in this spreadsheet ranged in time from 2004 through 2013. The income approach was based on five rental properties the appraiser opined as most comparable to the subject. The appraisal disclosed the subject's site was 343,201 square feet. The appraiser estimated the subject property had a reconciled market value of \$14,000,000 as of January 1, 2012, notwithstanding that the tax lien year of the instant appeal is 2011.

The appellant's ten sales comparables were of units in the subject property. The evidence in support of these sales consisted of print-outs from MREDLLC.com for some sales, a grid disclosing sales information or a real estate contract. The evidence for each sale disclosed information about the Property Index Number (hereinafter, "PIN") for each sale. The evidence was submitted as follows:

- Comp. #1: an MREDLLC listing print-out for PIN 1064 for a listing dated May 15, 2007, and a grid disclosing a sale of PIN 1006 on August 22, 2011 for \$115,000;
- Comp. #2: a grid disclosing a sale of PIN 1090 on August 8, 2011 for \$111,000;
- Comp. #3: an MREDLLC listing print-out for PIN 1156 for a sale on December 22, 2011 for \$135,000, and a grid disclosing a bulk sale of PINs 1173 and 1156 on December 22, 2011 for \$135,000;
- Comp. #4: a grid disclosing a bulk sale of PINs 1131, 1149 and 1150 on November 7, 2011 for \$118,000;
- Comp. #5: a grid disclosing a bulk sale of PINs 1170 and 1167 on March 26, 2012 for \$121,000;

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Comp. #6: an MREDLLC listing print-out for PIN 1044 for a listing dated March 13, 2010, and a grid disclosing a bulk sale of PINs 1044 and 1033 on August 24, 2012 for \$120,000;

Comp. #7: an MREDLLC listing print-out for PIN 1095 for a listing dated March 8, 2012, and a grid disclosing a bulk sale of PINs 1102 and 1095 on September 28, 2012 for \$108,000;

Comp. #8: a grid disclosing a bulk sale of PINs 1205 and 1183 on October 5, 2012 for \$128,000;

Comp. #9: an MREDLLC listing print-out for PIN 1160 for a sale dated February 17, 2013 for \$110,000, and a grid disclosing a bulk sale of PINs 1174 and 1160 on March 28, 2013 for \$110,000;

Comp. #10: a real estate contract for the sale of PIN 1057 with a hand-written notation “closed April 2013.”

Based on the appraisal and the ten sales comparables, the appellant requested a total assessment reduction to \$1,400,000 when applying the 2011 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$2,090,598. The subject's assessment reflects a market value of \$20,905,980, when applying the 2011 level of assessment of 10.00% 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 a condominium analysis with information on suggested comparable sales for eight units in the subject property that sold from 2007 through 2011 for a total of \$914,503. The board of review applied a 2.00% market value reduction to the subject for personal property without further evidence to arrive at an adjusted market value of \$896,215 of the eight units sold. The board of review disclosed the units sold consisted of 4.3438% of all units in the building. The result was a full value of the property at \$20,632,050. Since the subject was 100.00% of all the units in the building, the board of review suggested the market value of the subject to be \$20,632,050.

At the June 20, 2016 hearing, attorney for the appellant, Tina Zekich (hereinafter, “Zekich”) made an oral Motion for Continuance of the hearing because the appraiser was not present. She stated that she was “told last week” by the appraiser that he would not be able to attend the hearing on June 20. The board of review representative Nick Jordan (hereinafter, “Jordan”) objected to the motion because it was not timely and not in conformance with the Board’s Rule 1910.67(i) in that the motion was not made in writing and was not based on good cause. (*See* 86 IL ADC §1910.67(i)). The Administrative Law Judge (hereinafter, “ALJ”) read into the record the history of the hearing notice and the communications he received from Zekich and Jordan in the week leading up to the scheduled time of the hearing. Notice of the June 20, 2016, hearing was sent to all parties on April 20, 2016. On June 14, the ALJ sent an email to all parties requesting a status report about the case no later than June 17. On June 15, the ALJ received an email from Zekich’s assistant requesting guidance on their effort to contact the board of review. The ALJ responded by stating that he would not provide guidance on communications between the parties. On June 16, the ALJ received an email from Zekich’s assistant requesting to reschedule the hearing to August 3, 2016. Jordan responded via email by objecting to a Motion for Continuance because it was not timely, not in writing, not for good cause, and not made by

2016 SYNOPSIS – RESIDENTIAL CHAPTER

the attorney of record. On the morning of June 20, minutes prior to the time set for the hearing, the ALJ received a telephone message from Zekich requesting to continue the hearing because the appraiser would not be present. Zekich appeared at hearing minutes later. The ALJ denied Zekich's Motion for Continuance pursuant to Rule 1910.67(i) because it was not timely, not in writing, not supported by affidavit or other evidence of good cause, and because Zekich had ample time in which to prepare for hearing. (See Hearing Exhibit #3)

Zekich stated during the hearing that the subject received a reduction from the board of review for the 2013 tax lien year, that the subject property is located in Bremen Township and that 2013 and the instant lien year of 2011 were in the same triennial assessment period. Zekich argued that, consequently, the 2013 assessment level should be applied retroactively to 2011. Zekich acknowledged that some of the condominium units sold between 2011 and 2013. Jordan on behalf of the board of review argued that Section 16-185 of the Property Tax Code (35 ILCS 200/16-185; 86 Ill. Adm. Code 1910.50(i)) applies prospectively, not retroactively. In support of his argument, Jordan argued that Zekich was, in effect, arguing that Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974) and The 400 Condominium Association, et al., v. Tully, 79 Ill. App.3d 686, 398 N.E.2d 951 (1st Dist. 1979) require retroactive application of an assessment reduction. He introduced a copy of Moroney v. Property Tax Appeal Board, 2013 IL App (1st) 120493, as an exhibit; the Board admitted it as BOR Hearing Exhibit #1. Jordan argued that Moroney distinguished Hoyne and 400 Condominium as confined to their unique facts, and that those cases do not stand for the proposition that an assessment reduction in a later year must result in an assessment reduction for a prior year.

Zekich argued the opinion of the appraiser that the subject's market value supports the appellant's argument for an assessment reduction. Jordan objected to the introduction of the appraisal as hearsay because the appraiser was not present to testify. The Board sustained the objection and excluded the appraiser's opinions, observations and conclusions from evidence. However, the Board allowed the raw, unadjusted data of recent sales contained in the appraisal into evidence. Jordan argued that most of the sales disclosed in the seven-page spreadsheet submitted by the appellant in the appraisal report should be excluded from consideration as recent sales because they sold at least three years prior to the 2011 lien year. He testified that he prepared a spreadsheet based on the appellant's spreadsheet of the 32 units in the subject that sold from 2008 through 2011, the three years prior and up to the 2011 lien year. Jordan excluded sales that occurred before 2008 and after 2011. Of those sold, 14 were for deeded parking spaces; 18 were for residential units. Jordan testified that he allocated a nominal \$1.00 sale price to the 14 parking spaces and listed the sale prices of the 18 residential units. He then prepared a condominium analysis with information on the 18 residential comparable sales. The total of those sales and the nominal sale price of \$1.00 for the 14 parking spaces was \$2,833,500. The units sold consisted of 13.5123% of all units in the building. The result was a full value of the property of \$20,969,783. This spreadsheet was admitted into evidence as BOR Hearing Exhibit #2 without objection from the appellant.

Jordan testified that the appraisal should be excluded from evidence *in toto* because it contained numerous instances of inconsistent and unreliable information: the number of units with one or two bedrooms, the number of units leased or not, the number of units owned by one person, whether the units in the appellant's appraisal spreadsheet of sales were actually sold, the wrong equalization factor for 2011 as disclosed in the income approach section of the appraisal,

2016 SYNOPSIS – RESIDENTIAL CHAPTER

whether sub-letting was or was not allowed, whether the subject was a condominium or a co-operative, whether the subject contained basements, and the appraiser's qualifications. Jordan also testified that the appraisal had an incorrect effective date of January 1, 2012, rather than the lien year of 2011.

The parties rested their cases and presented closing arguments.

Conclusion of Law

Rule 1910.67(i) of the Rules of the Property Tax Appeal Board (86 IL ADC 1910.67(i)), states that "[c]ontinuances shall be granted for good cause shown in writing..." Zekich disclosed only at hearing that she had been told a week earlier that the appraiser would be unavailable. The email communications from Zekich's assistant did not state a good cause reason, let alone the unavailability of the appraiser, for requesting a continuance. The continuance request in an email was based only on an assertion that Zekich's offices had not able to contact the board of review prior to hearing. Any Motion for Continuance was not served on the board of review and submitted to the Board in a timely manner. The earliest the appellant through its attorney made any request was June 17. Notice of the hearing was sent to all parties on April 20, 2016, ample time in which to anticipate and prepare for hearing. Consequently, the appellant's Motion for Continuance was properly denied. (See Hearing Exhibit #3)

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 IL ADC §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 IL ADC §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 that there is no merit to the appellant's argument that the 2013 assessment reduction for the subject should be applied retroactively to 2011. There is no merit to the argument that Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974) and The 400 Condominium Association, et al., v. Tully, 79 Ill.App.3d 686, 398 N.E.2d 951 (1st Dist. 1979) stand for the proposition that an assessment reduction in 2013 requires an assessment reduction in the 2011 tax lien year at issue absent a glaring error in calculation. The Supreme Court in Hoyne observed that the facts in that case presented unusual circumstances coupled with a grossly excessive assessment increase from \$9,510 in 1970 to \$246,810 in 1971. Consequently, it remanded the case for the lower court to ascertain the correct assessed valuation. Hoyne, 60 Ill.2d at 89-90, 322 N.E.2d at 836-37. The appellant inverts the holdings in those cases. The Supreme Court in Hoyne never found the 1970 assessment to be in error; it found the 1971 assessment to be grossly excessive. In this case, the appellant argued the 2011 assessment was too high merely because the 2013 assessment was reduced. The appellant failed to present any facts that suggest the board of review reduced the 2013 assessment because it was already grossly excessive. Even if the appellant were to present such facts, there is no basis to conclude that the 2011 assessment should, therefore, be reduced. The Appellate Court in Moroney v. Illinois Property Tax Appeal Board, 2013 Ill.App. (1st) 120493, distinguished Hoyne and 400 Condominium as confined to their unique facts. The Court rejected that appellant's argument that those prior cases stood for the proposition that "subsequent actions by assessing

2016 SYNOPSIS – RESIDENTIAL CHAPTER

officials are fertile grounds to demonstrate a mistake in prior year's assessments." Moroney, 2013 Ill.App. 120493 at ¶46. There was no evidence in Moroney that there was any error in the calculation of the taxpayer's 2005 assessment. The Appellate Court observed, "just because factors warranting a reduction existed in 2006, does not mean they existed in 2005, or any other year for that matter (which is why property taxes are assessed every year)." *Id.*

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the report and conclusions drawn from them, and be subject to cross-examination. The Board finds the erroneous and inconsistent information throughout the appraisal undermined the reliability of both the cost comparison and income analyses in the appraisal. Therefore, the Board sustained the board of review's objection to the admission of the appraisal report as hearsay, and the opinions and conclusions of the value of the subject property are given no weight. See Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788 (1st Dist. 1983). However, the Board may consider the raw sales data submitted by the parties, including those contained in the appraisal report.

The raw unadjusted data of five bulk sales of condominium developments, as disclosed in the appraisal report, were of properties that did not include any of the units in the subject. The appellant submitted ten sales that occurred from 2011 through 2013, did not submit information for some of these sales sufficient to determine whether they were at arm's length, such as whether they occurred between related parties, were sold through a realtor and advertised on the open market. In the instance of appellant's comparable #10, the only information submitted was a real estate contract and a notation that it sold in April 2013. Further, each of these sales occurred after the lien date of January 1, 2011. Most of the sales disclosed in the appraisal were not recent, having been sold more than three years prior to 2011. Consequently, the Board accords no weight to these sales. In contrast, the board of review submitted a condominium analysis in BOR Hearing Exhibit #2 of 32 units sold in the subject during the three years prior to the lien date. The board of review selected these 32 units from the seven-page spreadsheet in the appellant's appraisal report of more than 100 unit sales. The total consideration of the board of review's 32 sales was \$2,833,500. Since the 32 units comprised 13.5123% of all units in the subject, the full value of the subject was \$20,972,047. The Board finds this analysis to be the best evidence of market value. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Maggie Gerth
DOCKET NUMBER:	13-04077.001-R-1
DATE DECIDED:	June, 2016
COUNTY:	DuPage
RESULT:	No Change

The subject property consists of a 2.5, 1, and 2-story brick dwelling that has 4,757 square feet of living area. The dwelling was originally constructed in 1922 with various additions and renovations in 1993. Features include a partial basement that is 50% finished, central air conditioning, two fireplaces and a 924 square foot garage. The subject property is located in Downers Grove Township, DuPage County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming assessment inequity as the basis of the appeal. The subject's land assessment was not challenged. In support of the inequity claim, the appellant submitted a comparative grid analysis of five comparables¹. The comparables are improved with combinations of 2.5, 2 and 1-story dwellings of frame or brick and frame exterior construction that were originally built from 1897 to 1957, with additions and/or renovations from 1969 to 2003. The dwellings range in size from 4,120 to 5,539 square feet of living area. The comparables have full or partial basements, two of which are 25% finished. Four comparables have central air conditioning. The comparables have one to three fireplaces and garages that range in size from 480 to 840 square feet of building area. The comparables have improvement assessments ranging from \$347,480 to \$465,810 or from \$78.05 to \$85.97 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$623,000. The subject property has an improvement assessment of \$465,370 or \$97.83 per square foot of living area. In support of the subject's assessment, the board of review submitted an equity analysis of four comparables prepared by the township assessor. The comparables are improved with combinations of 2.5, 2, 1.5 and 1-story dwellings of frame or brick exterior construction that were originally built from 1912 to 1930, with additions and/or renovations from 1960 to 1998. The dwellings range in size from 4,154 to 4,939 square feet of living area. The comparables have full or partial basements, two of which are 25% and 75% finished, respectively. Three comparables have central air conditioning. The comparables have two or three fireplaces and garages that range in size from 400 to 1,022 square feet of building area. The comparables have improvement assessments ranging from \$433,100 to \$488,430 or from \$93.63 to \$104.26 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Kankakee County

¹ Some of the omitted description information pertaining to the comparables was provided by the board of review.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant failed to meet this burden of proof and no reduction in the subject's assessment is warranted.

The record contains nine assessment comparables for the Board's consideration. The Board gave less weight to comparables #2, #3 and #4 submitted by the appellant and comparables #2 and #3 submitted by the board of review. These comparables have unfinished basements, inferior to the subject. The Board finds the remaining four comparables were most similar when compared to the subject in location, design, size, age and features. These comparables have improvement assessments ranging from \$432,340 to \$488,430 or from \$78.05 to \$98.89 per square foot of living area. The subject property has an improvement assessment of \$465,370 or \$97.83 per square foot of living area, which falls within the range established by the most similar assessment comparables contained in the record. Therefore, the Board finds the subject's assessment is supported and no reduction is warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Leslie Graham</u>
DOCKET NUMBER:	<u>11-22880.001-R-1</u>
DATE DECIDED:	<u>February, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject consists of a two-story dwelling of masonry construction with 7,237 square feet of living area. The dwelling is 97 years old. Features of the home include a full unfinished basement, central air conditioning, and four fireplaces. The property has a 48,439 square foot site, and is located in Winnetka, New Trier Township, Cook County. The subject is classified as a class 2-09 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant argued that the subject's assessment is inaccurate under the Historic Residence Assessment Freeze Law. 35 ILCS 200/10-40 *et seq.* In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$4,270,000 as of January 1, 2011. The appellant argues that, using the calculation in Section 10-40, the subject is overassessed. The appellant also provided a printout from the Cook County Assessor's Office showing that the subject first received the assessment freeze for tax year 2001. Therefore, the instant tax year of 2011 is the tenth year that the assessment freeze is in effect. The subject's final assessment for tax year 2001 was \$256,003, which equates to a market value of \$1,600,019 when applying the 2001 statutory level of assessment for class 2 property of 16.00% as set by the Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$301,454. The subject's assessment reflects a market value of \$3,176,544, or \$438.93 per square foot of living area, including land, when applying the 2011 three year average median level of assessment for class 2 property of 9.49% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on three equity comparables and three sale comparables.

In rebuttal, the appellant argued that the board of review's evidence should be given no weight because it was raw sale data, which is insufficient under the Official Rules of the Property Tax Appeal Board.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Valuation during 8 year valuation period. In furtherance of the policy of encouraging the rehabilitation of historic residences, property certified pursuant to this Historic Residence Assessment Freeze Law shall be eligible for an assessment freeze, as provided in this Section, eliminating from consideration, for assessment purposes, the value added by the rehabilitation and limiting the total valuation to the base year valuation as defined in subsection (i) of Section 10-40.

35 ILCS 200/10-45.

Valuation after 8 year valuation period. For the 4 years after the expiration of the 8-year valuation period, the valuation for purposes of computing the assessed valuation shall be as follows:

For the first year, the base year valuation plus 25% of the adjustment in value.

For the second year, the base year valuation plus 50% of the adjustment in value.

For the third year, the base year valuation plus 75% of the adjustment in value.

For the fourth year, the then current fair cash value.

35 ILCS 200/10-50.

The subject is in the tenth year of the assessment freeze. Therefore, the subject's market value is the base year valuation of \$1,600,019 plus 50.00% of the adjustment in value. The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The Board finds the subject property had a market value of \$4,270,000 as of the assessment date at issue. Thus, the adjustment in value is the appraisal amount of \$4,270,000 minus the base year valuation of \$1,600,019, or \$2,669,981. Therefore, 50.00% of \$2,669,981 is added to the base year valuation. This calculation equates to a market value of \$2,935,010. Since market value has been established the 2011 three year average median level of assessment for class 2 property of 9.49% as determined by the Illinois Department of Revenue shall apply. 86 Ill.Admin.Code §1910.50(c)(2).

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Alex Hotza</u>
DOCKET NUMBER:	<u>10-35800.001-R-1</u>
DATE DECIDED:	<u>January, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject property is improved with a two-story dwelling of masonry construction with 2,460 square feet of living area. The dwelling is 86 years old and features a full unfinished basement. The property has a 3,750 square foot site and is located in Chicago, Jefferson Township, Cook County.

The appellant argues the subject property is overvalued based on the application of section 16-185 of the Property Tax Code (35 ILCS 200/16-185) and the recent sale of the subject property. In support of these arguments, the appellant submitted a legal brief arguing the subject property was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 09-25039.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$20,915 based on the evidence submitted by the parties. The appellant's attorney asserted that 2009 and 2010 were within the same general assessment period for residential property, that section 16-185 of the Property Tax Code (35 ILCS 200/16-185) should apply and the 2009 decision should be carried forward to the 2010 assessment.

The appellant's appeal also revealed that the subject property sold in February 11, 2009 for \$235,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject property totaling \$37,168 was disclosed. The subject's assessment reflects a market value of \$371,680 or \$151.09 per square foot of living area, including land, when applying the level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 10%.

The board of review submitted a brief arguing that the subject is not an owner occupied property and section 16-185 of the Property Tax Code (35 ILCS 200/16-185) should not apply. In support of this assertion, the board of review submitted a printout from the Cook County Assessor's Office revealing the subject property is not receiving a home owner exemption.

In support of the subject's assessment, the board of review submitted information on four equity comparables.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under rebuttal, the appellant submitted an affidavit revealing the appellant did occupy the subject property in 2010, but did not apply for a home owner exemption. The appellant further disclosed that he did not occupy or apply for a home owner exemption for any other property for 2010.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. Pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the Board finds the prior year's decision should be carried forward to the subsequent year subject only to equalization.

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

The record disclosed the Property Tax Appeal Board issued a decision reducing the subject's 2009 assessment. The Board finds that the subject property is an owner occupied dwelling and that 2009 and 2010 are within the same general assessment period. The record contains no evidence indicating the subject property sold in an arm's length transaction subsequent to the Board's decision or that the decision of the Property Tax Appeal Board was reversed or modified upon review. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted to reflect the Board's prior year's decision plus the application of an equalization factor, if any.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	JMG Realty Group, LLC
DOCKET NUMBER:	11-30880.001-R-1
DATE DECIDED:	June, 2016
COUNTY:	Cook
RESULT:	No Change

The subject property consists of a two-story dwelling of masonry construction with 1,512 square feet of living area. The dwelling is 126 years old. Features of the home include a slab foundation. The property has a 1,920 square foot site and is located in West Chicago Township, Cook County. The subject is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant submitted information on three equity comparables.

The appellant also contends overvaluation as the basis of the appeal. In support of this argument the appellant's attorney submitted a brief outlining an income and expense argument. The appellant's attorney submitted a copy of an IRS Schedule E Form regarding the 2010 tax year, and a rent roll for 2011. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$37,712. The subject property has an improvement assessment of \$28,592 or \$18.91 per square foot of living area. In support of its contention of the correct assessment the board of review submitted information on four equity comparables.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be the appellant's comparable #3 and the board of review's comparables. These comparables had improvement assessments that ranged from \$16.92 to \$25.51 per square foot of living area. The subject's improvement assessment of \$18.91 per square foot of living area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

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.

In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[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 by the owner... [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"... [M]any factors may prevent a property owner from realizing an income from property which 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 430-31.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, one must establish, through the use of market data, the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The appellant did not provide such evidence and, therefore, the Board gives this argument no weight.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant did not demonstrate through an expert in real estate valuation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, one must establish, through the use of market data, the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The appellant did not provide credible and sufficient evidence and, therefore, the Board gives this argument no weight and finds that a reduction based on market value is not warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Russell & Susan Jones</u>
DOCKET NUMBER:	<u>13-00614.001-R-1</u>
DATE DECIDED:	<u>January, 2016</u>
COUNTY:	<u>Will</u>
RESULT:	<u>Reduction</u>

The subject property consists of a one-story frame dwelling that has 1,376 square feet of living area. The dwelling was built in 1973. Features include a crawl space foundation, central air conditioning, and an attached garage. The subject property has a .3 acre site. The subject property is located in Manhattan Township, Will County, Illinois.

The appellants submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellants submitted information pertaining to the sale of the subject property. The appellants' appeal petition indicated the subject property sold in December 2012 for \$112,800. The appellants submitted the settlement statement and Multiple Listing Service (MLS) sheet associated with the sale of the subject property. The evidence depicts the subject property was listed for sale on the open market with a Realtor for 48 days and the parties to the transaction were not related. The property sold "as-is" as a result of foreclosure. Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$54,400. The subject's assessment reflects an estimated market value of \$163,905 or \$119.12 per square foot of living area including land when applying the 2013 three-year average median level of assessment for Will County of 33.19%.

In support of the subject's assessment, the board of review submitted a letter addressing the appeal and three comparable sales. This evidence was prepared by the Manhattan Township Assessor. The comparable sales had varying degrees of similarity when compared to the subject. The comparables sold in May or July of 2013 for prices ranging from \$149,000 to \$191,250 or from \$133.33 to \$142.30 per square foot of living area including land.

The assessor acknowledged the appellant was "attempting to use the subject's bank real estate owned property after foreclosure as support for Market Value." The assessor provided the Sheriff's Deed and Real Estate Transfer Declaration (PTAX-203) associated with the sale of the subject property. Neither the assessor nor the board of review specifically addressed the arm's-length nature of the subject transaction. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellants contend 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

2016 SYNOPSIS – RESIDENTIAL CHAPTER

construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value contained in this record is the sale of the subject property December 2012 for \$112,800. The Board finds the subject's sale meets the fundamental elements of an arm's-length transaction. The buyer and seller were not related; the subject property was exposed to the open market; and there is no direct evidence the parties to the transaction were under duress or compelled to buy or sell. The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428, (1970). A contemporaneous sale of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). The subject's assessment reflects an estimated market value of \$163,905, which is considerably more than its recent sale price. The board of review did not address or present any evidence that would demonstrate the subject's sale was not an arm's-length transaction.

The Board further finds the comparable sales submitted by the board of review do not overcome the subject's arm's-length sale price as provided by the aforementioned controlling Illinois case law.

Based on this analysis, the Board finds the subject property is overvalued and a reduction in its assessment is justified. Since fair market value has been established, Will County's 2013 three-year average median level of assessment of 33.19% shall apply.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Glen & Gloria Mazade
DOCKET NUMBER:	10-03099.001-R-1
DATE DECIDED:	March, 2016
COUNTY:	DuPage
RESULT:	No Change

The subject property is improved with a one-story single family brick and frame dwelling that contains 3,274 square feet of living area¹. The dwelling was constructed in 1986. Features of the home included a finished basement, central air conditioning, a fireplace, and 709 square foot attached integral garage. The subject has a 23,650 square foot site, of which 7,650 square feet is utilized for a storm water detention easement. The property is located in Downers Grove Township, DuPage County.

The appellants appeared before the Property Tax Appeal Board with legal counsel challenging the assessment of the subject property for the 2010 tax year. According to the original appeal petition and evidence timely filed in April 2011, the appellants claim overvaluation as the basis of the appeal. The appellants initially submitted one page of an appraisal report that contained three suggested comparable sales with a final value conclusion of \$520,000 as of May 13, 2010. Neither the name nor the professional credentials of the person(s) who prepared the report was disclosed. The appellants' counsel requested an extension of time to submit additional evidence, being an appraisal, additional information concerning comparable sales.

By letters dated November 18 and December 07, 2011, the Board granted the appellants two extensions to file additional evidence by February 18, 2012 and March 6, 2012, respectively. The appellants submitted no additional evidence within these time frames. However, on September 6, 2012, the Property Tax Appeal Board received an appraisal of the subject property submitted by appellants' counsel. (Exhibit "A"). The appraisal was submitted via Federal Express priority overnight shipping. The transmittal letter on the appraisal was dated July 1, 2011. The summary retrospective appraisal conveyed an estimated market value for the subject property of \$530,000 as of January 1, 2010. The appraisal was prepared by Kenneth F. Polach, who was present at the hearing. In the letter accompanying the appraisal, appellants' counsel requested this evidence be filed INSTANTER and that it be considered by the Hearing Officer at the hearing of this matter.

At the commencement of the hearing, the Board's Administrative Law Judge posed some questions to appellants' counsel. Counsel indicated the subject residence was owner occupied and agreed that the final extension to submit evidence was March 6, 2012. Counsel was presented with the Federal Express envelope in which the appraisal was submitted depicting a hand written sending date of September 5, 2012 that was received by the Property Tax Appeal Board on September 6, 2012. Counsel made a motion to accept the late filing since it was well before this hearing. The DuPage County Board of Review objected. The Board's Administrative

¹ The appellants' timely submitted evidence that indicates the subject dwelling has 3,304 square feet of living area. However, the appellants did not submit any corroborating evidence or testimony in support of this dwelling size. The board of review submitted the subject's property record with a schematic drawing of the dwelling depicting a size of 3,274 square feet of living area. Based on the timely evidence submitted, the Board finds the board of review submitted the best evidence of the subject's dwelling size.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Law Judge took the motion and objection under advisement and allowed the appellants' appraiser to testify in connection with the appraisal report.

The Board's Administrative Law Judge next posed questions to the DuPage County Board of Review and its witness, Chief Deputy Assessor for Downer Grove Township, Joni Gaddis. Gaddis testified the quadrennial general assessment period for the subject property was from 2007 through 2010. The Administrative Law Judge referenced the Board's 2007 decision pertaining to the subject property under Docket Number 07-04374.001-R-1. In that appeal, the Board rendered a decision reducing the subject's assessment to \$243,910 based on the weight and equity of the evidence after an evidentiary hearing. That decision, which was timely submitted by the board of review, was dated September 24, 2010. Charles Van Slyke, Member of the DuPage County Board of Review, testified that to the best of his knowledge there have been no changes to the subject property since the 2007 appeal and the Board's 2007 decision was not reversed or modified upon review.

Next, the appellants' appraiser provided testimony in connection to the appraisal process and final value conclusion of \$530,000 as of January 1, 2010. The appraiser was cross-examined by board of review member Van Slyke regarding the appraisal methodology and final value conclusion.

The one page of the appraisal originally submitted by the appellant and received by the Board on April 21, 2011 contained three suggested comparables sales. The comparables had varying degrees of similarity when compared to the subject in location, land area, design, dwelling size, age and features. The comparables sold from June 2009 to April 2010 for prices ranging from \$487,000 to \$630,000 or from \$137.64 to \$211.41 per square foot of living area including land. The appraisal depicted adjustments to the comparables for differences when compared to the subject. Based on these adjusted sale prices, the appraiser concluded the subject property had an estimated market value of \$520,000 as of May 13, 2010. The appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion.

During the hearing, the board of review objected to the one page of the appraisal because it was not a complete report and may have been used for refinance purposes. In response, counsel reiterated appellants' did not intend to utilize this documentation as part of the appeal, but rather rely on the appraisal that was prepared by Polach.

Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$243,350 was disclosed. The subject's assessment reflects an estimated market value of \$732,100 or \$223.61 per square foot of living area including land when applying the 2013 three-year average median level of assessment for Lake County of 33.24%.

Charles Van Slyke, member of the board of review, argued the hearing of this appeal should not be taking place in light of the stipulation between the taxpayers and the assessor, which was ultimately implemented by the board of review. A copy of the signed agreement as well as a

2016 SYNOPSIS – RESIDENTIAL CHAPTER

document labeled "WIHTDRAW OF STIPULATION AND WAIVER that was signed by appellants' counsel was timely submitted.

In support of the subject's assessment, the board of review submitted a grid analysis of the six comparable sales contained within the appraisal documents submitted by the appellants² and five additional comparable sales, one of which was contained in the one page partial appraiser report submitted by the appellants. The evidence was prepared by Joni Gaddis, Chief Deputy Assessor for Downer Grove Township. Gaddis was called as witness to provide testimony in connection with the evidence she prepared.

Gaddis first provided testimony critiquing the four comparable sales indentified in appraisal prepared by Polach. Gaddis noted their dissimilarity to the subject in location, age and design. She testified the subject is receiving a retention/detention allowance for 9,000 square feet of land area at the rear of the property, which was adjusted by 50%. Gaddis testified that none of the comparables receive any such allowance.

The five additional comparables submitted on behalf of the board of review had varying degrees of similarity when compared to the subject in location, land area, design, age, size and features. Comparables #1 though #4 sold from April 2008 to October 2009 for prices ranging from \$452,000 to \$700,000 or from \$173.79 to \$322.86 per square foot of living area including land. Comparable #5 was vacant land and sold in June 2008 for \$260,000 or \$19.70 per square foot of land area.

Gaddis testified comparable sales #1 and #2 were the only ranch style dwellings in the subject's area. However these properties are older than the subject, but had additions and renovations in 1993 and 2000. Comparable #3 was similar in age to the subject, but was a part one-story and part two-story style dwelling. Comparable #4 was a "tear down" and sold for \$25.11 per square foot of land area.

Under cross-examination, Gaddis did not know how many bedrooms the comparables contain. She agreed comparable #1 has a larger lot than the subject. Gaddis testified she was not aware if any of the comparables are affected by storm water detention easements. She agreed comparable #2 is slightly superior to the subject. Gaddis was not aware that comparable #2 may have been designed by a student of Frank Lloyd Wright and has custom woodwork, a gourmet kitchen, outdoor access and a master suite. Gaddis agreed that if this information could be verified, comparable #2 would be considered superior to the subject. Gaddis was also questioned pertaining to land sales #4 and #5.

Under rebuttal, appellants recalled appraiser Polach, who prepared rebuttal evidence on behalf of the appellants. (Exhibit "B"). The rebuttal evidence and testimony critiqued the comparable sales utilized by the township assessor. In addition, Polach reiterated his opinion that the subject's market value is diminished due to the presence of the storm water detention area. However, Polach acknowledged the subject's land assessment reflects and estimated market value of \$251,400 or \$10.50 per square foot of gross land area and \$15.42 per square foot of net land area, which appears reasonable.

² There was one common comparable located at 3841 School Street, Downers Grove in both appraisal documents submitted by the appellants.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

The parties were allowed, after a request by the appellants' counsel, to submitted post hearing legal briefs pertaining to the applicability of Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the motion to submit evidence after the deadline and withdraw of the stipulation. These briefs were timely received and considered by the Property Tax Appeal Board.

Conclusion of Law

The Board hereby sustains the objection raised by the board of review's regarding the appellants' motion to accept the late filing of the Polach appraisal since it was submitted well before the hearing date. The Board finds the Polach appraisal was not timely submitted, is inadmissible, and is hereby stricken from the record for consideration.³

Section 1910.30(g) of the rules of the Board provide:

If the contesting party is unable to submit written or documentary evidence with the petition, the contesting party must submit a written request for an extension of time with the petition. Upon receipt of this request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include, but is not limited to, the inability to submit evidence for a cause beyond the control of the contesting party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the petition is filed. Evidence sent by mail shall be considered as filed on the date postmarked or in accordance with Section 1910.25(b). (86 Ill.Admin.Code §1910.30(g)).

Section 1910.50(a) of the rules of the Board provide in pertinent part:

All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review **or to any submissions not timely filed or not specifically made a part of the record.** (Emphasis Added). . . . A party participating in the hearing before the Property Tax Appeal Board is entitled to introduce evidence that is otherwise proper and **admissible** without regard to whether that evidence has previously been introduced at a hearing before the board of review of the county. Each appeal shall be limited to the grounds listed in the petition filed with the Board. (Section 16-180 of the Code). (86 Ill.Admin.Code §1910.50(a)).

Finally, Section 1910.67(k)(1) of the rules of the Board provides:

In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless:

³ The Polach appraisal has been preserved in the Board's file for purposes of Administrative Review.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

- 1) Such evidence has been submitted to the Property Tax Appeal Board prior to the hearing pursuant to this Part; (86 Ill.Admin.Code §1910.67(k)(1)).

In this matter, the Board granted two extensions to the taxpayers to file additional evidence with a last due date of March 6, 2012. However, for some unknown reason, the appellants submitted the appraisal prepared by Polach, which was transmitted to the appellants on July 1, 2011, on September 6, 2012, six months past the extended due date. Based on these rules, the Board finds the Polach appraisal was not timely filed and will not be considered.

The Board finds by allowing a party to an appeal to untimely submit evidence during any phase of the appeal process would undermine the Board's rules and the overall appeal procedures as provided by statute and rule.

More importantly, the Board finds that Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) is controlling in this matter. The Board finds the subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board for the 2007 tax year under Docket Number 07-04374.001-R-1. In that appeal, the Board rendered a decision reducing the subject's assessment to \$243,910 based on the weight and equity of the evidence after an evidentiary hearing. The Board finds the statutory language contained Section 16-185 of the Property Tax Code is not ambiguous and provides in relevant part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. (35 ILCS 200/16-185)

Similarly, section 1910.50(i) of the rules of the Board provides:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225 of the Code, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. (Section 16-185 of the Code). (86 Ill.Admin.Code §1910.50(i)).

Based on the controlling statute and rule, the Board finds that its 2007 tax year's decision shall be carried forward to the subsequent assessment year(s) of the general assessment period subject

2016 SYNOPSIS – RESIDENTIAL CHAPTER

only to any equalization factor applied to those years' assessments. The Board finds this record contains no evidence indicating the subject property sold in an arm's-length transaction subsequent to its 2007 decision or that the decision was reversed or modified upon review. In addition, the Board finds the record shows the assessment year in question is within the same general assessment period as the Board's 2007 decision. The Board takes notice that the record shows equalization factors were issued for Downers Grove Township, DuPage County of 1.059 for the 2008 tax year, 1.00 for the 2009 tax year and .9421 for the 2010 tax year. The Board further finds the subject's assessment as established by the DuPage County Board of Review of \$243,350 is in compliance with the controlling statute and rule. $(\$243,910 \times 1.059 \times 1.00 \times .9421 = \$243,345 \text{ or } \$243,350, \text{ rounded})$. As a result, the Property Tax Appeal Board finds that no reduction in the subject's assessment is warranted.

Based on the above finding, the Board finds it need not address the remaining valuation evidence, the stipulation between the taxpayers and the assessor, or the withdraw of stipulation by the taxpayers.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Steven McDonnell</u>
DOCKET NUMBER:	<u>13-03807.001-R-1</u>
DATE DECIDED:	<u>May, 2016</u>
COUNTY:	<u>Lake</u>
RESULT:	<u>No Change</u>

The subject property consists of a one and one half story frame dwelling that contains 2,256 square feet of living area. The dwelling was built in 1920 with an effective age of 1943. The dwelling was remodeled in 2004. Features include a full basement that is partially finished, central air conditioning, a fireplace and a 336 square foot garage that was built in 2009. The subject property has a 6,250 square foot site. The subject property is located in Moraine Township, Lake County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property estimating a market value of \$460,000 as of January 1, 2013. The appraisal was prepared by Steven L. Smith, a state licensed appraiser. The appraiser developed the sales comparison approach to value in arriving at the final opinion of value. The appraiser identified three comparable sales located from .13 to .51 of a mile from the subject. The comparables had varying degrees of similarity when compared to the subject in land area, design, age, dwelling size and features. The comparables sold in September 2011 or December 2012 for prices ranging from \$471,500 to \$522,000 or from \$187.22 to \$235.24 per square foot of living area including land. The appraiser adjusted the comparables for differences from the subject in land area, view, condition, dwelling size, garage area, fireplaces and patios. After adjustments, the comparables had adjusted sale prices ranging from \$453,200 to \$492,220 or from \$171.41 to \$221.82 per square foot of living area including land. Based on the adjusted sales, the appraiser concluded a final value estimate for the subject property of \$460,000 or \$203.90 per square foot of living area including land. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$187,390 was disclosed. The subject's assessment reflects an estimated market value of \$563,749 or \$249.89 per square foot of living area including land when applying Lake County's 2013 three-year average median level of assessment of 33.24%. 86 Ill.Admin.Code §1910.50(c)(1).

In response to the appeal, the board of review argued appraisal comparable #1 sold in "as is" condition without repairs; comparable #2 was a foreclosure that sold in "as is" condition; and comparable #3 sold in 2011, 14 months prior to the January 1, 2013 assessment date.

In support of the subject's assessment, the board of review submitted four comparable sales. The comparables are located from .03 to .25 of a mile from the subject. The comparables had varying degrees of similarity when compared to the subject in land area, design, age, dwelling size and features. They sold from April 2011 to May 2013 for prices ranging from \$580,000 to

2016 SYNOPSIS – RESIDENTIAL CHAPTER

\$705,000 or from \$239.87 to \$312.36 per square foot of living area including land. Based on this evidence, 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 the appellant did not meet this burden of proof.

The Board gave little weight to the appraisal submitted by the appellant. The Board finds comparables #3 sold in 2011, which is dated and less indicative of market value as of the subject's January 1, 2013 assessment date. The Board finds the evidence submitted by the board of review shows appraisal comparables #1 and #2 had detrimental condition issues at the time of sale. According to their Multiple Listing Service sheets, these properties sold in "as is" condition with comparable #2 being a foreclosure. The Board also gave less weight to comparable #1 submitted by the board of review due to its 2011 sale date.

The Board finds comparables #2 through #4 submitted by the board of review are most similar when compared to the subject in location, land area, design, dwelling size, age, and features. These comparables sold in March 2012 and May 2013 for prices ranging from \$580,000 to \$705,000 or from \$239.87 to \$312.36 per square foot of living area including land. The subject's assessment reflects an estimated market value of \$563,749 or \$249.89 per square foot of living area including land, which falls below the range established by the most similar comparables contained in this record on an overall basis. After considering logical adjustments to the most similar comparables for differences from the subject, the Board finds the subject's assessed value is supported and no reduction is warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Nayeli Meza</u>
DOCKET NUMBER:	<u>13-04987.001-R-1</u>
DATE DECIDED:	<u>May, 2016</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>Reduction</u>

The subject property consists of a one-story dwelling of frame construction with 732 square feet of living area. The dwelling was constructed in 1920. Features of the home include an unfinished basement, an enclosed porch and a detached 440 square foot garage. The property has an 8,000 square foot site and is located in Bensenville, Addison Township, DuPage County.

The subject property is an owner occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 12-03936.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$25,000 based on the evidence submitted by the parties. The appellant submitted this appeal with a brief from former counsel seeking application of Section 16-185 of the Property Tax Code since the subject is an owner-occupied dwelling and tax years 2012 and 2013 are in the same general assessment period.

Based on this evidence, the appellant requests a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$39,220. The subject's assessment reflects a market value of \$117,707 or \$160.80 per square foot of living area, land included, when using the 2013 three year average median level of assessment for DuPage County of 33.32% as determined by the Illinois Department of Revenue. As part of the board of review's submission, it was reported that properties in Addison Township had an equalization factor of .93650 applied in 2013.

In response to the appeal, the board of review submitted documentation prepared by the Addison Township Assessor's Office.¹ As part of the assessor's data, the assessor argued that the subject dwelling is no longer in the same condition as it was at time of purchase in 2011 "as evidenced by exterior photo attached before and after purchase." The assessor also noted that no permits were taken out for the work that was done and the market has begun "its correction from 2011 to 2013 as seen by Assessors comparables." Lastly, the assessor stated, "A Rollover in this case is objected to due to the overall improvements made to the subject since its purchase and PTAB's 2012 decision."

In further support of the subject's assessment, the township assessor prepared a spreadsheet with five comparable sales of one-story frame dwellings that were built between 1948 and 1954.

¹ The township assessor also submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration document concerning the July 2011 sale of the subject property and noted that the assessor did not have a "signed authorization" for Attorney Jerri K. Bush to represent the appellant. The Board finds there was no successful appeal of the Board's decision for tax year 2012 and thus the transfer declaration and argument the property was not advertised on the market is not relevant to this appeal. The Board also notes that there is no requirement in the Board's procedural rules for an authorization for attorney representation in an appeal before the Property Tax Appeal Board other than for taxing districts. (86 Ill.Admin.Code §1910.30(d) & 1910.60(d)(2))

2016 SYNOPSIS – RESIDENTIAL CHAPTER

These properties sold between July 2012 and November 2013 for prices ranging from \$135,000 to \$193,325 or from \$160.71 to \$206.54 per square foot of living area, including land.

Based on the foregoing evidence and argument, the board of review requested a decision based on the evidence in the record.

Conclusion of Law

The subject property was the subject matter of an appeal before the Property Tax Appeal Board the prior year under Docket Number 12-03936.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$25,000 based on the evidence submitted by the parties.

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, **shall remain in effect for the remainder of the general assessment period** as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. [Emphasis added.]

Given the foregoing statutory provision, the Property Tax Appeal Board finds that the prior year's decision should be carried forward to the subsequent year subject only to any equalization factor applied to that year's assessments. This finding is pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) and the fact that 2012 and 2013 are within the same general assessment period in DuPage County. Furthermore, the record contains no evidence indicating that the assessment year in question is in a different general assessment period, the subject property sold in an arm's length transaction establishing a different fair cash value for the property, or that the decision of the Property Tax Appeal Board was reversed or modified upon review.

For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is mandated by law and warranted to reflect the Board's prior year's finding plus the application of the equalization factor of 0.93650.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Edward Richards</u>
DOCKET NUMBER:	<u>12-34250.001-R-1</u>
DATE DECIDED:	<u>June, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject property contains a 126 year-old, two-story, two-unit dwelling of frame construction with 1,664 square feet of living area. Features of the building include a full unfinished basement. The property has a 3,125 square foot site and is located in West Chicago Township, Cook County. The property is a Class 2-11 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 \$96,000 as of January 1, 2012. The appraisal disclosed the subject dwelling contained two units. The appraisal disclosed in its Supplemental Addendum that the first floor unit (unit #1) was occupied by the owner, but that the second floor unit (unit #2) was not habitable because it had been gutted with the intention to remodel it. The appraisal added that, “per the owner,” remodeling unit #2 had not been possible due to the market decline. The appraisal disclosed that the subject contained two newer furnaces and two newer water heaters. The appraisal was based on a sales comparison approach with three sales comparables. The appellant requested a total assessment reduction to \$9,600 when applying the 2012 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$26,278. The subject's assessment reflects a market value of \$262,780, or \$157.92 per square foot of living area including land, when applying the 2012 level of assessment of 10.00% 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 unadjusted suggested sales comparables. The board of review also submitted a Supplemental Brief in which it argued that the instant appeal should not be considered by the Board as a roll-over of the prior year's assessment because the instant tax lien year was the first year in the triennial assessment period.

In rebuttal, the appellant argued that the board of review's comparables should be given no weight because they were dissimilar to the subject on various key property characteristics. The appellant submitted evidence that the improvements and lot sizes of those comparables were significantly larger than the subject, that they were not in close proximity to the subject, and that they were not in the same neighborhood as the subject. The appellant also submitted a black-and-white photograph of the subject in support of his rebuttal brief that the photograph of the subject submitted by the board of review did not depict the subject and its neighborhood accurately. The appellant's rebuttal photograph disclosed two new dwellings on either side of the subject. The appellant argued that his photograph depicted the subject and its neighborhood

2016 SYNOPSIS – RESIDENTIAL CHAPTER

as it existed at the time the appeal was filed and is in contrast to the older photograph of the subject submitted by the board of review, which depicted the subject surrounded by older dwellings. The appellant responded to the board of review's Supplemental Brief by arguing that he did not file the instant appeal as a roll-over, but as a direct appeal.

At hearing, the appellant offered Michael Hobbs as an expert appraiser. After *voir dire* by all parties, the Board accepted Hobbs as an expert in the theory and practice of real estate appraisal. Hobbs testified that the subject dwelling was a two-story, two-unit older property of frame construction and exhibited some lack of maintenance on the exterior. The first floor unit interior was, in his opinion, "generally habitable," had not been recently updated and exhibited some lack of maintenance. He opined that the second floor unit was "not habitable" because it had been gutted with the intention of being remodeled. He further testified that the second floor unit remodeling had not been completed because "the market had turned and the owner was not in the position to complete the work." Hobbs testified that the basement contained new mechanicals and separate utility boxes. Hobbs selected the three sales comparables in his report because they were similar to the subject in location, dwelling size, lot size, and were two-unit frame construction buildings. He opined that each of the three comparables was not habitable. He testified that he did not personally inspect these properties, but learned from realtors and from the Multiple Listing Service that they required rehabilitation and that they were not habitable. Hobbs did not know if either both or only one of the two units in each of the comparables were not habitable. He testified that he did not consider whether it would have been reasonable to apply an upward adjustment to any of the comparables if they contained at least one habitable unit. Hobbs testified that page two of his appraisal report contained the error that the second floor unit was occupied and capable of generating revenue.

The appellant testified that he lived in the subject in 2012. He undertook renovation of unit #2, but did not finish it due to a "shift in market conditions." He testified at times that he intended to live in unit #2 but that he also considered putting it on the rental market. The appellant did not finish the renovation because it was beyond his means and that he "got in over his head." He argued that he believed people did not want to live in dwellings like the subject and that the neighborhood was changing to reflect a market that was distinguished by newer construction. To illustrate his argument, the appellant referred to the black-and-white photograph in his rebuttal brief. This photograph disclosed the dwellings directly next door to the subject were newer masonry construction.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the board of review's argument in its Supplemental Brief is moot. As the appellant correctly stated in his rebuttal brief, the instant appeal is for the first year of the

2016 SYNOPSIS – RESIDENTIAL CHAPTER

triennial assessment period and, as such, is not eligible for a roll-over from the prior year. The appellant correctly stated that his instant appeal is a direct appeal to the Board.

The appellant predicates his overvaluation argument on the assertion that unit #2 was uninhabitable. The appraiser supplied his appraisal report and testimony in support of this assertion. The documentary evidence and testimony disclosed that unit #2 was not in a habitable condition in the tax lien year. The walls had been taken down to the studs and were not finished. Heating and electrical conduit had been largely completed, but were exposed. Unit #2 was clearly vacant. However, testimony and the Supplemental Addendum to the appraisal report disclosed that unit #2 was in an uninhabitable condition due to on-going renovation by the appellant. The appellant abandoned this renovation due to what the appraiser called a “declining market” and what the appellant testified was a decline in the market that put further renovation beyond his means. The appellant intended to place unit #2 on the rental market. Both units #1 and #2 were serviced by separate furnaces, water heaters and utilities. Consequently, the appellant seeks a reduction in the assessment to mitigate the effects of the unsuccessful renovation. Section 9-180 of the Property Tax Code provides, in relevant part:

When ... any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use. (35 ILCS 200/9-180).

The evidence reveals that whatever uninhabitable condition existed in unit #2 in the instant tax lien year, it was due to an attempted but ultimately abandoned renovation by the appellant. The record does not support a finding that the uninhabitable condition of unit #2 was due to accidental means. As to the appraisal, the information the appraiser obtained about the allegedly uninhabitable condition of his three comparables was hearsay from realtors expressing their opinions about the condition of those properties. Nowhere in the appraisal nor in the appraiser’s testimony was there admissible evidence as to how and why those comparable properties were allegedly uninhabitable. The appraiser did not know if both or only one of the units in the comparables were uninhabitable, and did not consider making any appropriate upward adjustments as a result. Moreover, the appraiser did not provide analysis or testimony of how much the partial renovation of unit #2 contributed to the market value of the subject, despite evidence that unit #2 contained newer heating and electrical conduit, and was serviced by its own newer furnace, water heater and utility box. Consequently, the Board finds the appraisal report unreliable and disregards the appraiser’s opinions and conclusions contained therein.

However, what remains in the appraisal are raw, unadjusted sales data of the three comparable properties. After discounting the appraiser’s opinions that these were uninhabitable, the data included descriptions of key property characteristics that were similar to those of the subject. The board of review also submitted sales comparables. The Board finds that these are dissimilar to the subject in most key property characteristics, and accords them little weight. The comparables disclosed in the appellant’s appraisal ranged from 1,648 to 2,120 square feet of living area, were situated on lots ranging from 3,125 to 3,625 square feet of land, were of frame

2016 SYNOPSIS – RESIDENTIAL CHAPTER

construction, and were within close proximity to the subject. They each sold in 2011 for prices ranging from \$47.78 to \$58.25 per square foot of living area including land. However, the data does not disclose how or why either both or only one unit contained in those properties was uninhabitable, and whether they, like the subject, contained partial renovations.

After considering the differences and similarities of the subject to the appellant's sales comparables in the appraisal and the board of review's sales comparables, the Board finds the assessment of the subject property warrants a reduction. The Board finds the subject property had a market value of \$180,000 as of the assessment date at issue. Since market value has been established, the 2012 level of assessment of 10.00% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance shall apply.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Konstantinos Roiniotis
DOCKET NUMBER:	14-00843.001-R-1
DATE DECIDED:	July, 2016
COUNTY:	Lake
RESULT:	Reduction

The subject property consists of a two-story dwelling of brick exterior construction with 3,701 square feet of living area. The dwelling was constructed in 1983. Features of the home include a partial basement with finished area, central air conditioning, a fireplace and a 969 square foot attached garage. The property has a 41,207 square foot site and is located in Libertyville, Warren Township, Lake County.

The appellant contends assessment inequity with respect to the improvement as the basis of the appeal. In support of this argument the appellant submitted information on three equity comparables located within .2 of a mile from the subject property. The comparables are improved with 2-story single family dwellings with varying degrees of similarity when compared to the subject. The dwellings range in size from 3,790 to 4,195 square feet of living area and have improvement assessments ranging from \$99,561 to \$117,966 or from \$24.32 to \$28.12 per square foot of living area. The appellant requested the total assessment be reduced to \$134,368.¹

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$146,734. The subject property has an improvement assessment of \$109,702 or \$29.64 per square foot of living area. In support of its contention of the correct assessment the board of review submitted information on six equity comparables located within .24 of a mile from the subject property. One comparable was also utilized by the appellant. The comparables are improved with 1.75-story or 2-story single family dwellings and have varying degrees of similarity when compared to the subject. The dwellings range in size from 3,565 to 3,968 square feet of living area and have improvement assessments ranging from \$100,348 to \$113,381 or from \$26.48 to \$31.80 per square foot of living area.

Conclusion of Law

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

¹ The appellant indicates the land assessment is \$79,332 with a total assessment of \$189,034, when the actual land assessment is \$37,032 with a total assessment of \$146,734, based on the 2014 board of review decision and the Board of Review-Notes on Appeal.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

The parties' submitted eight comparables for the Board's consideration. The appellant's comparable #3 is also board of review's comparable #1. The Board gave less weight to the appellant's comparable #3 along with the board of review's comparables #1, #3 and #6 due to the lack of a finished basement unlike the subject's finished basement. The Board finds the best evidence of assessment equity to be appellant's comparables #1 and #2 along with the board of review comparables #2, #4 and #5. These comparables have varying degrees of similarity in location, age, dwelling size, design and features. These comparables had improvement assessments that ranged from \$99,561 to \$117,966 or from \$24.32 to \$28.93 per square foot of living area. The subject's improvement assessment of \$109,702 or \$29.64 per square foot of living area falls above the range established by the best comparables in this record on a per square foot basis. Based on this record the Board finds the appellant did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is justified.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Joe & Lisa Spears
DOCKET NUMBER:	13-02390.001-R-1
DATE DECIDED:	February, 2016
COUNTY:	Kane
RESULT:	Reduction

The subject property consists of a one-story dwelling of frame construction with 1,073 square feet of living area. The dwelling was constructed in 1955. Features of the home include a full unfinished basement.¹ The property has a 6,250 square foot site and is located in Geneva, Geneva Township, Kane County.

The appellants' appeal is based on overvaluation. In support of this argument the appellants submitted evidence disclosing the subject property was purchased on February 28, 2013 for a price of \$74,900. The appellants completed Section IV - Recent Sale Data of the appeal petition disclosing the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open market with the Multiple Listing Service for 4 days. In further support of the transaction the appellants submitted a copy of the Settlement Statement reiterating the purchase price and date; a copy of the Multiple Listing Service data sheet depicting that the property was an REO/Lender Owned, Pre-Foreclosure with cash financing; and a copy of the Listing & Property History Report depicting a listing date of December 12, 2012 with an asking price of \$74,900 before being sold. The listing data sheet reflects the property was sold "as-is" and "seller will not complete repairs nor will they give credits for repairs." Based on this evidence, the appellants requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$57,285. The subject's assessment reflects a market value of \$171,975 or \$160.27 per square foot of living area, land included, when using the 2013 three year average median level of assessment for Kane County of 33.31% as determined by the Illinois Department of Revenue.

In response to the appeal and in support of its contention of the correct assessment, the board of review submitted a two-page memorandum from Denise D. LaCure, Geneva Township Assessor, along with supporting documents. In the memorandum, she asserted the subject's sale was not a normal arm's length transaction. In support of this proposition, she set forth the history of foreclosure, a Sheriff's Sale, ownership by the Office of Veteran's Affairs followed by sale to the appellants via Special Warranty Deed because the seller was a financial institution/government agency. The assessor then states, "This distressed property was the subject of a compulsory, non arm's length transaction."

The assessor also submitted a spreadsheet with information on four comparable sales. The homes range in size from 1,049 to 1,336 square feet of living area. The dwellings were similar in age, design and/or exterior construction to the subject dwelling. Two of the comparables have

¹ In the grid analysis, the assessing officials reported central air conditioning as a feature of the subject property despite that the property record card for the subject does not identify this as a feature of the dwelling.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

basements, one of which has finished area. Each of the comparables has central air conditioning, one comparable has a fireplace and each has a one-car or a two-car garage. The comparables sold from May 2010 to October 2012 for prices ranging from \$125,000 to \$177,350 or from \$101.05 to \$160.15 per square foot of living area, including land.

The assessor further reported that comparable #1 needed work at the time of sale and resold after updates in January 2013 for \$195,500. She also reported that comparable #3 was sold via Special Warranty Deed as a Bank REO property. Having considered the data, the assessor recommended a reduction in the subject's total assessment to \$55,159 for a market value of approximately \$165,494.

Based on this evidence and argument, the board of review proposed a reduction in the subject's assessment in accordance with the assessor's recommendation.

The appellants were informed of this proposed reduction and rejected the offer. As to the assessor's arguments regarding the sale of the subject property, counsel contends the assessor provided no evidence to show that the sale of the subject was distressed or that the property was in inferior condition. Furthermore, counsel argued that the board of review provided no evidence that the sale price was not reflective of market value.

Conclusion of Law

The appellants contend 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 appellants met this burden of proof and a reduction in the subject's assessment is warranted.

Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

As to the assessor's contentions regarding the sale of the subject property, the Property Tax Appeal Board takes judicial notice of Section 1-23 of the Code which defines compulsory sale as:

2016 SYNOPSIS – RESIDENTIAL CHAPTER

. . . (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete. 35 ILCS 200/1-23.

Section 16-183 of the Code further provides that the Property Tax Appeal Board is to consider compulsory sales in determining the correct assessment of a property under appeal stating:

Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. 35 ILCS 200/16-183.

Based on these statutes, the Property Tax Appeal Board finds it is appropriate to consider the sale of the subject property in revising and correcting the subject's assessment and these statutes are instructive as to the assessment of the subject property.

The Property Tax Appeal Board finds the best evidence of market value to be the purchase of the subject property in February 2013, a month after the assessment date of January 1, 2013, for a price of \$74,900. The appellants provided evidence demonstrating the sale had the elements of an arm's length transaction. The evidence disclosed the parties to the transaction were not related, the property was sold using a Realtor and there was no evidence of duress to buy or sell. In further support of the transaction the appellants submitted a copy of the Settlement Statement, a copy of the MLS listing sheet for the subject property which depicted that the property had been advertised on the open market for 4 days and a copy of the Listing & Property History Report. The Property Tax Appeal Board further finds the purchase price of \$74,900 is less than the subject's estimated market value as reflected by its assessment of \$171,975 and also less than the proposed revised assessment that would reflect a market value of approximately \$165,494.

The board of review submitted information on four comparable sales of dwellings with varying degrees of similarity to the subject property. Each comparable was superior to the subject property with features of central air conditioning and a garage which were not features of the subject dwelling. Moreover, board of review comparables #3 and #4 sold in 2010, dates more remote in time to the assessment date of January 1, 2013 and thus less likely to be indicative of the subject's estimated market value. More importantly, the Property Tax Appeal Board finds the sales presented by the board of review do not refute the appellants' evidence that the subject property sold after being exposed on the open market for 4 days in a transaction involving parties that were not related. Based on this record the Board finds the purchase price in February 2013 is the best indication of market value as of January 1, 2013, and a reduction in the subject's assessment commensurate with the appellants' request is justified.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Janina Sveiteriene
DOCKET NUMBER:	13-31829.001-R-1
DATE DECIDED:	October, 2016
COUNTY:	Cook
RESULT:	No Change

The subject's description is disputed by the parties, and is a critical factor in the appellant's request for relief. According to the evidence submitted by the appellant, the subject consists of a one-story dwelling of masonry construction with 1,044 square feet of living area. The dwelling is 61 years old. The property has a 3,720 square foot site, and, according to the appellant, should be classified as a class 2-03 property under the Cook County Real Property Assessment Classification Ordinance. The appellant's evidence states that a second story is currently being constructed on the subject, but that it is not yet completed.

According to the evidence submitted by the Cook County Board of Review, the subject consists of a two-story dwelling of frame and masonry construction with 2,542 square feet of living area. The dwelling is 58 years old. The property has a 3,750 square foot site, and is classified as a class 2-78 property under the Cook County Real Property Assessment Classification Ordinance.

Both parties agree that the features of the dwelling include a full basement, central air conditioning, and a two-car garage. The property is located in Chicago, South Chicago Township, Cook County.

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 \$240,500 as of January 1, 2012. The appellant requested that the subject's assessment be reduced to 10.00% of the appraisal's estimate of market value. The appraisal states that the subject is owner-occupied.

The appraisal further states that, as of the inspection date of December 6, 2013, there is a second story being added to the subject, and that this addition is "unfinished and uninhabitable." The appraisal included black and white photographs of the interior and exterior of the subject, including the second floor addition. Presumably, these photographs were taken by the appraiser on the inspection date of December 6, 2013, except for one of the exterior photographs from the Cook County Assessor's website, which is dated December 27, 2007. This photograph shows the second floor addition is under roof, but that the siding had not yet been installed. The remaining exterior photographs depict the second floor addition as being under roof with the siding and windows installed. The interior photographs depict construction materials strewn across the second floor; however, the photographs also show that the walls, windows, and electrical outlets have been installed. Additionally, one photograph of the subject's interior shows that the tile and plumbing fixtures have been installed in the bathroom. Other than mentioning that the second floor addition exists, and submitting these photographs, the appraisal essentially ignores the second floor addition. The second floor addition is not taken into consideration in the sales comparison approach to value, and the comparables used were all one-story dwellings. No adjustments were made due to the subject's second floor addition.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Moreover, the drawings depicting the subject's improvement size do not take into account the second floor addition; however, the measurements for the basement were included, but were not included as living area.

In the brief submitted by the appellant, counsel for the appellant articulated that the second floor addition is not complete, and that, while the walls and floors are intact, the electrical, plumbing, and tile work had not yet been completed. The appellant's argument continues by comparing the subject's assessments for tax years 2012 and 2013, stating that the subject's "assessment nearly doubled in 2012," and that "it is likely that the Assessor figured the value of the second story into the assessment." The subject's assessment for tax year 2012 was not included in the evidence submitted by the parties. The appellant's brief further states that a permit was issued on June 21, 2006 for constructing the second story addition; however, this permit was not included in the evidence submitted by the parties. In summary, the appellant implicitly requests that the subject's second story addition be assessed at \$0.00 for tax year 2013.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$40,613. The subject's assessment reflects a market value of \$406,130 when applying the 2013 statutory level of assessment for class 2 property of 10.00% 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 equity comparables and four sale comparables. The board of review also submitted the black and white photograph of the subject from the assessor's website that is dated December 27, 2007, which was also included in the appellant's appraisal.

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.

Valuation in years other than general assessment years. On or before June 1 in each year other than the general assessment year...the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, all new or added buildings, structures or other improvements, the value of which was not included in the valuation of the property for that year, and all improvements which were destroyed or removed.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

35 ILCS 200/9-160.

Pro-rata valuations; improvements or removal of improvements. The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. The owner of the improved property shall notify the assessor, within 30 days of the issuance of an occupancy permit or within 30 days of completion of the improvements, on a form prescribed by that official, and request that the property be reassessed. The notice shall be sent by certified mail, return receipt requested and shall include the legal description of the property.

35 ILCS 200/9-180.

In conjunctively construing Sections 9-160 and 9-180 of the Property Tax Code, the appellate court stated:

[S]ection 9–160 requires the assessor to record any new improvements and to determine the value they have added to the property. By its terms, section 9-180, applies only after a building has been substantially completed and initially occupied. Reading these two sections together, section 9-160 clearly requires the assessor to value any substantially completed improvements to the extent that they add value to the property. Section 9-180 then defines the time when the improvement can be fully assessed. This occurs when the building is both substantially completed and initially occupied.

Brazas v. Property Tax Appeal Bd., 339 Ill.App.3d 978, 983 (2d Dist. 2003) (quoting Long Grove Manor v. Property Tax Appeal Bd., 301 Ill.App.3d 654, 656-57 (2d Dist. 1998)). In clarifying the Long Grove Manor court’s holding, the Brazas court further stated that “[S]ection 9-160 allows the assessor to value any partially completed improvement to the extent that it adds value to the property, regardless of whether the improvement is ‘substantially complete.’” Brazas, 339 Ill.App.3d at 983.

When looking to the photographs contained in the appraisal, it is clear that the second story addition is under roof, has siding and windows installed on the exterior, and has plumbing fixtures, electrical outlets, tile, and walls installed on the interior. However, the appraisal’s analysis in determining the subject’s estimate of market value contradicts the photographs contained within it. For example, the second story addition is accorded no value, and is not even considered in the appraisal. It is clear to the Board that, under Section 9-160 of the Property Tax Code and the appellate court’s holding in Brazas, the second story addition to the subject, while not fully completed, certainly adds value to the subject. 35 ILCS 200/9-160; Brazas, 339 Ill.App.3d at 983. As such, the Board finds that the second story addition must be added to the subject’s assessment for taxation purposes, and should have been used by the appraiser in determining the subject’s estimate of market value.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Moreover, the drawings of the subject in the appraisal include non-living area in the calculations (such as the basement), but do not include any measurements of the second story addition. Even assuming the second story addition was non-living area, which the Board makes no finding regarding this issue, the appraisal still should have included the measurements of the second story addition to be consistent.

Since the appraisal submitted by the appellant is inconsistent and contradicts itself on several points, the Board finds that the appraisal is not reliable, and the appraisal is accorded no weight in the Board's analysis. For similar reasons, the Board accords no weight to the sales comparables used by the appraiser in the sales comparison approach to value, as these comparables were all one-story dwellings, and the subject is a partially completed two-story dwelling. Since there is no remaining evidence to support a reduction in the subject's assessment, the Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued, and a reduction in the subject's assessment is not warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	<u>Dorothy Usiskin</u>
DOCKET NUMBER:	<u>12-26202.001-R-1</u>
DATE DECIDED:	<u>March, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>No Change</u>

The subject property is improved with a one-story, frame, single-family home. It contains 2,850 square feet of area and is situated on a 42,863 square foot site. Features of the home include four bedrooms, central air conditioning, two fireplaces, and a three-car garage. The property is located in Winnetka, New Trier Township, Cook County. It is classified as class 2-04 property under the Cook County Real Property Classification Ordinance.

The subject property is an owner-occupied residence that was the subject matter of an appeal before the Property Tax Appeal Board the prior year under docket number 11-24194.001-R-1. In that appeal the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to \$139,650 based on an agreement between the parties. The record indicates that 2011 and 2012 were within the same general assessment period for residential property. The appellant also submitted an appraisal estimating the market value for the subject as of July 1, 2012 to be \$1,150,000.

The board of review submitted its "Board of Review-Notes on Appeal" wherein the final assessment of the subject property totaling \$139,650 was disclosed. The board of review submitted descriptive, sale and assessment information on four comparables to demonstrate the subject was being fairly assessed.

Conclusion of Law

Pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the Board finds the prior year's decision has already been carried forward to the subsequent year, as the board's evidence indicates.

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

The record disclosed the Property Tax Appeal Board issued a decision reducing the subject's 2011 assessment. The record further indicates that the subject property is an owner-occupied dwelling and that 2011 and 2012 are within the same general assessment period. The record

2016 SYNOPSIS – RESIDENTIAL CHAPTER

contains no evidence indicating the subject property sold in an arm's length transaction subsequent to the Board's decision or that the assessment year in question is in a different general assessment period. For these reasons the Property Tax Appeal Board finds that a reduction in the subject's assessment is not warranted as the 2012 assessment already reflects the Board's prior year's decision.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

APPELLANT:	Michael Zucker, Receiver
DOCKET NUMBER:	12-31011.001-R-2 thru 12-31011.026-R-2
DATE DECIDED:	September, 2016
COUNTY:	Cook
RESULT:	No Change

The subject property consists of 26 condominium units located within a three-story, masonry, 97-unit condominium building. The property is located in Jefferson Township, Cook County. The property is a class 2-99 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity and overvaluation as the bases of the appeal. In support of the equity argument, the appellant submitted 10 suggested comparables with limited data on each comparable. These properties are classified as 3-15, apartment buildings.

In support of the market value argument, the appellant submitted the 2013 rent roll, a copy of the mortgage foreclosure filing in circuit court, and 2012 income and expense statements. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment of \$314,352 with assessments per unit ranging from \$14,163 to \$32,967.

In support of the assessment the board of review submitted information disclosing that two units within the condominium sold in 2008 and 2013 for a total of \$269,000. The analyst deducted 2% from the total sale prices to account for personal property to arrive at a total adjusted consideration of \$266,310. Dividing the total adjusted consideration by the percentage of ownership in the condominium units that sold of 8.48% indicated a full value for the condominium property of \$3,140,448.

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 has not met this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted documentation showing the rent and income and expenses of the subject property. The Board gives the appellant's argument little weight. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is 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

2016 SYNOPSIS – RESIDENTIAL CHAPTER

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 431.

Actual vacancy, expenses and income can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant did not demonstrate through an expert in real estate valuation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, one must establish, through the use of market data, the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The appellant did not provide such evidence and, therefore, the Board gives this argument no weight.

The taxpayer also contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b).

The Board finds that the appellant failed to submit sufficient evidence to determine if the subject was inequitably assessed. The appellant submitted comparables of apartment units which are not similar to the subject. Although the appellant owns every unit within the condominium building, each unit is independent and can be sold individually. The comparable properties are apartments and the units cannot be sold individually. The Board finds that this difference is a pertinent factor in the characteristics of the buildings and finds that they are not similar for assessment purposes.

As a result of this analysis, the Board further finds that the appellant has not demonstrated that the subject was inequitably assessed by clear and convincing evidence and that a reduction is not warranted.

2016 SYNOPSIS – RESIDENTIAL CHAPTER

2016 RESIDENTIAL CHAPTER

Index

*[Items Contained in Italics Indicate
Arguments or Evidence in Opposition to the Appellant's claim]*

<u>SUBJECT MATTER</u>	<u>PAGES</u>
Contention of law – historic rehab (35 ILCS 220/10-45 & 10-50) <i>Equity comparables & sale comparables</i>	R-30 to R-31
Contention of law – Sec. 16-185 (rollover) <i>Not an owner occupied dwelling; equity comparables</i>	R-32 to R-33
Contention of law – Sec. 16-185 (rollover) <i>Changes to property; §16-185 not applicable; comp sales</i>	R-46 to R-47
Contention of law – Sec. 16-185 (rollover); appraisal <i>Criticisms and comparable sales</i>	R-38 to R-43
Contention of law – Sec. 16-185 (rollover); appraisal <i>Equity comps</i>	R-61 to R-62
Equity – equity comps <i>Equity comparables</i>	R-28 to R-29
Equity – equity comps <i>Equity comps</i>	R-52 to R-53
Hearsay – lack of appraisal witness issue	R-23 to R-27
Overvaluation – appraisal <i>Comparable sales</i>	R-44 to R-45
Overvaluation – appraisal (2-unit building); 2nd unit uninhabitable <i>Comparable sales</i>	R-48 to R-51
Overvaluation – appraisal & 6 month old sale price <i>Comparables with equity and sales data</i>	R-10 to R-11
Overvaluation – appraisal & comparable sales <i>Comparable sales (condominium analysis)</i>	R-23 to R-27
Overvaluation – 2nd story addition under construction; appraisal <i>Equity comparables & comparable sales</i>	R-57 to R-60

2016 SYNOPSIS – RESIDENTIAL CHAPTER

Overvaluation – comparable sales <i>Comparable sales</i>	R-20 to R-22
Overvaluation – comparable sales <i>Sales with rebuttal of appellant's evidence</i>	R-14 to R-15
Overvaluation – comparable sales <i>Comparable sales (distant in time & differ in design)</i>	R-18 to R-19
Overvaluation – comparable sales (condominium building) <i>Additional sales within building (less proximate in time)</i>	R-3 to R-4
Overvaluation – sale price <i>Comparable sales; sale of subject between related parties</i>	R-16 to R-17
Overvaluation – sale price <i>Estate sale of subject asserted to be invalid</i>	R-7 to R-9
Overvaluation – sale price <i>Sale not arm's length; comparable sales</i>	R-54 to R-56
Overvaluation – sale price <i>Township policy: sale documentation incomplete</i>	R-5 to R-6
Overvaluation – sale price (foreclosure) <i>Comparable sales; no evidence sale was not arm's length</i>	R-36 to R-37
Overvaluation – sale price less vacancy <i>One comparable sale</i>	R-12 to R-13
Overvaluation & equity – attorney prepared actual income & expenses <i>Equity comparables</i>	R-34 to R-35
Overvaluation & equity – comparable apartment buildings <i>Two comparable sales within subject building</i>	R-63 to R-64
Procedure – late filed evidence	R-38 to R-43
INDEX	R-65 to R-66

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2016 FARM DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
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2016 SYNOPSIS – FARM CHAPTER

2016 FARM CHAPTER

Table of Contents

<u>APPELLANT</u>	<u>DOCKET NUMBER</u>	<u>RESULT</u>	<u>PAGE NO.</u>
Blum, Lori	13-00124.001-F-1	No Change	F-2 to F-5
Clay, Tim, Jim & Jerry	11-04385.001-F-1	A Reduction	F-6 to F-7
Jones, Bridget & Bryan	14-03379.001-F-1	A Reduction	F-8 to F-11
Kantor, John	13-31171.001-F-1 thru 13-31171.006-F-1	No Change	F-12 to F-17
Peters, Charles & Jeannie	13-02677.001-F-2	A Reduction	F-18 to F-25
Subat Family Trust #1	13-02762.001-F-1	A Reduction	F-26 to F-28
INDEX			F-29 to F-29

2016 SYNOPSIS – FARM CHAPTER

APPELLANT:	<u>Lori Blum</u>
DOCKET NUMBER:	<u>13-00124.001-F-1</u>
DATE DECIDED:	<u>June 2016</u>
COUNTY:	<u>Winnebago</u>
RESULT:	<u>No Change</u>

The appellant timely filed the appeal from a decision of the Winnebago County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 of 21.5 acres is assessed in part as farmland with farm buildings and a residence with a homesite. The homesite area consists of 1.61-acres or 27,007 square feet of land area is improved with a two-story dwelling of frame construction with 1,430 square feet of living area. The dwelling was constructed in 1900. Features of the home include a full unfinished basement, central air conditioning and a 378 square foot garage. The remaining 19.89-acres or approximately 909,533 square feet of land area is assessed as farmland and is improved with a 30,000 square foot horse arena that was built in 2012¹ and a barn of unknown dimensions. The property is located in Rockford, Rockford Township, Winnebago County.

The appellant contends overvaluation as a basis of the appeal concerning the subject residential dwelling and the appellant contends assessment inequity as a basis of the appeal concerning the outbuildings or farm buildings on the subject parcel.

In support of the overvaluation argument, the appellant submitted information on three comparable sales of residential dwellings located on more than 5-acres of land area. The comparables are located from 3 miles to 9 miles from the subject property and consist of two-story dwellings of frame construction. Each dwelling was noted as over 100 years old and ranged in size from 1,592 to 2,141 square feet of living area. Each home has a full unfinished basement, central air conditioning and two of the comparables have garages; it was unknown if comparable #3 had a garage. These properties sold between July 2010 and April 2011 for prices ranging from \$135,900 to \$185,000 or from \$84.84 to \$86.41 per square foot of living area, including land. In the brief, the appellant also reported on two listings of dwellings located approximately ½ mile from the subject (Exhibits M and N); these two-story dwellings have asking prices of \$135,000 and \$155,000, respectively.

The subject has a homesite assessment of \$4,712 and a residence assessment of \$24,818 which combined reflects a total assessment for the residential portion of the subject property of \$29,530 or a market value of approximately \$88,590 or \$61.95 per square foot of living area, including homesite land area.

¹ The appellant reported the building was constructed by the property owner over the course of 2 years; the cost of the building less sales tax was \$142,785 (Exhibit B).

2016 SYNOPSIS – FARM CHAPTER

As to the subject's outbuilding, the appellant contends that the horse arena is unfinished with no plumbing, no heat and a dirt floor. The appellant contends that each of the comparables she has presented as to the subject's outbuilding consist of fully finished outbuildings. In support of the lack of assessment uniformity in the outbuildings assessment, the appellant submitted limited information on three comparable properties located from 6 miles to 15 miles from the subject property in a Section V grid analysis; the underlying attached documentation reveals the following about these three comparable properties:

Comparable #1 is improved with a dwelling of 1,665 square feet of living area that was constructed in 1973 and four metal pole sheds that were built between 1973 and 2004; the sheds contain 1,200, 1,624, 1,350 and 10,800 square feet of building area, respectively; all these structures have a total improvement assessment of \$61,731 or \$3.71 per square foot of building area.

Comparable #2 is improved with a one-story frame dwelling of 2,003 square feet that was built in 1977, a 23,040 square foot horse barn and a 1,440 square foot pole building with a gravel floor; these three improvements have a total improvement assessment of \$82,702 or approximately \$3.12 per square foot of building area.

Comparable #3 is improved with a 19,008 square foot pole building that was built in 2011; the building has an assessment of \$45,395 or \$2.39 per square foot of building area.

The parties failed to report the size of the subject barn, but based upon the subject horse arena, the subject property has an outbuilding assessment of \$56,997 or \$1.90 per square foot of building area.

As to Exhibit D in the brief, the appellant outlined data concerning a 13,950 square foot horse arena and a 3,424 square foot dwelling that were located on 13.36-acres of land area with a total building assessment of \$96,740 or \$5.57 per square foot of building area. As to Exhibit H in the brief, the appellant outlined data concerning a 72,000 square foot heated horse barn/arena with 275 stalls and full amenities; the appellant presented the 2012 total assessment of this property which also included a dwelling and 13-acres of land area as \$172,710 with a reported 2013 total assessment of \$166,510.

From Exhibit I in the brief, the appellant argued there has been an economic decline in recent years in the equine industry with reduced market demand for equestrian properties; the appellant reported that the subject property is not operated for commercial purposes, but merely is for personal use and enjoyment. The appellant further reported in the brief that the property referenced in Exhibit I sold for \$80,000 with the horse arena being demolished.

Based upon the foregoing evidence and argument, the appellant requested a reduction in the subject's residence assessment to \$21,000 which would reflect a market value of approximately \$63,000 or \$44.06 per square foot of living area, not including land²; the appellant also requested a reduction in the subject's outbuildings assessment to \$48,124 which, based upon only the horse arena building, would reflect an assessment of \$1.60 per square foot of building area.

² Adding the homesite assessment to the appellant's request for the residence would reflect a total assessment of \$25,712 which would reflect a market value of approximately \$77,136 or \$53.94 per square foot of living area, including homesite land area.

2016 SYNOPSIS – FARM CHAPTER

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$91,987. The assessment of the residence and homesite combined of \$29,530 reflects a market value of \$89,080 or \$62.29 per square foot of living area, homesite land included, when using the 2013 three year average median level of assessment for Winnebago County of 33.15% as determined by the Illinois Department of Revenue. The farmland acreage has an assessment of \$5,460 which is not being challenged and the outbuildings have a building assessment of \$56,997 or \$1.90 per square foot of building area.

The board of review submitted documentation gathered by the township assessor; the board of review failed to provide a copy of the property record card for the subject property as required by the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a))

In support of its contention of the correct assessment of the subject dwelling, the board of review through the township assessor submitted a grid analysis of three comparable sales where comparable #2 is the same property as appellant's comparable sale #1 concerning the residence. The comparables were located from 1.07 to 5.9 miles from the subject property and consist of parcels that range in size from 11,220 to 232,610 square feet of land area. The parcels are improved with dwellings of frame construction that were 65 to 110 years old. The homes range in size from 1,310 to 1,592 square feet of living area and feature basements, one of which has finished area. Each home has central air conditioning, one has a fireplace and each has a garage ranging in size from 400 to 550 square feet of building area. The properties sold between March 2011 and December 2012 for prices ranging from \$72,000 to \$132,500 or from \$45.92 to \$83.23 per square foot of living area, including land.

In support of its contention of the correct assessment of the subject's arena, the board of review through the township assessor submitted photographs and property record cards with information on two equity comparables where comparable #1 is the same property as appellant's equity comparable #1 which is reported to be a 10,800 square foot arena built in 2004 making it 2.8 times smaller than the subject arena. Comparable #2 is reported to be a 4,860 square foot arena built in 2002 making it 6.2 times smaller than the subject arena. The data prepared by the township assessor reports the size of the arena, the year of construction and then reports years of depreciation, a calculation applying the size difference to the depreciation figure and then a calculation of "3 years depreciation to match age of the subject." There is no specific data as to the 2013 assessment of these structures and the applicable per square foot assessment of these comparable arenas.

Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's residence and outbuilding assessment.

Conclusion of Law

The appellant contends the market value of the subject dwelling 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

2016 SYNOPSIS – FARM CHAPTER

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 parties submitted a total of five comparable residential sales to support their respective positions before the Property Tax Appeal Board. The comparables have varying degrees of similarity to the subject property. The comparables sold between July 2010 and December 2012 for prices ranging from \$72,000 to \$185,000 or from \$45.92 to \$86.41 per square foot of living area, including land. The subject's residential and homesite assessment reflects a market value of \$89,080 or \$62.29 per square foot of living area, including land, which is within the range established by the comparable sales in this record. Based on this evidence the Board finds a reduction in the subject's residential assessment is not justified.

The taxpayer also contends assessment inequity as a basis of the appeal concerning the subject's horse arena outbuilding although no data was provided as to the description of the subject's other outbuilding, a barn. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's outbuilding assessment is not warranted.

The appellant presented evidence of three comparable properties which have total improvement assessments ranging from \$2.39 to \$3.71 per square foot of building area. The subject has an outbuilding assessment applied only to the horse arena building of \$1.90 per square foot of building area which is below the per-square-foot assessments of the comparable properties presented. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's outbuilding improvement was inequitably assessed and a reduction in the subject's outbuilding assessment is not justified.

2016 SYNOPSIS – FARM CHAPTER

APPELLANT:	Tim, Jim & Jerry Clay
DOCKET NUMBER:	11-04385.001-F-1
DATE DECIDED:	June, 2016
COUNTY:	Stephenson
RESULT:	A Reduction

The subject property consists of an improved farmland parcel of 60 acres. The subject property is improved with a single family residence and six outbuildings. The subject property is located in rural Dakota Township, Stephenson County.

The appellants appeared before the Property Tax Appeal Board claiming a contention of law regarding the assessment of farm buildings as the basis of the appeal.¹ The appellants did not dispute the subject's homesite, residence or farmland assessments but contend that the improvements identified on the property record card as buildings #2 through #5; a lean-to, a barn, a milk house and a silo of various sizes made no contribution to the operation of the farm, as they were vacant or used for non-farm storage and have not been used for livestock farming for many years.

In support of the farm building contention, the appellants submitted a letter, photographs and a calculation grid that displays current market value, current price per square foot, building size, requested value, requested price per square foot and reason for reduction. The appellants testified that building #1 and building #6 are being used for small farm implements and have some value.

Under cross-examination the appellants testified that their requested market value was based off of one fourth of the county's value. The appellants testified that buildings #1 and #6 are in poor condition and not average condition.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment \$36,740 was disclosed. Representing the board of review was Chief County Assessment Officer and Clerk to the Board of Review, Ron Kane. In support of the subject's assessment the board of review submitted a property record card with calculations of the outbuildings, photographs and aerial maps of the subject property. Kane testified that 2011 was the general assessment year for Dakota Township; Kane also testified to a letter addressed to Dakota Township and Stephenson County from the appellants stating, "Concerning parcel # 89-14-09-26-400-001, I do not give you permission to come onto this property in Dakota township." Kane testified that the farm buildings are valued based on the replacement cost new less depreciation. Kane testified that all the buildings are depreciated at 85% except the silo and it was depreciated at 99%. Kane testified that all the buildings are valued because there is nothing in the statutes that defines contributory value.

¹ The appellants' appeal form marked farmland assessment classification and productivity as the bases of the appeal. The appellants listed building productivity issue as their reason for appeal. However, the Board will address the contention of law claim detailed in the appellant's evidence.

2016 SYNOPSIS – FARM CHAPTER

Under cross-examination, Kane testified that buildings still have a contribution to the farm based on income tax purposes. Kane testified that the values on the property record card are derived from their computer assisted mass appraisal system, which uses the Illinois Real Property Appraisal Manual. Kane reiterated that all the farm buildings have some contribution to the farm. Kane testified that five of the six buildings are receiving a salvage value.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence and testimony in this record indicate the subject's lean to, milking barn, milk house and silo have been vacant or not used for farming purposes for years prior to the assessment year at issue in this appeal and made no contribution to the productivity of the subject's grain farming operation.

The Board finds the present use of land and buildings is the focus in issues involving farmland classification and assessment. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d at 872(3rd Dist. 1983). The Board finds Section 1-60 of the Property Tax Code states in relevant part

Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. (35 ILCS 200/1-60)

Furthermore, Section 10-140 of the Property Tax Code provides:

Other improvements. Improvements other than the dwelling, appurtenant structures and site, including, but not limited to, roadside stands and buildings used for storing and protecting farm machinery and equipment, for housing livestock or poultry, or for storing, feed, grain or any substance that contributes to or is a product of the farm, shall have an equalized assessed value of 33 1/3% of their value, based upon the current use of those buildings and their contribution to the productivity of the farm. (35 ILCS 200/10-140)

Where farm structures do not contribute to the productivity of the farm, then the buildings would add nothing to the value of the farm. O'Connor v. A&P Enterprises, 81 Ill.2d 260, 267-68 (1980); see also Peacock v. Property Tax Appeal Board, 399 Ill.App.3d 1060, 1071-1073 (4th Dist. 2003).

The unrefuted testimony of the appellants was that four of the buildings have been vacant for years or used for non-farm storage prior to the subject's January 1, 2011 assessment date and that they made no contribution to the ongoing grain farming operation on the subject parcel. The Property Tax Appeal Board finds that notwithstanding the board of review's policy of assigning a salvage value to all farm buildings regardless of current use, the subject farm buildings made no contribution in whole or in part to the farming operation and therefore, have no contributory value. For this reason, buildings #2 through #5 shall be assessed at \$0 for the 2011 assessment year.

2016 SYNOPSIS – FARM CHAPTER

APPELLANT:	<u>Bridget & Bryan Jones</u>
DOCKET NUMBER:	<u>14-03379.001-F-1</u>
DATE DECIDED:	<u>April, 2016</u>
COUNTY:	<u>Sangamon</u>
RESULT:	<u>A Reduction</u>

The appellants timely filed the appeal from a decision of the Sangamon County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 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 1.87 acre parcel located in Rochester Township, Sangamon County.

The appellant, Bryan Jones, appeared before the Property Tax Appeal Board raising a contention of law based on a classification issue contending the subject property should receive a farmland assessment because the property had been planted in hardwood trees for future harvesting.

At the hearing the appellant testified the subject property and an adjacent parcel, on which his home is located, was purchased for \$120,000 in June 2011 from Jennifer Dahl and Roger Powers. The appellant testified that the parties were not related and the property was listed on the open market with a Realtor. He testified that the property had been listed in February of that year with an asking price of \$130,000 for the total property. The appellant testified that neither party was under any compulsion to buy or sell the property.

The appellant testified that for the previous 15 years, prior to the appellants' ownership and during their ownership, the property has been managed as a hardwood timber plantation. Mr. Jones explained that the subject property had been planted in straight rows of hardwood timber interspersed with softwoods. The appellant explained that softwood trees are planted because they grow faster causing the hardwood trees to grow straight. Over time the softwood trees are thinned leaving the more desirable hardwood species. He testified there were approximately 10 rows of trees extending the length of the property of approximately 200 yards. The hardwood trees primarily include black walnut.

The appellant testified that the trees were planted by a previous owner, William Holtcamp. The appellant testified that Holtcamp originally used the subject property for a Christmas tree farm but in 2000 converted the property to hardwood timber. The subject property has remained in hardwood timber since that time. Using Board of Review Exhibit #1 the appellant identified the location of the subject property and his home.

The appellant testified that there has not been much need to care for the subject property since his purchase. He testified he spoke with Mr. Holtcamp last year who indicated that the property would need some thinning in the next couple of years. The appellant testified they plan on having the property looked at in a couple of years to determine what needs to come down. The

2016 SYNOPSIS – FARM CHAPTER

appellant testified that Mr. Holtcamp indicated he would assist in the thinning and thought this might occur in 2017 or 2018.

The appellant testified that there is not much active maintenance on the property and this is an idle period between thinning. The appellant testified that he has performed some pruning of the trees over the last two years on some of the low limbs of the walnut trees. He pruned between 10 and 15 trees in 2013 and 2014 and also removed some sprouts. He has incurred no costs associated with the subject property other than property taxes and the cost of pesticide to spray on the small trees, which he described as negligible. He estimated there were approximately 100 trees per row and somewhere between 900 and 1000 trees on the site. Approximately one half of the trees are black walnut and approximately 10% of the trees were oak. The softwood trees include the cypress trees and birch trees, which comprise approximately 40% of the trees. He testified the cypress trees were planted on the perimeter to prevent light from coming in the sides.

The appellant testified that he has not harvested any of the timber yet. He thought the timeline to harvest some timber would be in approximately 20 years, when the trees are approximately 30 years old. Harvesting also depends on market conditions. The witness testified, when planted, the black walnut trees could have returned approximately \$100,000 per acre and were well suited for small acreage. Currently the black walnut trees could return \$20,000 to \$30,000 per acre.

He explained the trees on the site were planted in straight rows and demonstrate this is a tree plantation. The appellant provided aerial photographs of the subject property and photographs of the subject property depicting the rows of trees. He noted the trees were not randomly spaced but were uniformly planted.

The record also included an affidavit from Bill Holtcamp explaining that the subject property had been planted in Christmas trees in 1983 but was converted to a hardwood plantation in 2000. The affidavit explained that the subject parcel was sold to Jennifer Dahl and subsequently to the appellants and during this period had continued to be used in hardwood production. The documentation provided by the appellants also included a farmland assessment calculation for the subject property for 2014 of \$351. The assessment history of the subject property submitted by the appellants indicated the subject property had received an unimproved farmland assessment from 1997 through 2013.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$2,167, which reflects a market value of approximately \$6,501. Appearing before the Property Tax Appeal Board on behalf of the board of review was Byron Deaner, Sangamon County Supervisor of Assessments.

Mr. Deaner acknowledged that the subject property lost the farmland assessment in 2014. In support of the assessment Mr. Deaner read the assessor's recommendation stating that the parcel in past years was part of a larger farm and was split in 2013-2014. The assessor also stated that the remainder of the parcels in the area are all classified as non-farm and there was no evidence from the owner of production or sales and the area was not designated as a tree farm. According to the assessor's statement, the subject's assessment was consistent with other parts of the broken up farm to the east of the subject property. The assessor also noted that in the past the subject

2016 SYNOPSIS – FARM CHAPTER

was used as a Christmas tree farm but a tree farm for hardwood production is not common for this size of parcel. The assessor also stated that there was no indication of harvesting, which makes it difficult for an assessor to differentiate from idle ground with trees versus a tree farm for production. The assessor noted the subject property is considered one parcel with a residence on an adjacent parcel but they cannot be combined due to the parcels being in different townships.

The board of review also submitted page 98 from the 2000 Components and Cost Schedules of the Illinois Real Property Appraisal Manual entitled "Rural Section Farmland Implementation Guidelines" which stated in part:

Distinguishing between idle land (that is not farmland) and land that may qualify under the farm definition as "forestry" may be difficult. However, to qualify as forestry, a wooded tract must be systematically managed for the production of timber.

The guidelines also provided that:

If idle land is not part of a farm or not qualified for a special assessment (i.e., open space), treat it as nonfarm and assess it at market value according to its highest and best use.

Mr. Deaner indicated that the board of review did not believe the subject property was being actively managed as a tree farm.

Conclusion of Law

The appellant contends the subject property should be classified and assessed as farmland due to the use of the land for hardwood production.

Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" as follows:

Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its

2016 SYNOPSIS – FARM CHAPTER

primary use. The ongoing removal of oil, gas, coal or any other mineral from property used for farming shall not cause that property to not be considered as used solely for farming.

Furthermore, section 10-110 of the Property Tax Code (35 ILCS 200/10-110) provides in part:

Farmland. The equalized assessed value of a farm, as defined in Section 1-60 and if used as a farm for the 2 preceding years, except tracts subject to assessment under Section 10-145, shall be determined as described in Sections 10-115 through 10-140. . . .

Section 10-110 of the Property Tax Code requires that in order to qualify for a farmland assessment the land needs to be used as a farm for the two preceding years. Furthermore, the present use of the land determines whether it is entitled to a farmland classification for assessment purposes. Bond County Board of Review v. Property Tax Appeal Board, 343 Ill.App.3d 289, 292 ((5th Dist. 2003). Additionally, a parcel of property may properly be classified as partially farmland, provided those portions of property so classified are used solely for the growing and harvesting of crops. Kankakee County Board of Review v. Property Tax Appeal Board, 305 Ill. App.3d 799, 802 (3rd Dist. 1999).

The un-refuted testimony in this record was presented by the appellant that the subject property had been planted and maintain in hardwood production since 2000 with the planting of black walnut and oak trees (hardwoods) that were interspersed with softwood trees to facility the growth of the hardwood trees. The photographs of the subject property depict that the trees were systematically planted in rows and relatively uniformly spaced. The testimony provided by the appellant and the documents in the record further indicate that the trees were thinned and pruned from time to time to maintain the hardwood trees. The testimony provided by the appellant further indicates that there is relatively little maintenance other than periodic thinning and that harvesting of the trees will not take place until the trees are approximately 30 years old. The Board finds the use of the property for the growing of trees for hardwood production is an agricultural use within the "farm" definition as set forth in section 1-60 of the Property Tax Code.

Based on this record the Board finds that a reduction in the subject's assessment to reflect the calculated farmland assessment for 2014 of \$351 as contained in this record is appropriate.

2016 SYNOPSIS – FARM CHAPTER

APPELLANT:	John Kantor
DOCKET NUMBER:	13-31171.001-F-1 thru 13-31171.006-F-1
DATE DECIDED:	March, 2016
COUNTY:	Cook
RESULT:	No Change

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 2013 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 two improvements. Improvement #1 is situated on Permanent Index Number ("PIN") 03-08-303-056. It is a masonry constructed dwelling and contains 6,290 square feet of living area. Improvement #1 is class 2-09 property under the Cook County Real Property Assessment Classification Ordinance. It is 18 years old. Features of the home include a full basement, central air conditioning, two fireplaces and a three and one-half car garage. Improvement #2 is situated on PIN 03-08-303-059. Improvement #2 is a class 2-04 property under the Cook County Real Property Assessment Classification Ordinance. It is masonry constructed and contains 1,993 square feet of living area. The dwelling is 58 years old. Features of the home include a full basement, central air conditioning, and a two-car garage.

The remaining PINs consist of land parcels. The breakdown is as follows:

PIN 03-08-303-057 is a class 2-41 property that contains 54,887 square feet of land and has a land assessment of \$8,233, or \$0.15 per square foot of land;

PIN 03-08-303-058 is a class 2-41 property that contains 14,235 square feet of land and has a land assessment of \$3,202 or \$0.23 per square foot of land; and

PIN 03-08-321-012 is a class 1-00 property that contains 74,269 square feet of land and has a land assessment of \$3,713, or \$0.05 per square foot of land.

Prior to the hearing, the appellant withdrew his appeal for parcel 03-08-314-026. The subject is classified as a class 2 and class 1 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends that the subject parcels should be assessed as class 2-39 farm property. The appellant asserts that the parcels comprise over five acres of farm land. In support of this argument the appellant submitted a Cook County Assessor's Farm Land Questionnaire/Affidavit that indicates the subject was used as a tree farm and orchard. The appellant also submitted a United States 2012 Census of Agriculture form that includes instructions and a definition of "farmland". In addition, the appellant submitted a list of the number and varieties of his apple trees, other fruit trees, and additional fruits and vegetables. The appellant also submitted a hand drawn map that

2016 SYNOPSIS – FARM CHAPTER

depicts the location of the fruit trees. Lastly, the appellant submitted a website print out from Schaefer Greenhouses Inc. that lists an insecticide spraying schedule.

The appellant also contends that the subject PINs are located completely or partially in a flood zone. In support of this contention, the appellant submitted a FEMA flood zone map and an aerial map wherein the appellant highlighted his property. In addition, the appellant submitted a Sidwell Map wherein the appellant highlighted the subject property and identified the flood zone portions of the property. In further support of his contention, the appellant submitted a letter and "Flood Insurance Rate Map" from Terra Consulting Group, Ltd. that states PIN 03-08-321-012, 03-08-303-057, and 03-08-303-058 are located in the same designated flood zone.

In addition, the appellant contends the subject parcels are not equitably assessed. In support of this contention, the appellant submitted four land comparable properties. The comparable properties consist of farmland located in Wheeling, Wheeling Township. The comparables have land assessments of \$0.005 per square foot of land. The appellant also submitted one improvement comparable. The comparable is a farm building with an 18,514 square foot improvement and an improvement assessment of \$0.89 per square foot of improvement area.

At hearing, the appellant John Kantor, testified that he has owned the subject property for approximately 20 years. The appellant testified that approximately four of the subject's five acres is a farm and that the property is intensively farmed. He stated that the intensively farmed portion of the subject property is larger than the residential portion of the property. The appellant stated that, in 2007, he cleared most of the property and planted an apple orchard and other trees and shrubs. He stated that the trees take four to five years to grow before they produce crops. The appellant stated that, since 2007, he has used the property as a farm. He described the subject property as containing 410 fruit trees and hundreds of other trees that require spraying every seven to ten days from March through September. The appellant stated that in 2015, the trees produced ten tons of apples which he sold for \$20.00 per peck (approximately 15 pounds).

The appellant asserted that the subject property is a farm pursuant to 35 ILCS 200/1-60 which states, "'Farm' does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animal bred or fed on the property incidental to its primary use." The appellant stated that the primary use of a parcel containing only intensive farm and residential uses is residential unless the intensively farmed portion of the parcel is larger than the residential portion of the parcel. The appellant stated that his apple orchard is an intensive farm use as the per acre income and expenditures are significantly higher than in conventional farm use.

The appellant also asserted that two of the subject PINs are not buildable as they are located in a floodway. He stated that he consulted with a civil engineer and referred to the previously submitted engineering report which stated that PIN 03-08-303-057 and 03-08-303-058 are in the same flood zone as PIN 03-08-321-012.

The appellant stated that he submitted assessment information for the only other farm in Wheeling Township. He stated that the other farm has a land assessment of \$0.005 per square foot of land and that the subject farm land should be assessed at this amount. The appellant conceded that a

2016 SYNOPSIS – FARM CHAPTER

portion of the subject class 2-09 improvement parcel is residential and he suggested that the Board prorate the subject's land to account for a portion of the subject property having a residential use.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject property of \$132,977. In support of its contention of the correct assessment, the board of review submitted information on four equity comparables. The board of review also submitted property record cards for all of the subject parcels.

At hearing, the board of review's representative rested on the board's previously submitted equity comparables. He stated that the board was not taking a position regarding the appellant's floodway argument; however, he asked that the appellant be held to his burden of proof.

The board's representative argued that the subject property does not meet the definition of "farm" pursuant to 35 ILCS 20/160 as the subject property is primarily residential and the farming is incidental to the subject's primary residential use. He stated that whether a property is used as a farm is a question of fact pursuant to McLean County Board of Review v. Property Tax Appeal Board 286 Ill.App.3d 1076. He argued that the appellant did not submit evidence to indicate the percentage of each parcel that is used for farming and that every map submitted by the appellant is highlighted and marked by the appellant. The board's representative also stated that the appellant did not submit aerial or other photos to support the contention that the subject is intensively farmed.

Upon questioning from the board of review's representative, the appellant stated that he has a tenant who occupies the house located on parcel 03-08-303-059. The appellant stated that in exchange for occupying the house, the tenant works at least once a week, excluding the winter months, spraying the trees and maintaining the property's irrigation system including PIN 03-08-303-056. The appellant stated that the tenant has a separate full time job. There are no full time employees working at the property. The appellant stated that he wakes at 4:00 a.m. to tend to the property before heading to his full time job as an attorney. He also stated that his family helps with harvesting.

Upon further questioning, the appellant stated that he submits a Schedule F income and expense form with his personal income tax returns. The Schedule F form lists the income the appellant receives from the harvest. For tax year 2013, the appellant stated, the harvest resulted in an income of \$3,000 to \$4,000. The appellant also stated, upon questioning, that he does not have separate insurance for the orchard. He has a business endorsement on his homeowner's policy which covers the farm. In addition, the appellant stated that he previously inquired with the Village of Arlington Heights as to whether he was required to have farmland zoning. The appellant stated that based on that inquiry, he was of the opinion that he was not required to file for a zoning change and therefore, he never filed for a zoning change.

The appellant stated that he previously filed for Certificates of Error and he has requested field checks of the subject property. He stated that his applications for Certificates of Error for 2010, 2011, and 2012 were denied. He suggested that the field checks were completed before the subject trees were mature enough to produce fruit.

2016 SYNOPSIS – FARM CHAPTER

Lastly, upon questioning, the appellant stated that in addition to the house occupied by his tenant, PIN 03-08-303-059 contains grass, a tennis court/ sport court, nursery stock, and other plants.

Conclusion of Law

As to preliminary matters, the appellant withdrew his appeal with regard to PIN 03-08-314-026. In addition, the appellant's rebuttal evidence was not considered as it was untimely.

The appellant contends the subject should be classified and assessed as farmland. After reviewing the record and considering the testimony and evidence, the Board finds the evidence presented by the appellant was not credible in establishing the subject property is used as a farm entitling it to a farmland classification and a farmland assessment.

Section 1-60 of the Property Tax Code defines farm in part as:

Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. 35 ILCS 200/1-60.

In addition, Section 1-60 of the Property Tax Code states:

For purposes of this code, "farm" does not include property which is primarily used for residential purposes, even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. (35 ILCS 200/1-60)

The Board finds that the appellant and his tenant both occupy residential houses on the subject property and that the subject property is located in a residential neighborhood that is not zoned for farming. The appellant testified that he spends a few hours per day tending to the orchard. The appellant and the tenant both have other full time, non-farming jobs and there are no other employees of the farm. In addition, the Board finds that the appellant did not submit evidence such as aerial or other photos or a survey that show the exact location of the farming activity. Moreover, the appellant testified that in 2013, the income from his orchard business ranged from \$3,000 to \$4,000, in total. Based on these factors, the Board finds the uncontradicted evidence and testimony in this record indicates the subject is primarily used for residential purposes and that any farming activity is merely incidental to its primary use as residential. Therefore, the Board finds the subject is not entitled to a farmland assessment.

As to the appellant's equity of improvement assessment argument, when unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the

2016 SYNOPSIS – FARM CHAPTER

assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). 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 best comparables in the record with regard to Improvement #1's improvement assessment are the board of review's comparables #2, #3, and #4. These comparables have improvement assessments that range from \$12.65 to \$13.84. Improvement #1's improvement assessment of \$12.55 per square foot of living area falls below the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that Improvement #1's improvement is inequitably assessed and a reduction in Improvement #1's improvement assessment is not justified.

The Board finds that neither party submitted sufficient evidence to show that the subject's Improvement #2 is not equitably assessed. The board of review did not submit any comparables to demonstrate Improvement #2 is equitably assessed. The appellant submitted one comparable of a farm building. The Board finds that the parties submitted insufficient evidence or no evidence to support their assertions as to Improvement #2. As such, the Board finds that the appellant has not met the burden of a proving by clear and convincing evidence that subject Improvement #2's improvement is not equitably assessed. Based on this record the Board finds a reduction in Improvement #2's improvement assessment is not justified.

The appellant also argued that subject land parcels 03-08-303-057 and 03-08-303-058 should be assessed the same as 03-08-321-012 as they are located in the same flood zone. 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 that the appellant has not met the burden of proving, by a preponderance of the evidence, that the subject is overvalued.

The Board finds that the appellant submitted a FEMA map that shows the three land parcels are located in Zone X. The appellant also submitted a letter from a civil engineer at the Terra Consulting Group that states PINs 03-08-30-057 and -058 should be assessed at the same rate as 03-08-321-012 as they are located in the same Designated Flood Zone. The Board finds that the appellant's assertion that the three land parcels are located in the same flood zone is insufficient to meet his burden of proving by a preponderance of the evidence that these parcels are overvalued. The Board finds the appellant did not submit any evidence of the correct market value of these parcels, such as an appraisal of the parcels, a recent sale, or comparable sales as required by 86 Ill.Admin.Code §1910.65(c). As such, the Board finds that the appellant has not met the burden of proving, by a preponderance of the evidence, that these parcels are overvalued.

Additionally, the Board finds that the appellant's argument that subject land parcels 03-08-303-057 and 03-08-303-058 should be assessed the same as 03-08-321-012 as they are located in the same flood zone is without merit from an equity standpoint. The appellant asserts that two parcels of land should have lower assessments because one parcel of land with the same zoning has a lower assessment. The Board finds that the evidence does not contain a range of comparables within

2016 SYNOPSIS – FARM CHAPTER

which to compare these two land parcels. As such, the Board finds that the appellant has not met the burden of a proving by clear and convincing evidence that PINs 03-08-303-057 and 03-08-303-058 are not equitably assessed. Based on this record the Board finds a reduction in the land assessment of these two PINs is not justified. In addition, the Board notes that Illinois courts have held that a Permanent Index Number under appeal cannot be used as a comparable property. Pace Realty Group, Inc. v. Property Tax Appeal Bd., 306 Ill.App. 3d 718 (2nd Dist. 1999).

In the alternative, the appellant argued that the subject's land is not equitably assessed when compared to four suggested comparables. As stated above, when unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). 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 appellant submitted four comparables located in the Village of Wheeling, Wheeling Township. The board of review did not submit additional land comparables. The appellant's comparable properties are class 2-24 or 2-39 farm properties. The Board accords no weight to these comparables as they are farm properties, while the subject is not farm property. In addition, these comparables are located in a different village than the subject property. Accordingly, the Board finds that the appellant has not met the burden of proving by clear and convincing evidence that the subject is not equitably assessed. Based on this record the Board finds a reduction on this basis is not justified.

2016 SYNOPSIS – FARM CHAPTER

APPELLANT:	Charles & Jeannie Peters
DOCKET NUMBER:	13-02677.001-F-2
DATE DECIDED:	June, 2016
COUNTY:	Jo Daviess
RESULT:	A Reduction

The appellants timely filed the appeal from a decision of the Jo Daviess County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 single parcel containing 133.96-acres of land that is located in Galena, Rawlins Township, Jo Daviess County. Improvements on the property include a one-story single-family dwelling of frame exterior construction which was built in 1940. The dwelling contains 1,112 square feet of living area and features a basement. The property is also improved with a detached 1,008 square foot garage, a 1,800 square foot pole building, a 576 square foot barn, a 384 square foot lean-to and, at least, five sheds ranging in size from 96 square feet to 680 square feet of building area.¹ The assessing officials have the property assessed in the following manner: .91-acre homesite and 97.72-acres non-agriculture (i.e., non-farmland) which combined have an assessment of \$118,995; 35.33-acres of farmland with an assessment of \$1,822; a residence with an assessment of \$11,748; and farm buildings or "outbuildings" with an assessment of \$5,428.

The appellants based the instant appeal on an issue of classification. The appellants explained in part that but for the dwelling, outbuildings and a small homesite area associated with the dwelling, the entire subject parcel had been assessed as farmland. As part of the appeal petition, the appellants requested to return to the assessments of the subject property as reflected prior to a 2012 revaluation of the property. As a result, the appellants requested reductions in the assessments of the subject's farmland to \$1,499, homesite (i.e., non-farmland) to \$5,000 and farm buildings to \$175, and requested a slight increase in the subject's residential assessment (dwelling) from \$11,748 to \$12,428 for a revised total assessment of \$19,102.

The primary dispute in this proceeding concerns the amount of land which is afforded the preferential farmland assessment. (35 ILCS 200/1-60 & 10/110 through 10-150) The appellants contend that there are 32-acres of cropland, of which 19-acres are rented to a neighboring farmer for corn, and there are an additional 13-acres which were enrolled in CRP which combined constitute three small fields. The balance of the acreage as described by the appellants is "woods, brush, trees, rocks and ditches"; the appellants further contend this additional acreage is

¹ Notes on the subject property record card (Exhibit A) reflect, in pertinent part, "1/12A quad (15000/3500) added pole shed and revalued out blds to sv." The breakdown on page 6 of the property record card reflects the pole frame building was the last farm building structure placed on the record card; there is no indication when the building was constructed. Page 6 of the property record card also itemizes eight structures identified as "shed" but only five such "shed" structures appear in the schematic drawings.

2016 SYNOPSIS – FARM CHAPTER

not suitable for tilling due to its topography. (See letter dated March 20, 2014) The appellants also reported that a forestry management plan is in place for tax year 2014, but the assessing officials will not apply that plan retroactively. The assessing officials have assessed the land not used in farming at market value because it is said to be laying idle.

In support of their claims, the appellants presented a letter, a copy of the subject's property record card and two aerial photographs of the parcel, one of which delineated 93.1-acres of forested land. In the letter, the appellants argued that substantial portions of the subject parcel were reclassified in 2012 from farmland to residential/recreational although there was no change in the use of the land by the appellants. The appellants also reported the history of the subject land which was acquired several generations ago in 1947 and has been "handed down from generation to generation." A copy of the tax year 2012 Notice of Property Assessment for the subject parcel was included with the documentation reflecting a change in total assessment from \$19,102 to \$144,640.²

As part of the letter, the appellants further acknowledged that the initial notice of change in classification did not cause the appellants to appeal the reclassification of the land. However, when a new tax bill was issued for tax year 2012 in the amount of over \$8,700 from the previous amount of \$1,081, the appellants made inquiry with the assessor's office. At that time, the appellants were advised to seek to place the disputed land in a forestry management plan to reduce the tax debt.³ Since that time, the appellants report the property has been placed in CRP.

Based on this argument and evidence, the appellants requested that the Property Tax Appeal Board restore each of the assessments to the 2012 assessments. The requests would result in a 2013 farmland assessment for a majority of the acreage, a reduced homesite assessment to just the acreage immediately around the dwelling, a reduced farm building assessment and an increased residence or dwelling assessment resulting in a new total assessment of \$19,102.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject parcel's total assessment of \$137,993 was disclosed. The subject's 2013 assessment reflects a farmland assessment of \$1,822; a homesite (or non-farmland) assessment of \$118,995; a house or residence assessment of \$11,748; and a farm buildings or an outbuildings assessment of \$5,428. In support of the subject's total assessment, the board of review submitted a memorandum outlining the facts and the attached evidence identified as Exhibits A through F.

In the memorandum, the board of review reported that 2012 was the quadrennial reassessment in Rawlins Township at which time to the subject parcel was revalued. Additionally, in the spring of 2011, new aerial photographs of the area were flown. The board of review reported that as the respective quadrennial reassessments occur, the GIS department reviews the photographs for changes in land use, etc.

² The Notice was dated December 19, 2012 and further provided that the deadline to file an appeal with the Jo Daviess County Board of Review to challenge the change in the assessment was January 18, 2013.

³ To clarify, the Property Tax Appeal Board finds on this record that the rights to be heard to challenge the subject's assessments or to even object to the taxes were available and/or were afforded to these taxpayers as provided by law. (35 ILCS 200/12-30, 26-5, 23-5 and 26-10 et al.)

2016 SYNOPSIS – FARM CHAPTER

Next, the assessing officials cite to Illinois Department of Revenue Bulletin 810 as the basis for reassessing the subject parcel citing to the guideline that land use is to be verified and "property that is not actively farmed or in an approved program should not receive a preferential farmland assessment." (See Board of Review Memorandum, page 1) The board of review did not submit a copy of Bulletin 810 to support this contention. The board of review further argued that, in light of this guideline, the subject property in 2012 was reclassified and the applicable change in assessment notice was issued. No appeal was filed as to that notification, but after tax bills were issued in 2013, the appellants made an inquiry with the assessor's office.

The subject's property record card for 2013 marked as Exhibit A reflects 35.33-acres of farmland,⁴ 97.72-acres of non-farmland and 0.91 of an acre identified as homesite. Exhibit B consists of an aerial photograph of the subject parcel depicting the boundaries and a second photograph depicting the land use as "homesite," cropland and "idle timber." This second aerial photograph depicts the subject oddly shaped parcel with three swathes or unevenly shaped areas identified as cropland, a very small area identified as the "homesite" and the remaining green (presumably timber) areas between the cropland and homesite areas is identified by the assessing officials as "idle timber."

Next, the memorandum cites to Exhibit C, a copy of the definition of farm from the Property Tax Code (35 ILCS 200/1-60) and to Publication 122, Instructions for Farmland Assessments, page 5 on Idle Land which is Exhibit D. The memorandum further reports that 19-acres of the subject parcel are assessed as actively farmed cropland based upon a handwritten lease dated June 2013 and 12.7-acres are assessed as farmland because they are in a CRP program. However, the balance of the property is assessed at market value because it was "left as non-ag." The board of review's memorandum next contends that Publication 122 provides, in pertinent part, "if the idle portion is larger than the smaller farmed portion, then the larger idle portion should be assessed at market value." Since the appellants were only farming about 35 acres, which is not even half of the subject parcel, the remainder was assessed at market value. As Exhibit E, the board of review provided a copy of the appellants' two separate letters filed with this appeal to the Property Tax Appeal Board and the board of review asserts that, based upon the appellants' own statements in those letters, the land is lying idle and not used in any farming operation prior to the forestry management program.

As Exhibit F, the board of review submitted a copy of the appellants' forestry management plan certification. Furthermore, the board of review's memorandum cited to Section 10-150 of the Property Tax Code (35 ILCS 200/10-150), stating in pertinent part that "changes in assessed value should begin on January 1 of the assessment year immediately following the plan's effective date." As the forestry management plan obtained by the appellants was dated October 2013, the board of review contends that the change in assessed value begins with the 2014 assessment and not this 2013 assessment appeal.

Based on this evidence and argument, the board of review contended that the subject property is not entitled to additional acreage assessed as farmland "because the timber portion of the parcel was not being used for any farm use." Moreover, any change in assessment of the subject

⁴ The breakdown of the farmland as assessed for 2013 is as follows: 32.74-acres of cropland; 1.01-acres of other farmland; 1.3-acres of wasteland – contributory; and .28 of an acre of public road.

2016 SYNOPSIS – FARM CHAPTER

property due to the enrollment in the forestry management program will not commence until January 1, 2014, the assessment year following the entry into the program. As such, the board of review requested confirmation of the subject's farmland and homesite assessments. Nothing was stated by the board of review regarding the changes requested by the appellants in the farm building and residential assessments of the subject property.

Conclusion of Law

In summary, the appellants appealed the assessments of the subject land and the subject improvements under the category of a contention of law to the Property Tax Appeal Board for tax year 2013. The land assessment issue was raised as a question of proper classification. The appellants did not specify in Section 2d of the Farm Appeal petition the basis for challenging the assessments of the outbuildings and seeking a small increase in the assessment of the dwelling located on the subject parcel. Section 10-15 of the Illinois Administrative Procedure Act (5-ILCS 100/10-15) provides:

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.

The rules of the Property Tax Appeal Board are silent with respect to the burden of proof associated with an argument founded on a contention of law. See 86 Ill.Admin.Code §1910.63.

Improvement Assessment Issue (farm buildings & dwelling)

As an initial matter, the appellants challenged the assessments placed by the assessing officials upon the outbuildings and upon the residence located on the subject parcel.

Section 1-60 of the Property Tax Code (hereinafter "Code") states in relevant part:

Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. (35 ILCS 200/1-60)

Furthermore, Section 10-140 of the Code provides:

Other improvements. Improvements other than the dwelling, appurtenant structures and site, including, but not limited to, roadside stands and buildings used for storing and protecting farm machinery and equipment, for housing livestock or poultry, or for storing, feed, grain or any substance that contributes to or is a product of the farm, shall have an equalized assessed value of 33 1/3% of their value, based upon the current use of those buildings and their contribution to the productivity of the farm. (35 ILCS 200/10-140)

Where farm structures do not contribute to the productivity of the farm, then the buildings would add nothing to the value of the farm. O'Connor v. A&P Enterprises, 81 Ill.2d 260, 267-68

2016 SYNOPSIS – FARM CHAPTER

(1980); see also Peacock v. Property Tax Appeal Board, 399 Ill.App.3d 1060, 1071-1073 (4th Dist. 2003).

As to both assessment challenges, the Property Tax Appeal Board finds the appellants provided no evidence to support altering either the total outbuilding assessment to \$175 and/or to increase the residence or dwelling assessment to \$12,428. As to the claims made by the appellants concerning these structures, the Board recognizes the respective requested assessment figures reflect the assessments of those improvements prior to the 2012 revaluation of the subject property (i.e., a request to return the assessments to the amounts prior to the revaluation process).⁵ (See Exhibit A) However, a contesting party must prove market value by a preponderance of the evidence or an unequal treatment claim by clear and convincing evidence. (86 Ill.Admin.Code §1910.63) The appellants provided neither market value nor equity evidence to substantiate changes in the assessments of the outbuildings or the dwelling.

The appellants placed no evidence before the Property Tax Appeal Board as to the proper valuation and/or use of the farm buildings and/or the residential dwelling. The only assertion by the appellants about the dwelling was, "Our son and his 4 children live in the farm house." As such and on this record, the Board finds that the appellants failed to provide substantive evidence to modify the assessments of the farm buildings and/or the dwelling. There is no evidence presented by the appellants that the valuations of these structures are erroneous for any given reason whether it is use, salvage value and/or market value. The Board also recognizes that, to the extent that the pole frame building may have been a new structure or a structure previously unknown to the assessing officials, the Board finds it is possible that this structure solely accounts for the increase in the farm buildings or outbuildings assessment for tax year 2012 and 2013 from \$175 to \$5,428.

On this record, the Board finds no change in the assessments of the farm building or the residence are warranted.

Land Assessment Issue (cropland, other farmland & homesite)

The Property Tax Appeal Board finds the primary issue in this appeal is whether or not 97.72-acres of the subject parcel are correctly classified and assessed as non-agricultural or part of the "homesite"/non-farmland which is to be assessed at 1/3 of market value. There is no dispute between the parties concerning the farmland assessment of 35.33-acres; the appellants simply seek to have additional wooded acreage classified as part of the preferential farmland assessment. The Board finds that the Jo Daviess County Board of Review did not refute and, in fact, reiterated the contention by the appellants that the balance of the acreage (that was not cropland or 'homesite') was "woods, brush, trees, rocks and ditches" which the appellants further contended was not suitable for tilling due to its topography. The board of review did not dispute the appellant's argument concerning topography.

⁵ The record is unclear whether the 1,800 square foot pole frame building was recently constructed and/or newly added to the subject parcel, although the township assessor's notes appear to reflect that as part of the 2012 revaluation process, the subject pole building was, for the first time, newly added to the records maintained by the assessing officials in the form of the subject's property record card (Exhibit A).

2016 SYNOPSIS – FARM CHAPTER

In Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3rd Dist. 2005), the court stated that a parcel of land may be classified as farmland provided that those portions of the property so classified are used solely for agricultural purposes, even if the farm is part of a parcel that has other uses. *Citing Kankakee County Board of Review*, 305 Ill. App. 3d 799 at 802 (3rd Dist. 1999).

Section 10-115 of the Code provides in part that:

The Department [of Revenue] shall issue guidelines and recommendations for the valuation of farmland to achieve equitable assessment within and between counties. (35 ILCS 200/10-115)

Pursuant to this provision the Illinois Department of Revenue issued Publication 122, Instructions for Farmland Assessments (Illinois Department of Revenue, January 2013). Section 10-125 of the Code (35 ILCS 200/10-125), as noted in Publication 122, identifies four types of farmland: (a) cropland, (b) permanent pasture, (c) other farmland and (d) wasteland and further prescribes the method for assessing these components. Section 10-125 further states that U.S. Census Bureau definitions are to be used to define cropland, permanent pasture, other farmland and wasteland. According to Publication 122 as to one of those types of farmland, the following definition complies with this requirement:

Other farmland includes woodland pasture, woodland, including woodlots, timber tracts, cutover, and deforested land; and farm building lots other than homesites. (*Publication 122, Instructions for Farmland Assessments*, Illinois Department of Revenue, January 2013, p.1.)

The Property Tax Appeal Board finds the acreage identified by the assessing officials as "idle timber" is used in conjunction with the cropland on the parcel and clearly meets the definition of farmland as contained in the Code. Furthermore, these timber tracts are contiguous and encompass the cropland of the subject parcel which further supports an agricultural assessment as provided by the Code in Section 10-125 and in Publication 122. On this record, the Property Tax Appeal Board finds this "idle timber" acreage meets the definition of other farmland as woodland pasture, woodland, including woodlots, timber tracts, cutover and deforested land.

In order to qualify for a farmland assessment, Illinois law mandates the property in question must have been used as farm for the previous two years. (35 ILCS 200/10-110) Based on the evidence in this record, there appears to be no dispute between the parties that the acreage that has been assessed as farmland meets the two-year statutory requirement to qualify as cropland. The board of review did not dispute the appellants' agricultural use as cropland for 35.33-acres of the subject parcel, but claimed that, but for the small homesite area, the remaining land was "idle timber" subject to assessment at 1/3 of fair market value. The board of review contended that there was no actual farming activity or "farm use" on the "idle timber" acreage and therefore, that acreage was not entitled to a farmland assessment. In light of the four types of farmland specified in both the Code and Publication 122, the Property Tax Appeal Board has given little merit to this response submitted by the board of review. The Board further finds the definition of "other farmland" applies to the subject's disputed acreage which the assessing officials have labeled "idle timber."

2016 SYNOPSIS – FARM CHAPTER

The Illinois courts have granted the Property Tax Appeal Board substantial deference in its interpretation of Section 1-60 of the Code. In McLean County Board of Review v. Property Tax Appeal Board, 286 Ill.App.3d 1076, 1081 (4th Dist. 1997), the court held that the definition of "farm" in Section 1-60 of the Code is very broad. Furthermore, in McLean, the Appellate Court did not overturn the lower court's finding that the recreational use of the property is incidental and insignificant, and the property can be farmed and managed simultaneously as a conservation area, without losing its [farmland] assessment.

The Property Tax Appeal Board further finds that woodland parcels can be considered as farm if one of the following applies: (1) the parcel is under the same ownership as the other parcels that make up a farm, or (2) the parcel is enrolled in a forestry management plan accepted by the Illinois Department of Natural Resources. The Board agrees with the assessing officials that to the extent that in October 2013, the appellants enrolled portions of the subject parcel in a forestry management plan (Exhibit F), due to the terms of Section 10-150 (35 ILCS 200/10-150) enrollment of the land in the forestry management plan did not immediately make the land eligible for a farmland assessment. However, the Board further finds that the subject woodland parcels as of January 1, 2013 are to be considered as farm because the parcel is under the same ownership as land within the parcel that qualifies as farm.

The Property Tax Appeal Board also finds that the Illinois Department of Revenue Guidelines are a guideline and advisory only, giving criteria to a board of review that may be considered in classifying property used for farming for assessment purposes. Nevertheless, even using the guidelines espoused by the board of review would result in the subject property qualifying for a farmland assessment under the facts of this appeal. The Board finds this disputed 97.72-acres which is neither cropland nor .91 of an acre of actual residential homesite area should not be classified and assessed as non-agricultural or non-farmland, but instead should be classified and assessed as "other farmland."

In summary, the Board finds the subject's "idle timber" acreage is entitled to a farmland classification and assessment as other farmland for three reasons. First, the subject land is used in conjunction with cropland. Second, the acreage contributes to the productivity of other types of contiguous farmland because it provides a path for water to run off or a place for water to collect. Third, since the subject "idle timber" is contiguous to the previously classified farmland and has not been shown to be used for any other use incidental and insignificant to its primary use as farmland the subject's "idle timber" acreage is entitled to a farmland classification and assessment as provided by Publication 122 issued by the Illinois Department of Revenue.

Lastly, the assessing officials reported that .91-acres of the subject parcel were deemed to be homesite associated with the residential dwelling on the parcel. As part of their evidentiary submission, the appellants provided no specific evidence to dispute that .91 of an acre of the parcel was used as a homesite associated with the residential dwelling. Therefore, on this limited record evidence, the Property Tax Appeal Board finds the subject property has a .91-acre homesite.

In conclusion, the Property Tax Appeal Board finds that board of review's assessment and classification of 97.72-acres of the subject parcel as "idle timber" at market value is incorrect and

2016 SYNOPSIS – FARM CHAPTER

a reduction is warranted. The Board hereby **orders** the Jo Daviess County Board of Review to compute and certify a farmland assessment of the "idle timber" acreage as other farmland. The Board further finds that there should be no change to the land area classified as cropland which the parties agree to and there should also be no change to the land area of .91 of an acre classified and assessed as homesite related to the residential dwelling as the appellants failed to establish any specific error in quantity of homesite area and/or valuation of the homesite area. The board of review is hereby **ordered** to submit the revised farmland assessment to the Property Tax Appeal Board **within 21 days from the date of this decision** so that a final decision with the corrected assessments can be issued.

2016 SYNOPSIS – FARM CHAPTER

APPELLANT:	<u>Subat Family Trust Number One</u>
DOCKET NUMBER:	<u>13-02762.001-F-1</u>
DATE DECIDED:	<u>April, 2016</u>
COUNTY:	<u>Kendall</u>
RESULT:	<u>A Reduction</u>

The appellant timely filed the appeal from a decision of the Kendall County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments for the 2013 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 5-acres of land area. The property is improved with a two-story single-family dwelling of frame exterior construction that contains 2,496 square feet of living area with an assigned homesite of 1-acre. The parcel is also improved with five sheds ranging in size from 320 to 1,920 square feet of building area with a total building area of 5,280 square feet. The property is located in Yorkville, Kendall Township, Kendall County.

The appellant contends that the subject parcel should be partially classified and assessed based upon its agricultural use along with a .5-acre homesite and outbuildings. As currently assessed, the entire parcel has been assessed as "urban land" along with "urban buildings" with a 1-acre homesite, no preferential farmland assessment and no designation of any outbuildings associated with farming activities.

Counsel for the appellant filed a brief in support of this contention of law asserting that 4.5 acres should be assessed based upon its agricultural use. Counsel argued in the brief that the property has been utilized for agricultural purposes for a period in excess of two years. The appellant alleged they have continually had livestock, mainly sheep, mules and rescue donkeys from the Bureau of Land Management, on the subject parcel for a period in excess of 25 years. It was further asserted that at no time during the appellant's ownership of the property has the use been altered nor have utilities been extended further to the agricultural land at issue.

Appellant contends specifically that for the past five years, rescue donkeys have been raised on the parcel along with active utilization of pasture areas depicted in a survey that was provided with the appeal petition (Exhibit A) and also depicted in photographs (Exhibit B). Appellant contends that these activities fall within the definition of Section 1-60 of the Property Tax Code. (35 ILCS 200/1-60)

As further outlined in the brief, in or around May 7, 2013, the owners of the original 20-acre parcel sold 15-acres consisting of pasture and row crops; the appellant retained ownership of the remaining 5-acre parcel with the residence, homesite, farm buildings and some pasture ground. On or about January 28, 2014, the Kendall County Board of Review issued a Ten Day Notice to the appellant advising of removal of the farmland and farm building assessments for the subject 5-acre parcel owned by the appellant.

2016 SYNOPSIS – FARM CHAPTER

The appellant asserted that up and through the 2012 assessment year, the subject property was assessed based upon the agricultural use as preferentially assessed farmland in accordance with Section 10-110 of the Property Tax Code. (35 ILCS 200/10-110)

Based on the foregoing evidence and argument, the appellant contends that the subject's land has been improperly classified denying a farmland assessment to the acreage utilized for livestock, the homesite area is not properly recorded as only .5 of an acre and that the accompanying outbuildings should be assessed in accordance with their farmland use.

The board of review submitted "Board of Review Notes on Appeal" wherein the subject's total assessment of \$99,820 was disclosed. The board of review was of the opinion that the subject's primary use was for residential purposes and that it was assessed accordingly. Moreover, the board of review cited to guidelines issued by the Illinois Department of Revenue that a property should have more than five acres of farmland to be afforded the farmland classification. Thus, a parcel such as the subject of 5-acres with a residence and homesite cannot qualify for a farmland assessment.

In further support, the board of review presented a grid analysis of the fifteen comparable parcels which were presented by the appellant. As outlined by the board of review, each of the first twelve comparables was said to consist of both non-farmland and farmland classifications, three of which also included consideration of adjacent farmland. The farmland acreage for these twelve parcels ranged from 3.86 to 12.51-acres; of note, comparable #6 had 4.44-acres of farmland with no notation of additional adjacent farmland, contrary to the county's contention that parcels of less than 5-acres without accompanying adjacent farmland cannot qualify for farmland classification. Comparables #13, #14 and #15 were noted to be "mostly wet land" although none was afforded a farmland classification according to the notations by the board of review. Based on the foregoing evidence, the board of review requested confirmation of the subject's non-farmland assessment.

Conclusion of Law

The appellant's argument is based on a contention of law regarding the interpretation and application of Sections 1-60 and 10-110 of the Property Tax Code (35 ILCS 200/1-60 & 10-110). The standard of proof on a contention of law is a preponderance of the evidence. (See 5 ILCS 100/10-15). The Property Tax Appeal Board finds the evidence in the record supports a change in the classification of the subject property.

Here, the primary issue is whether the subject parcel is used primarily for agricultural purposes as required by Section 1-60 of the Property Tax Code (35 ILCS 200/1-60). In Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3rd Dist. 2005), the court stated that a parcel of land may be classified as farmland provided that those portions of the property so classified are used solely for agricultural purposes, even if the farm is part of a parcel that has other uses. Citing Kankakee County Board of Review, 305 Ill. App. 3d 799 at 802 (3rd Dist. 1999). A parcel of property may properly be classified as partially farmland, provided those portions of property so classified are used solely for the growing and harvesting of crops. Santa

2016 SYNOPSIS – FARM CHAPTER

Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill. App. 3d 872, 875, 448 N.E.2d 3, 6 (3rd Dist. 1983).

Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines farmland as:

. . . any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; **the keeping, raising and feeding of livestock** or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. [Emphasis added.]

The Board finds that in order to receive a preferential farmland assessment, the property at issue must meet this statutory definition of a "farm" as defined in the Property Tax Code. The appellant alleged and the board of review did not dispute that the appellant has maintained livestock on the subject parcel not only for two years preceding the assessment year at issue, but also so maintained the livestock for the past 25 years.

The Property Tax Appeal Board further finds portions of a parcel may be classified as farmland for tax purposes, provided those portions of property so classified are used solely for the growing and harvesting of crops and/or the raising of livestock. No evidence was presented to refute the appellant's contention that farm animals were being kept on the property and portions were pasture. The Property Tax Code does not enumerate a minimum of 5-acres in order to qualify for farmland classification. The uniform farmland policy outlined by the board of review is not supported by the language of the Property Tax Code. Based on the evidence presented and not refuted, the Property Tax Appeal Board finds all but the .5-acre homesite of the subject parcel is entitled to a farmland classification and assessment with appropriate assessments separated for the dwelling and the sheds.

In conclusion as to the classification issue, the Property Tax Appeal Board finds the board of review's classification and assessment of the subject property's land and improvements was incorrect. A reduction in the subject's assessment and change in classification is warranted in accordance with a partial farmland assessment classification for the 4.5-acre portion of the subject property utilized for farming activity, a .5-acre homesite, a residential dwelling assessment and an outbuilding assessment for the 5 sheds.

Based on this record, the Property Tax Appeal Board hereby **orders** the Kendall County Board of Review to compute and certify the subject's farmland, homesite, residence and outbuilding assessments in accordance with the findings herein and submit the revised assessment to the Property Tax Appeal Board **within 21 days** of the date of this decision so that a final decision with the corrected assessments can be issued.

2016 SYNOPSIS – FARM CHAPTER

2016 FARM CHAPTER

Index

*[Items Contained in Italics Indicate
Arguments or Evidence in Opposition to the Appellant's claim]*

<u>SUBJECT MATTER</u>	<u>PAGES</u>
Classification – farmland <i>Market value land; property is "idle land"; not farm use</i>	F-18 to F-25
Classification – hardwood trees (timber plantation) <i>Parcel subdivided; not actively managed as a tree farm; uniform treatment</i>	F-8 to F-11
Classification – orchard & tree farm; flood zone & equity <i>Equity comparables; primary use is residential</i>	F-12 to F-17
Classification & outbuildings – livestock on 5-acre parcel <i>Primary use is residential</i>	F-26 to F-28
Equity – farm buildings (horse arena) <i>Equity comparables</i>	F-2 to F-5
Farm buildings – contributory value <i>Valuation policy; lack of definition of contributory value</i>	F-6 to F-7
INDEX	F-29 to F-29

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2016 COMMERCIAL DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
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2016 SYNOPSIS – COMMERCIAL CHAPTER

2016 COMMERCIAL CHAPTER

Table of Contents

<u>APPELLANT</u>	<u>DOCKET NUMBER</u>	<u>RESULT</u>	<u>PAGE NO.</u>
BDR Partners c/o Mike Reddy	11-25885.001-C-1	No Change	C-2 to C-4
Country Health (David Underwood)	13-00043.001-C-3	Reduction	C-5 to C-8
Exxon Mobil Corp.	09-28577.001-C-2 thru 09-28577.002-C-2	Reduction	C-9 to C-11
Grant Township/Kay Starostovic	13-01680.001-C-3 thru 13-01680.003-C-3	Increase	C-12 to C-25
Health Care Services Corporation	12-04275.001-C-3	Reduction	C-26 to C-37
Shannon Court Limited Partnership	09-35660.001-C-2	No Jurisdiction	C-38 to C-39
INDEX			C-40 to C-40

2016 SYNOPSIS – COMMERCIAL CHAPTER

APPELLANT:	BDR Partners c/o Mike Reddy
DOCKET NUMBER:	11-25885.001-C-1
DATE DECIDED:	October, 2016
COUNTY:	Cook
RESULT:	No Change

The subject property is a 64 year-old, one-story commercial building of masonry construction containing 2,352 square feet of building area. The property has a 3,624 square foot site and is located in Lake Township, Cook County. The subject is classified as a Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted three black-and-white photographs of the subject and a two-page Real Estate Purchase and Sale Contract with a one-page Exhibit A attached disclosing an agreed purchase of the subject property for the price of \$150,000. Among the conditions of the contract were: that the purchaser pay into an escrow a note for \$75,000, which would be secured by a first mortgage in favor of the seller; and that the purchaser would receive a general tax credit of \$9,573.65 at closing. The contract was executed by the appellant, Michael Reddy, Member, BDR Partners, LLC. The appellant also submitted three pages of an Escrow Trust Disbursement Statement (hereinafter, referred to collectively as "the Disbursement Statement"). Pagination of the Disbursement Statement was disclosed in the upper right corner of each page as "p. 005/007, 006/007 and 007/007." There was no information in the record pertaining to whether pages 1 through 4 existed or, if they did, what they may be. The Disbursement Statement disclosed a purchase price of \$150,000, from which was subtracted \$9,573.65 for a prorated tax credit and \$75,000 for the note. The Disbursement Statement disclosed an "adjusted purchase price" of \$65,426.35. The appellant's attorney provided a brief in support of the contention of law, asserting in paragraph two:

In reviewing the materials, there appears to be an inadvertent error in the reporting of the final sales price. Even though the April 12, 2011 sales contract states \$150,000, the April 12, 2011 disbursement statement from Chicago Title and Trust company [sic] states \$84,000 as the final consideration, reflecting subsequent negotiations as to the purchase price.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect a purchase price of \$84,000 when applying the 2011 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$37,500. The subject's assessment reflects a market value of \$150,000, or \$63.78 per square foot of building area including land, when applying the 2011 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

2016 SYNOPSIS – COMMERCIAL CHAPTER

In support of its contention of the correct assessment, the board of review submitted information on six unadjusted comparable sales. These properties sold from 2007 through 2009 for prices ranging from \$310.56 to \$751.99 per square foot of building area including land.

At hearing, the appellant's attorney argued that the subject's sale was arm's-length, as reflected in the sale contract and Disbursement Statement. In response to questions posed by the board of review representative, the appellant's attorney conceded that the appellant's petition on appeal did not include the portion entitled "Section IV—Recent Sale Data," or a sales marketing listing. In closing argument, the board of review argued that the Board's decision in #09-33958 was dispositive of the instant appeal. The board of review representative asserted that the appellant in that appeal, like the appellant in the instant appeal, did not prove the sale was at arm's-length because there was insufficient evidence of it, such as a failure to provide a listing and information in Section IV of the petition form. As a result, the board of review argued the request of the appellant herein for an assessment reduction should be denied.

In rebuttal argument, the appellant argued the evidence it submitted was sufficient to sustain its burden of proof. The appellant conceded that the sale price disclosed in the appellant's evidence and reported to and recorded by the Cook County Recorder of Deeds was \$150,000, but suggested that the \$150,000 sale price was not the actual sale price. Instead, the appellant suggested the Disbursement Statement reveals a reduction in the real property sale price to reflect a sale of personal property that was "subject to further negotiation." The appellant further argued the Disbursement Statement discloses the break-down of real and personal property.

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 appellant failed to sustain its burden of proof that the subject property was overvalued. Notwithstanding the argument put forth by the appellant that \$150,000 was not the correct sale price and that a reduction for the purchase of personal property necessitates a finding of a lower sale price, the evidence the appellant submitted fails to support this assertion. Nothing in the sale contract specifies a price for personal property. Indeed, the sale contract is, at most, ambiguous as to whether personal property was included in the transaction. The sale contract provides that the seller "agrees to sell the real estate and the property, if any described above..." The paragraph above states the transaction "includes fixtures, signage, and all personal property" except that excluded in Exhibit A of the contract. Exhibit A discloses a list of various personal property items. There was no itemization of described personal property anywhere in the sale contract that was to be sold to the appellant. Likewise, the Disbursement Statement is of no help to the appellant's assertion of a purchase of personal property. The only credits applied to the stated \$150,000 purchase price were for prorated taxes and for a note executed by the purchaser and secured by a first mortgage to the benefit of the seller.

2016 SYNOPSIS – COMMERCIAL CHAPTER

The Board's decision that an assessment reduction is not justified is confirmed by the other evidence of record. The Board finds the sales comparables #3, #4 and #6 submitted by the board of review to be persuasive additional evidence. These comparables were similar to the subject in location, style, construction, features, age, building area and land area. These properties also sold proximately or within three years of the assessment date at issue. The comparables sold for prices ranging from \$681.82 to \$751.99 per square foot of building area, including land. The subject's assessment reflects a market value of \$63.78 per square foot of building area, including land, which is below the range established by the best comparable sales in this record.

The Board finds the appellant failed to sustain its burden of proof with sufficient evidence in support of its overvaluation argument that the subject property's sale price was incorrectly reported. Therefore, the Board need not distinguish its decision in #09-33958 or address the board of review's argument that it is dispositive of the issues in this case.

Based on the record, the Board finds a revision of the sale price and a resulting reduction in the subject's assessment are not justified.

2016 SYNOPSIS – COMMERCIAL CHAPTER

APPELLANT:	<u>Country Health (David Underwood)</u>
DOCKET NUMBER:	<u>13-00043.001-C-3</u>
DATE DECIDED:	<u>May, 2016</u>
COUNTY:	<u>Champaign</u>
RESULT:	<u>Reduction</u>

The subject property consists of a one-story concrete block and brick building that contains 58,148 square feet of building area. The building was constructed in 1968 with additions in 1985, 1998 and 2012. The building is operated as an 89 bed skilled care nursing facility. The subject property is also improved with an attached two-story brick apartment building that has 12,138 square feet of building area. The building was constructed in 1985 with 15 apartment units. The apartment building is operated as an independent living facility. There is a 4,416 square foot garage with a 16 vehicle capacity that was built in 2003 associated with the independent living facility. The subject property has a 421,594 square foot or 9.68 acre site. Site improvements include 65,000 square feet of concrete parking and driveway. The subject property is located in Gifford, Harwood Township, Champaign County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted two appraisals of the subject property. Appraisal #1 valued the 89 bed skilled care nursing facility. Appraisal #2 valued the 15 unit apartment building used as an independent living facility. The appraisals were prepared by Paul K. Knight, a state licensed Certified General Real Estate Appraiser.

With respect to the subject property, page 63 of appraisal #1 disclosed that in 2012 a 23,750 square foot addition was constructed, which included a new dining room, new common areas, and a new physical therapy area. The appraiser estimated the skilled nursing home facility had a weighted age of 16 years. All other areas of the older facility were updated. Other improvements include landscaping, exterior courtyards and a new roof. The renovation/addition reportedly costs \$8,900,000.

Appraisal #1 valued the 89 bed skilled care nursing facility. The appraiser developed the three traditional approaches to value in arriving at the final opinion of value. Under the cost approach to value, the appraiser concluded a market value of \$6,130,000. Under the sales comparison approach to value, the appraiser concluded a market value of \$5,700,000. Under the income approach to value, the appraiser concluded a market value of \$6,040,000. Under reconciliation, the appraiser placed most emphasis on the sales comparison and income approaches to value in arriving at a final estimate of value of \$5,975,000 as of January 1, 2013.

Appraisal #2 was for the apartment building operated as an independent living facility, including the 4,416 square foot garage. The appraiser developed the three traditional approaches to value in arriving at the final opinion of value. Under the cost approach to value, the appraiser concluded a market value of \$1,430,000. Under the sales comparison approach to value, the appraiser concluded a market value of \$1,400,000. Under the income approach to value, the appraiser concluded a market value of \$1,190,000. Under reconciliation, the appraiser placed

2016 SYNOPSIS – COMMERCIAL CHAPTER

most emphasis on the sales comparison and income approaches to value in arriving at a final estimate of value of \$1,300,000 as of January 1, 2013.

Combined, both appraisals reflect an estimated market value for the subject property of \$7,275,000 as of January 1, 2013. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the combined appraised values.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$3,549,540 was disclosed. The subject's assessment reflects an estimated market value of \$10,662,481 when applying Champaign County's 2013 three-year average median level of assessment of 33.29%. 86 Ill.Admin.Code §1910.50(c)(1).

In response to the appeal, the board of review argued the appraisal(s) have errors and lack sufficient support to justify a 32% reduction in the subject's assessed value. First the board of review alleged the appellant's appraiser utilized an incorrect building size for the skilled care nursing facility, according to its property record card that is maintained by the assessing officials.

With respect to the cost approach, the board of review argued the appraiser used the same base cost for the nursing home portion and apartment section of the building. Based on Marshall and Swift Cost Manual, the cost new for the nursing home area should be \$178.00 per square foot of building area and approximately \$140.00 per square foot of building area for the apartment area. The board of review argued the depreciation amounts used by the appraiser were too high considering 34% of the nursing home was built new in 2012. The board of review argued the appraiser should have used two different rates of depreciation under the cost approach.

With respect to the income approach to value, the board of review argued that little support was provided regarding income and expenses and without this data, it is difficult to support the projections shown in the report. The board of review argued, no national or local data was provided to support the reconstructed operating statement.

With regard to the sales comparison approach to value, the board of review argued the comparables are older in age than the subject, and considering the subject's effective age, the 10% age adjustment applied to comparables #1, #2 and #4 were too little. The board of review argued the appraiser made no adjustment to the comparables for their smaller unit sizes. Finally, the board of review questioned the total gross adjustments applied to the comparables and the comparable sales did not bracket the subject.

In support of the subject's assessment, the board of review submitted a reconstructed cost approach to value prepared by the township assessor. The assessor concluded the subject property had an estimated market value under the cost approach of \$9,650,000, which is less than the subject's estimated market value of \$10,504,926 as reflected by its assessment. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under rebuttal, a report prepared by the appellant's appraiser was submitted to address the issues pertaining to issues raised by the board of review. The appraiser indicated the subject's building size was determined by the use of blueprints, architectural plans and a prior appraisal of the property, which is more reliable than public records. With respect to the cost approach to value,

2016 SYNOPSIS – COMMERCIAL CHAPTER

the appraiser provided further rationale regarding the subjects' quality of construction and the amount of depreciation from all causes. The appraiser noted the cost approach to value is not the preferred method of the valuation of elder care facilities. The appraiser places little weight on the cost approach to value. The appraiser also concluded the subject's location in Gifford provides for a significant potential of external obsolescence. The appraiser also explained the \$8,900,000 cost of the 2012 project is a fact and not a value opinion as cost does not equal value. The reported costs included the cost of modifying the existing structure as well as the inefficiency of remodeling the structure while occupied.

With regard to the income approach, the appraiser indicated the subject's income and expense data is confidential, but summaries of the documents appear throughout the report. The appraiser further indicated the income approach to value is the preferred means to value properties similar to the subject.

With respect to the sales comparison approach to value, the appraiser pointed out comparable sales #1 and #3 provide a 15.9% differential in value, with the primary factors being age and site size. Therefore the 10% adjustment applied to the comparables for age difference is supported by the market. With respect to unit size, the appraiser indicated the higher ratio of total area to bed makes a property less efficient, which would decrease its value. With respect to the gross adjustment amounts applied to the comparables, the appraiser indicated there are limited sales data for these types of properties, which results in gross adjustment factors within the report. The appraiser noted the sales comparison approach loses reliability when inadequate sales data exists, may not provide bracketed sales and is not uncommon when appraising special use properties, which provides confirmation as to the significance of the income approach.

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 met this burden of proof.

The Board finds the best evidence of market value contained in this record are the appraisal(s) of the subject property submitted by the appellant. The appraisal reports provide a combined market value estimate for the subject property of \$7,275,000 as of January 1, 2013. The appraiser developed the three traditionally accepted approaches to value in arriving at the final opinion of value, with most emphasis being placed in the sales comparison and income approaches to value. The subject's assessment reflects an estimated market value of \$10,662,481, which is considerably more than the appraisal(s) submitted by the appellant. Therefore, a reduction in the subject's assessment is justified.

The Board gave little weight to the evidence submitted by the board of review. The main thrust of the response presented by the board of review were perceived deficiencies in the appraisal(s) submitted by the appellant. Notwithstanding that the appraiser provided a competent response to each issue raised by the board of review under rebuttal, merely attempting to refute the valuation

2016 SYNOPSIS – COMMERCIAL CHAPTER

evidence submitted by an opposing party does not nullify or shift the burden of proof or demonstrate the subject's assessment is correct. The Property Tax Appeal Board is not to afford *prima facie* weight to the findings and conclusions of fact made by the board of review (Mead v. Board of Review of McHenry County, 143 Ill. App. 3d 1088 (2nd Dist. 1986); Western Illinois Power Cooperative, Inc. v. Property Tax Appeal Board, 29 Ill. App. 3d 16 (4th Dist. 1975)). The decision of the Property Tax Appeal Board must be based upon equity and the weight of evidence. (35 ILCS 16-185; Commonwealth Edison Co. v. Property Tax Appeal Board, 102 Ill. 2d 443 (1984); Mead, 143 Ill. App. 3d 1088.) A taxpayer seeking review at the Property Tax Appeal Board from a decision of the board of review **does not have the burden of overcoming any presumption that the assessed valuation was correct.** (People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill. App. 3d 316 (2nd Dist. 1974); Mead, 143 Ill. App. 3d 1088.)

The board of review also submitted a reconstructed cost approach to value in support of its assessment of the subject property. This single approach to value conveyed an estimated market value of \$9,650,000. As a general proposition, the Board finds the depreciated cost approach to value is the least reliable indicator of market value of the three traditional approaches to value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. Nevertheless, the Board finds the cost approach submitted by the board of review further demonstrates the subject's assessed valuation is excessive. The subject's assessment reflects an estimated market value of \$10,662,481, which is more than the cost approach to value submitted by the board of review of \$9,650,000.

Based on the preponderance of the most credible market value evidence contained in this record, the Board finds the appellant has demonstrated that the subject's estimated market value as reflected by its assessment excessive. Therefore, the Board finds a reduction in the subject's assessment is warranted.

2016 SYNOPSIS – COMMERCIAL CHAPTER

APPELLANT:	<u>Exxon Mobil Corp.</u>
DOCKET NUMBER:	<u>09-28577.001-C-2 thru 09-28577.002-C-2</u>
DATE DECIDED:	<u>May, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>Reduction</u>

The subject property consists of highly irregularly shaped parcels of land located at an interior site consisting of 257,439 square feet or 5.91 acres. The east, west and north border lines are adjacent to other land sites, while the south lot line borders the Sanitary and Shipping Canal. The subject is located in Lake Township and is classified as a class 5-80, industrial property with a minor improvement 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 \$375,000 as of January 1, 2009.

At hearing, the appellant called as its witness, Joseph Ryan. Ryan testified that he holds the designations of State certified general real estate appraiser as well as MAI or member of the Appraisal Institute. He stated that from 1980 to 1985 he was employed with the Cook County Assessor's Office and then other appraisal firms before starting his own appraisal firm in 1991. Ryan indicated that he conducted an interior and exterior inspection of the subject's building and site on March 29, 2010. His appraisal indicated that there were no apparent major alterations performed to the subject between these two dates.

As to the 2009 real estate market, Ryan testified that after the economic collapse, the stock market collapse of October, 2008, and the subsequent imploding of Lehman Brothers and several other wall street firms, that the real estate market for various properties dropped drastically.

As to the subject's configuration, Ryan testified that the subject has no frontage on any street with the only ingress and egress being an easement granted from Citgo to Exxon Mobil. He stated that the Citgo parcel actually has frontage on Cicero Avenue. Behind the Citgo parcel, accessible only via easement, is the Mobil Oil 'lube plant'. He further stated that this parcel is actually leased by Mobil from People's Gas and sits on the canal on the south side of the Mobil parcel at issue. Ryan also indicated that the subject parcel is used as access to a barge dock, but only by two leased access roads.

As to highest and best use, Ryan stated that the subject is zoned for industrial use and that the highest and best use, as vacant, would be for trailer storage. His appraisal indicated that the subject's shape and the land locked location do not readily lend itself to development.

In the sales comparison approach to value, Ryan used five sale comparables with varying locations. They sold from June 2006 to January 2009 for prices that ranged from \$0.42 to \$1.55 per square foot of land. They ranged in land size from 103,107 to 1,613,300 square feet. After

2016 SYNOPSIS – COMMERCIAL CHAPTER

making adjustments for market conditions, location, size and utility, the Ryan appraisal estimated a value for the subject of \$1.00 per square foot of land area or \$257,439.

As to the subject's minor improvement, Ryan stated that he used the Marshall and Swift Cost Manual to estimate a value under the cost approach. He classified the subject's 40-year old, low-cost metal shed as a Class S, low cost, storage warehouse resulting in a replacement cost new of \$27.08 per square foot or \$113,738. Less depreciation, the estimate resulted in a depreciated cost new of \$100,089. Site improvements of paving and concrete at \$2.00 per square foot less depreciation resulted in a contributory value of \$102,975. Adding the land value of \$257,439 resulted in a combined market value of \$375,000, rounded, for the subject.

On further examination, Ryan testified that he made no adjustments to his sale comparables for minor improvements because he believed it was unnecessary. He stated that he made an adjustment for the sale's condition. As to any adjustment for access only by easement, he stated that the appraisal disclosed that all of the sales were considered superior to the subject partly due to the street frontage; therefore, he used a locational adjustment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$310,927. The subject's assessment reflects a market value of \$1,243,748 or \$4.83 per square foot of land, when applying the level of assessment for class 5-80, industrial property under the Cook County Real Property Assessment Classification Ordinance of 25%.

In support of its contention of the correct assessment, the board of review submitted unadjusted sales data on four comparable sales. Three of the four properties were located in Chicago, while the fourth was located in Cicero. They ranged in land size from 3.75 to 5.24 acres of land. They sold from December 2005 to June 2008 for prices that ranged from \$262,025 to \$426,667 per acre of land or from \$6.02 to \$9.79 per square foot.

At hearing, the board of review's representative, Ms. Drake, testified that she believes that the properties being appealed belong to an 'economic unit'. She stated that the two land parcels under appeal are not the only parcels in this locale which are owned by Exxon Mobil. She indicated that Mobil also owns the parcel to the north that borders the subject's parcels. Therefore, she opined that since Mobil owns all three parcels that they are part of an 'economic unit' and that the property to the north is assessed at \$1.75 per square foot. Thereby, all three of these properties should be assessed at the same level of \$1.75 per square foot.

For clarity, she moved the admission of BOR Hearing Exhibit #1, which is a one-page aerial photograph of the subject properties admitted into evidence over the appellant's objection. Drake stated that she obtained this copy of an aerial photograph from the Cook County Assessor's website; however, she testified that she had no personal knowledge as to whether the photograph depicted the subject properties as of the January 1, 2009 assessment date at issue. Nevertheless, she did testify that she personally checked the assessor's website to confirm that Exxon Mobil did own three parcels in tax year 2009.

As to this Exhibit, she testified as to how she marked the subject parcels and the other Exxon Mobil parcel to the north. She asserted that the northern parcel contains the main plant for Mobil

2016 SYNOPSIS – COMMERCIAL CHAPTER

and that the two parcels under appeal are the two back lots of this 'economic unit'. She also stated that she wrote the land unit price for the two back lots of \$3.50 per square foot as well as the northern lot of \$1.75 per square foot. Drake also asserted that the three lots should be assessed at the same rate and was offering this as a counter offer of \$1.75 per square foot.

Further, Drake stated that the cylinders depicted on the left side of the aerial photograph are owned by Citgo which had accorded an easement to Mobil; however, she testified that she had no personal knowledge of where that easement right was located within the photograph.

Moreover, the board of review's memorandum stated that the data was not intended to be an appraisal or an estimate of value and should not be construed as such. This memorandum indicated that the information provided therein had been collected from various sources that were assumed to be factual and reliable; however, it further indicated that the writer hereto had not verified the information or sources and did not warrant its accuracy. As a result of its analysis, the board 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 the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the appraisal with supporting expert testimony submitted by the appellant. The Board accorded minimal weight to the unadjusted sales submitted by the board of review. Moreover, the Board finds the board of review's assertion that the subject's parcels were an 'economic unit' along with another northerly parcel interesting, but unsupported. Further, the Board noted that the board of review requested a reduction in the subject's assessment to reflect inclusion in a hypothetical 'economic unit' as well as an assessment of \$1.75 per square foot. The Board finds that this position supports the appellant's market value argument.

Therefore, the Board finds the subject property had a market value of \$375,000 as of the assessment date at issue. Since market value has been established the level of assessment for class 5, industrial property under the Cook County Real Property Assessment Classification Ordinance of 25% shall apply. (86 Ill.Admin.Code §1910.50(c)(2)).

2016 SYNOPSIS – COMMERCIAL CHAPTER

APPELLANT:	<u>Grant Township/Kay Starostovic</u>
DOCKET NUMBER:	<u>13-01680.001-C-3 thru 13-01680.003-C-3</u>
DATE DECIDED:	<u>January, 2016</u>
COUNTY:	<u>Lake</u>
RESULT:	<u>Increase</u>

The subject property consists of three parcels improved with seven, two-story over English-basement residential apartment buildings of frame and brick construction with 240,918 square feet of gross building area. The complex has a total of 235 units composed of 4 studio apartments, 129 one-bedroom and one bathroom units, 34 two bedroom and one bathroom units and 68 two bedroom and two bathroom units. Each studio apartment has 450 square feet of living area; the one-bedroom units range in size from 625 to 769 square feet of living area; and the two-bedroom units range in size from 700 to 1,095 square feet of living area. The apartment buildings were constructed in stages from 1976 to 1981. The complex also has a 1-story clubhouse with 3,720 square feet of building area and an indoor swimming pool that was built in 1998. Other improvements include three parking garage buildings and a service garage that were constructed in 1998 with a combined building area of 17,469 square feet. The property has an irregularly shaped parcel containing 598,767 square feet or 13.75 acres and is located in Ingleside, Grant Township, Lake County. The property is commonly known as the Timber Oaks Apartments.

The appellant and the Fox Lake Fire Protection District, intervenor, contend undervaluation as the basis of the appeal. By way of background Mr. Dalianis explained that the subject property sold for approximately \$20.4 million with approximately \$1.64 million as non-real property consideration resulting in a net consideration for the realty of \$18.6 million.¹ Dalianis asserted that for the January 1, 2013 lien date the township officials placed an assessed value on the subject property of approximately \$4.76 million reflecting a market value of approximately \$14.3 million. The owner filed an appeal with the board of review and entered a stipulation reducing the assessment to reflect a market value of approximately \$11.5 million, which is the value being challenged.

In support of the undervaluation argument the appellant and the Fox Lake Fire Protection District jointly called as their witness real estate appraiser Eric W. Dost. Dost prepared a narrative appraisal of the subject property, marked as Intervenor Exhibit #1, estimating the subject property had a market value of \$14,000,000 as of January 1, 2013. Dost is a commercial real estate appraiser and president of Dost Valuation Group. Dost has the MIA designation from the Appraisal Institute and is an Illinois Certified General Real Estate Appraiser. Dost has prepared approximately 3,000 appraisals of commercial type properties and about 150 of those were multi-family residential properties with 140 being located in the Chicago metropolitan area. Dost has appraised multi-family properties for HUD financing, tax assessment and market feasibility study purposes. A market feasibility study is a preliminary step for potential financing where the lender wants to know if there is adequate demand for the proposed units. Dost

¹ The record contained a copy of the PTAX-203 Illinois Real Estate Transfer Declaration, labeled Exhibit D, recorded April 26, 2012, showing a net consideration of \$18,621,592.

2016 SYNOPSIS – COMMERCIAL CHAPTER

testified he has taken special coursework on apartment-type properties through the Appraisal Institute. Dost was accepted as an expert in the appraisal of commercial real estate and multi-family residential real estate.

Dost identified Intervenor Exhibit #1 as the appraisal of the subject property he prepared on behalf of the Fox Lake Fire Protection District and the Grant Township Assessor. The purpose of the appraisal was to estimate the market value of the fee simple interest as of January 1, 2013. Dost had previously appraised the subject property in 2009 for HUD financing.

Dost is familiar with the Uniform Standards of Professional Appraisal Practice (USPAP), which outlines the guidelines for the preparation and reporting of real estate appraisals. He asserted his report was consistent with USPAP standards. The witness testified the appraisal is a summary appraisal report, which is the most common type of appraisal.

Dost conducted an exterior inspection of the property on October 1, 2014 and again the weekend prior to the hearing. Dost had requested access to conduct an interior inspection from the property owner's representative, George Relias, by letter dated August 14, 2014, but he received no response.

Dost described the subject property as being located along Route 59 with Grant Community High School to the north, the Fox Lake Police Department and vacant land to the east, recreation facilities, a grade school and parks to the west, parks to the southeast and single-family residential property in the area. He further testified the subject has a two-acre fishing pond on the site. Aerial photographs of the subject property depict eight tennis courts west of the subject property and baseball fields southeast of the subject property. Dost was of the opinion the overall location of the property is very good for an apartment property as it has good visibility because of Route 59, the nearby police station and proximity to Fox Lake and Pistakee Lake.

Dost described the property as being improved with a three-story suburban garden style apartment complex with 235 units built from 1976 to 1981 and reportedly renovated in 1999. The subject property has a clubhouse with an indoor swimming pool and fitness center. The property also has 63 parking garage spaces. The report contained data from Real Estate Investment Survey (REIS) Reports, a commercial real estate data provider, on the West Lake County Submarket. Dost determined the highest and best use of the subject property as vacant was for multi-family development and as currently improved the existing use. In estimating the market value of the subject property Dost developed the sales comparison approach, the income capitalization approach and provided an opinion of land value. The cost approach was not developed because the improvements are older and, in Dost's opinion, a buyer would not consider the cost approach. Dost estimated the land value because it is important to test the highest and best use as improved and land is part of the assessment.

In estimating the land value Dost used five comparable land sales located in East Dundee, Lake Zurich, Round Lake Beach, Crystal Lake and Vernon Hills that ranged in size from 158,994 to 1,258,884 square feet or from 3.65 to 28.90 acres of land area. The land comparables sold from September 2011 to August 2013 for prices ranging from \$480,000 to \$4,968,725 or from \$1.18 to \$4.98 per square foot of land area. Each land sale was purchased for construction of some type of multi-family housing. The average price was \$3.56 per square foot of land area and the

2016 SYNOPSIS – COMMERCIAL CHAPTER

median price was \$3.95 per square foot of land area. After considering adjustments to the comparables for differences from the subject site in size, zoning, utilities, location and topography the appraiser arrived at an estimated land value of \$3.00 per square foot of land area or \$1,800,000, rounded.

The appraiser next developed the sales comparison approach to value using five improved sales. The comparables were located in Woodstock, Carpentersville, Waukegan, Antioch and Lake Bluff, Illinois. The comparables were improved with apartment complexes that contained from 96 to 334 units. Dost indicated these comparables had net rentable areas ranging from 77,445 to 254,508 square feet of building area while the subject has 193,787 square feet of net rentable area. Dost calculated the net rentable building area per unit for the comparables, which ranged from 717 to 920 square feet while the subject had 825 square feet of net rentable building area per unit. The comparables were constructed from 1974 to 1991, with comparable #5 being renovated in 2011. The sales occurred from April 2012 to June 2013 for prices ranging from \$5,100,000 to \$31,622,654 or from \$47,222 to \$127,679 per unit. Dost reported the mean sales price was \$77,632 per unit and the median sales price was \$62,521 per unit. After considering adjustments to the comparables for age/condition, size, location, building area per unit, unit features, common area amenities, construction characteristics and economic characteristics Dost arrived at an estimated value of \$60,000 per unit or \$14,100,000.

With respect to his comparable sale #1 identified as Prairie View Apartments in Woodstock, Dost acknowledged that the buyer and seller of this property were the same as the buyer and seller of the subject property. This property was a 334 unit apartment complex purchased about the same time as the subject property in April 2012 for a price of \$94,679 per unit. Dost did not agree with the assertion that this comparable should not be used because it was a bulk or portfolio sale. In his opinion two properties don't make a portfolio and he found some independent marketing brochures for Timber Oaks with no mention of Prairie View. With respect to his comparable sale #2 the appraiser testified that CoStar reported a capitalization rate of 8.62%. This property was located approximately 20 miles from the subject property. With respect to his comparable #3 Dost testified he had previously appraised this property and it had an actual capitalization rate of 6.38%. Comparable #4 was located about 7½ miles from the subject property and no capitalization rate was reported for this property. Dost testified this property had inferior amenities when compared to the subject property having no indoor swimming pool or clubhouse and is located on a more secondary street. Comparable #5 was located in Lake Bluff approximately 15 miles from the subject property and sold in April 2013 for a price of \$28,600,000 or \$127,679 per unit after being renovated in 2011. Dost testified CoStar reported a pro forma capitalization rate of 6.1% with an actual capitalization rate of 5.5%. Dost testified this property was definitely superior to the subject property. Dost explained the subject property was located geographically in the middle of the comparable sales as depicted on the map on page 51 of his report. The appraiser testified he verified the sales using such sources as CoStar, public records, buyers, press releases and brokerage firms.

The final approach developed by Dost was the income approach to value. He examined the subject's financial statements for the 12-month period ending December 31st, 2010, 2011 and 2012. He also analyzed five expense comparables and did a rent survey of comparable properties in the area. In estimating the market rent Dost used five rental comparables located in McHenry, Round Lake, Lake Villa and Wauconda. These comparables had from 84 to 280 units

2016 SYNOPSIS – COMMERCIAL CHAPTER

and four were reported to have been constructed from 1977 to 2005. The subject property has four studio apartments that had actual monthly rents of \$660 per unit. Only one comparable had studio units renting for \$695 per month or \$1.26 per square foot per month. The appraiser concluded the subject's studio apartments had a market rent of \$660 per month. The subject's one-bedroom and one bathroom units had actual rents ranging from \$754 to \$854 per month and had a weighted average rent of \$777 per month. The subject's average market rent according to the rent roll was \$826 per month. The comparables' one-bedroom units had monthly rents ranging from \$775 to \$953 per month. The appraiser concluded the subject's one-bedroom apartments had a market rent of \$800 per month. The subject's two-bedroom and one bathroom units had actual rents ranging from \$876 to \$953 per month with an average rent of \$941 per month. The subject's average market rent for this type of apartment according to the rent roll was \$973 per month. The comparables' two-bedroom one bathroom units had average monthly rents ranging from \$938 to \$1,255 per month. The appraiser concluded the subject's two-bedroom one bathroom apartments had a market rent of \$950 per month. The subject's two-bedroom and two bathroom units had actual rents ranging from \$876 to \$953 per month with an average rent of \$941 per month. The subject's average market rent for this type of apartment according to the rent roll was \$994 per month. The comparables' two-bedroom two bathroom units had average monthly rents ranging from \$900 to \$1,255 per month. The appraiser concluded the subject's two-bedroom one bathroom apartments had a market rent of \$960 per month. Based on this analysis the appraiser estimated the subject's gross potential rental income was \$2,391,888.

Dost reported the subject's historical laundry and other income from 2010 to 2012 ranged from \$87,911 to \$156,370. He also indicated the five rental comparables had laundry and other revenue ranging from \$28,631 to \$367,570 with an average of \$176,274. Based on this data the appraiser estimated the subject's laundry and other income was \$126,900.

The appraiser next estimated the subject's parking revenue noting the subject's total parking revenue from 2010 to 2012 ranged from \$30,823 to \$61,263. He further reported that his rental comparables #1 and #2 had garage spaces available for \$60 and \$75 per month. Based on this data the appraiser estimated the subject's 63 garage spaces had a stabilized revenue of \$60 per space for a total of \$45,360.

Adding the gross rental income, the laundry and other income and the parking revenue resulted in a potential gross income of \$2,564,148.

Dost reported the REIS Reports indicated the West Lake County submarket had three-year and five-year historic vacancy rates of 4.5% and 5.3%, respectively. He also indicated that information for all of Lake County from Hendricks Berkadia reported a vacancy rate of 3% as of the first quarter of 2013. The appraiser also indicated that according to the January 1, 2013 rent roll the subject had 13 vacant and un-leased units indicating a vacancy rate of 5.5%. Based on this information the appraiser estimated the subject had a vacancy and collection loss of 6% or \$153,849, resulting in an effective gross income (EGI) of \$2,410,299.

In estimating expenses Dost analyzed the subject's historic expenses and also considered five expense comparables. Dost testified that according to the First Quarter 2013 PWC Real Estate Investor Survey of the National Apartment Market there is a range of management fees from 2%

2016 SYNOPSIS – COMMERCIAL CHAPTER

to 8% with an average of 3.13%. The comparables had management fees ranging from .5% to 4.1% of EGI. He estimated the subject's management fee to be 3.0% of EGI or \$72,309 per year. The appraiser placed emphasis on the subject's average amount, which was supported by the rental comparables, in estimating the expenses for other administrative, lighting and miscellaneous power, water/sewer, natural gas, garbage removal, payroll, repairs and insurance, which totaled \$681,500. With respect to reserves for replacements Dost stated that the First Quarter 2013 PWC Real Estate Investor Survey reported apartments have a replacement range from \$150 to \$2,000 per unit, with an average of \$387 per unit. Dost estimated the subject's reserves for replacements to be \$300 per unit or \$70,500. Deducting total operating expenses of \$824,309 from the EGI resulted in a net operating income (NOI) of \$1,585,990.

The final step under the income approach was to estimate the capitalization rate. In estimating the capitalization rate Dost used investor surveys, the band of investment method and an analysis of the comparable sales. Dost indicated that the First Quarter 2013 PWC Real Estate Investor Survey for the National Apartment Market indicated an average overall rate of 5.73% for institutional properties and 7.29% for non-institutional properties. Dost was of the opinion that a capitalization rate near the non-institutional average was considered appropriate for the subject. The band of investment method resulted in a capitalization rate of 7.42%. Dost indicated that four of the five sales had capitalization rates ranging from 5.50% to 8.62% with an average of 6.94%. Using this data Dost determined a capitalization rate of 7.5% was reasonable for the subject. To this a tax load factor of 3.8879% was added to arrive at a loaded capitalization rate of 11.388%. Dividing the NOI by the loaded capitalization rate resulted in an estimated value under the income approach of \$13,900,000.

In reconciling the two opinions of value Dost gave significant emphasis to both the sales comparison approach and the income approach to value. He testified his opinion of the fair cash value of the subject property as of January 1, 2013 was \$14,000,000.²

Under cross-examination Dost testified that there was some assumed financing associated with comparable sale #1 and the sale of the subject property, but was not aware that it was necessarily favorable. Dost knew that the subject property had HUD financing and it was assumable but was of the opinion that does not necessarily make it favorable. He also reiterated his testimony that even though comparable sale #1 and the subject were sold at the same time and involved the same parties this does not make a portfolio.

Dost testified his comparable sale #1 was located in McHenry County and his comparable sale #2 was located in Kane County. He also testified that his comparable #5 was located in east Lake County 15 miles east of the subject property. Dost was not aware that comparable sale #1 also included a healthcare business in the transaction. Dost also agreed that his comparable sales #2, #3 and #4 had less units than the subject property. He testified, however, that he selected these comparables because they are in the same general size range as the subject property.

With respect to the capitalization rate, Dost testified that he used data from CoStar for comparables #1, #2, #4 and #5, which had capitalization rates listed. He acknowledged that CoStar did not list the income and expenses for the comparables. He also agreed the

² At page 74 of the Dost appraisal the reconciled market value estimate was reported to be \$14,100,000.

2016 SYNOPSIS – COMMERCIAL CHAPTER

capitalization rates were listed as pro forma capitalization rates. He testified, however, if the capitalization rates were actually different it would not change his opinion because he relied on three methods in estimating the capitalization rate. Dost acknowledged that the PWC Real Estate Investor Survey is a national report that takes into consideration properties from the East Coast and West Coast. With respect to the band of investment method Dost testified that he estimated the value of the fee simple interest as of the valuation date and you are to use market financing as of that date.

Dost described the site as irregular and almost triangular. He agreed that irregular sites are less desirable than regular sites. He also agreed that the ball fields and tennis courts do not belong to and are not part of the subject property. He asserted, however, that the presence of nearby amenities affects the rents.

Under redirect examination Dost testified an appraiser is not bound to stay within the same county in selecting comparables. He explained that given how dynamic and changing the market conditions were over the past several years, he finds it better to have more current sales that might be a tiny bit further away. He testified the more current the dates of sale the better. Dost also testified that in developing a capitalization rate using three sources provides more support and all three approaches he used pointed in the same direction.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$3,832,950. The subject's assessment reflects a market value of \$11,531,137 or \$49,069 per apartment unit, land included, when using the 2013 three year average median level of assessment for Lake County of 33.24% as determined by the Illinois Department of Revenue. The board of review submitted no evidence in support of its assessment of the subject property.

In support of its contention of the correct assessment the intervenor/owner/taxpayer submitted an appraisal estimating the subject property had a market value of \$11,750,000 as of January 1, 2013. The appraisal was prepared by John O'Dwyer of JSO Valuation Group, Ltd. O'Dwyer was called as a witness and testified he has the MAI designation and is president of JSO Valuation Group. The witness further testified he is a Member of the Royal Institute of Chartered Surveyors. The appraisal further indicated that O'Dwyer was an Illinois Certified Appraiser. The witness testified that his firm completes approximately 500 appraisals per year and about 20% are multi-family properties. The taxpayer's appraiser also testified he is a renowned speaker on low-income multi-family housing and speaks at conferences on self-storage warehousing. O'Dwyer was accepted as an expert.

O'Dwyer prepared a narrative appraisal of the subject property, which was marked as Exhibit #1 for Intervenor #2. The appraiser estimated the subject property had a market value of \$11,750,000 or \$50,000 per unit as of January 1, 2013. The property rights appraised were the fee simple interest and the appraiser determined the highest and best use as improved was the property's current use. The appraiser developed the three approaches as to value and placed most weight on the income approach to value. O'Dwyer was aware that the subject property sold in 2012. He described the sale as a portfolio sale along with the sale of a property in Woodstock. The appraiser asserted a portfolio sale is any sale greater than one sale. He explained both sales were negotiated together by the buyer and seller and sold in conjunction together at the same

2016 SYNOPSIS – COMMERCIAL CHAPTER

exact time. The witness testified within the sales there was favorable financial terms from HUD that covered both properties at an interest rate of approximately 4.3%. The appraiser testified at that time very few institutions were willing to lend money on properties so having the assumable mortgage was a very strong motivator for the buyer to purchase the property.

The witness described the site as a triangular site except for a small cutout and is located on the east side of Devlin and the west side of Route 59, with the pinnacle of the site on the south side. There are four buildings located along Devlin and three buildings located along Route 59. In the center of the site is an approximately 2-acre pond that was put there for firefighting purposes. The witness testified the pond is not a fishing pond or a recreation pond and no boats are allowed on it. He testified the triangular position of the site makes it less favorable for any type of development yet the site is very well developed as far as the placement of the buildings.

O'Dwyer inspected the property in June 2014 and testified that on his walkthrough inspection the property seemed slightly rundown. He testified the subject has false mansard roofs with plenty of shingles missing and gutters missing. The appraiser further testified that the kitchen suites and bathroom suites were mainly all original. Additionally, some of the double glazing windows had vacuums that had burst so the windows were clouded. O'Dwyer further testified that the interior of the property was a low cost development meaning there was noise transmission and smell transmission.

In developing the income approach to value O'Dwyer used four rental comparables located in Round Lake and Fox Lake from .4 to 4.7 miles from the subject property. The comparables had from 12 to 280 units. Three of the comparables had rental rates for one-bedroom units ranging from \$725 to \$995 per month or from \$1.08 to \$1.40 per square foot per month. Each comparable had two-bedroom units that had rental rates ranging from \$795 to \$1,275 per month or from \$1.06 to \$1.15 per square foot per month. O'Dwyer also reported the subject's units had average rents ranging from \$678 to \$993 per month or from \$.91 to \$1.51 per square foot per month. The witness testified the subject property has four studio apartments, 129 one-bedroom apartments and 102 two-bedroom apartments with the importance being that approximately 55% of the apartments are one-bedroom while one would expect more two-bedroom units because the subject is located in a "bedroom community." The appraiser concluded the subject would have an average rate of about \$1.15 per square foot per unit per month resulting in a rental income of \$2,403,336. The report also indicated the appraiser added \$140,000 for other income, for such items as parking and late fees, to arrive at a gross income of \$2,543,336. O'Dwyer testified that he was provided the subject's historical expenses for 2010, 2011 and analyzed 2012, which was set forth on page 68 of his report. He thought that the most important line was the effective gross income line that showed effective gross income of \$2.5 million for 2010, \$2.4 million in 2011 and \$2.3 million in 2012. He testified that this shows the subject is not an institutional grade property because it does not have the ability to collect the ratio utility billing system (RUBS), which is where the tenant pays for common area expenses such as lighting and landscaping. The appraiser estimated the subject's stabilized vacancy and collection loss to be 5% of gross income or \$127,167 which was deducted to arrive at an EGI of \$2,416,169.

The appraiser next estimated total expenses to be \$960,332, or 39.75% of effective gross income to arrive at a net operating income of \$1,455,837. With respect to expenses the appraiser estimated the following: insurance costs of \$191 per unit or \$45,000 per year; operating or

2016 SYNOPSIS – COMMERCIAL CHAPTER

administrative expenses were stabilized at \$340 per unit or \$80,000; utilities at \$200,000 or \$851 per unit; payroll and benefits at \$160,000 or \$681 per unit; management fees of \$120,808 or \$514 per unit; supplies of \$100,000 or \$426 per unit; contracts of \$135,000 or \$574 per unit; repairs/maintenance of \$25,000 or \$106 per unit; commissions of \$7,249 or \$31 per unit; other expenses of \$25,000 or \$106 per unit; and reserves of \$62,275 or \$265 per unit. The appraisal indicated the expenses were stabilized near the historical expenses and in line with both industry and comparable standards. The appraisal also indicated that according to the 2013 Income and Expense Analysis Report for the Chicagoland area, multi-family buildings that are low-rise containing more than 24-units typically have expenses near 41% and net operating income near 59%. The report indicated that the subject is an older improvement, which would warrant a higher expense ratio. O'Dwyer also testified that the condition of the property warrants the expense ratio because there is deferred maintenance, heating units that need to be taken care of, air conditioning units that have to be taken care of, all the roofs need to be replaced, as well as siding and landscaping that are going to add to the expenses to operate the property.

In estimating the capitalization rate O'Dwyer wanted to first estimate the lowest possible rate that would be applicable to an institutional grade property. The appraiser testified PWC Real Estate Investor Survey, 1st Quarter 2013, reported rates from 3.5% to 10% with an average of 5.73%. He also testified that the PWC Real Estate Investor Survey, 3rd Quarter 2013, depicted on page 70 of the appraisal, reported rates from 5.0% to 14.0% with an average of basically 8%. The appraiser also looked at the net operating income that they were provided and used the assessor's market value and derived a capitalization rate of about 10%. He testified they had a floor as to how low the capitalization rate could go and a ceiling as to how high the capitalization rate can go. The appraiser estimated a capitalization rate of 8.5%. To this the appraiser added a tax load of 3.89% to arrive at a loaded capitalization rate of 12.39%. Capitalizing the net income resulted in an estimated market value of \$11,750,000 under the income approach to value.

O'Dwyer testified that he did not use the band of investment method to estimate the capitalization rate because it can be manipulated to tell you anything. He also testified that deriving capitalization rates from sales is a great indicator but you have to be very careful due to determining the income and expenses.

The next approach to value developed by O'Dwyer was the sales comparison approach in which he used three comparable sales located in Antioch, Gurnee and Park City. O'Dwyer's sale #1 was the same comparable sale as Dost's comparable sale #4. The three comparables were improved with apartment complexes that had from 96 to 320 units and were built from 1964 to 1988. The comparables were improved with two-story or three-story buildings and had from 86,400 to 133,120 square feet of net rentable area. These properties had sites ranging in size from 257,004 to 368,064 square feet of land area or from 5.90 to 8.45 acres. Comparable #1 had 96 two-bedroom units; comparable #2 had 134 one-bedroom units and 2 two-bedroom units; and comparable #3 had 320 units that were primarily one-bedroom units at the time of sale. The sales occurred from February 2011 to June 2013 for prices ranging from \$5,000,000 to \$13,500,000 or from \$48.36 to \$101.41 per square foot of rentable building area or from \$36,765 to \$62,521 per unit. The appraiser reported that sale #3 included a sale condition that 60 of the 320 units were tax credit units with the local housing authority at a rate of 60% of median income, which would have an impact on unit price, requiring an upward adjustment. Sale #3 also required an upward adjustment due to its inferior location and average smaller unit size of

2016 SYNOPSIS – COMMERCIAL CHAPTER

416 square feet as compared to the subject's 1,041 square feet. The appraiser made downward adjustments to comparable sales #1 and #2 due to their smaller unit counts relative to the subject property. Based on these sales the appraiser arrived at an estimated market value of \$50,000 per unit or \$11,750,000.

O'Dwyer testified these sales were selected because they were more geographically within Lake County; he did not want to go outside Lake County.

O'Dwyer also developed the cost approach to value. The appraiser first estimated the land value using three comparable land sales located in Lake Zurich and Lake Villa. O'Dwyer's land sale #3 was also utilized by Dost as his land sale #2, although they reported different sales prices. The land comparables ranged in size from 157,687 to 359,370 or from 3.62 to 8.25 acres. The comparables sold from December 2011 to March 2014 for prices ranging from \$55,000 to \$726,970 or from \$.81 to \$4.61 per square foot of land area. O'Dwyer estimated the subject had a land value of \$2.00 per square foot of land area or \$1,200,000, rounded.

In estimating the replacement cost new of the improvements the taxpayer's appraiser used the Marshall Valuation Service Manual and arrived at a cost new for the building improvements of \$23,143,824. The site improvements were estimated to have a cost new of \$600,223. The total cost new was estimated to be \$23,744,047. Total depreciation was estimated to be \$13,195,088 and was deducted from the total cost new to arrive at a depreciated improvement value of \$10,548,959. Adding the land value resulted in an estimated value under the cost approach of \$11,750,000, rounded.

In reconciling the approaches to value the taxpayer's appraiser determined the income approach to value was the primary indicator of value and the sales comparison approach was considered a secondary approach to value. The appraiser estimated the subject property had a market value of \$11,750,000 as of January 1, 2013.³

The taxpayer also submitted an appraisal review of the Dost appraisal that was prepared by O'Dwyer. O'Dwyer concluded the Dost Valuation Group, Ltd. appraisal had a valuation estimate that was too high due to the fact that no cost approach was explored to support the value, the capitalization rate of 7.50% was too low, and sales #1, #2 and #5 should not be considered as indications of value for the subject property.

Within the appraisal review O'Dwyer asserted there were major errors with the reporting of the 2012 sale of the subject property. He asserted the sale price of the subject property of \$20,468,000 as reported by Dost was incorrect as the PTAX transfer declaration noted the price included \$1,637,443 in personal property resulting in a net sales price of \$18,830,592. He further stated that the net sales price was actually an allocation due to the fact that the subject's transfer was a portfolio sale including a separate 334-unit family property located in Woodstock, Illinois, that sold for a net consideration of \$29,092,842. O'Dwyer asserted that these two sales were negotiated together and there was an allocation of a total portfolio price between the two properties.

³ The appraiser also opined the subject property had an estimate of value of \$11,750,000 as of January 1, 2014 and June 27, 2014.

2016 SYNOPSIS – COMMERCIAL CHAPTER

At page 6 of the appraisal review O'Dwyer stated that an appraisal that leaves out the cost approach to value does not have the same level of support for a market value conclusion that an appraisal with all three approaches will have.

In commenting on the sales comparison approach in the Dost report, O'Dwyer stated that comparable #1 was part of the portfolio sale of the subject property and is far superior to the subject property and is located within an entirely different market area in McHenry County. O'Dwyer asserted comparable #2 is located far to the south of the subject property in Kane County, a different market area. The taxpayer's appraiser also contends Dost's comparable sale #5 is highly superior to the subject property with considerably higher rental rates and should be excluded from any value indication of the subject.

With respect to the income approach developed by Dost, O'Dwyer opined that the analysis of the gross rental income for the subject property was relatively good and the tax load factor of 3.8879% was correct. The taxpayer's appraiser asserted there was no source for the "non-institutional" range of capitalization rates that Dost utilizes; the band of investment method to develop a capitalization rate is relatively weak; and commented on the capitalization rates developed from the sales and concluded that sale #3 was the only sale that could possibly have a relevant capitalization rate source.

Under cross-examination O'Dwyer agreed that he described the subject property as slightly rundown, however, at page 30 of his report he stated, "The subject improvements are in good overall condition." O'Dwyer testified the appraisal was USPAP compliant. The taxpayer's witness also agreed that the ethics rules of USPAP provide that an appraiser must not perform an appraisal with bias and must not advocate the cause or interest of any party or issue. He was of the opinion that by acting as an independent appraiser and as a consultant in critiquing the Dost appraisal he was not showing bias or the interest of a party or issue. He also asserted that the technical review of the Dost appraisal was not a consulting report.

O'Dwyer also testified that he was familiar with the CoStar service and testified it is the only service available in Chicago. He also testified that every appraiser uses the CoStar service.

O'Dwyer was shown Appellant's Exhibit B, PTAX-203, Illinois Real Estate Transfer Declaration associated with land sale #1. The taxpayer objected to the document as not being entered before. The Property Tax Appeal Board overrules the objection finding the document was being offered for impeachment purposes. The document identified land sale #1 as a Bank REO (real estate owned). O'Dwyer testified he did not identify land sale #1 as a bank foreclosure in his report. O'Dwyer also testified he did not disclose the fact that land sale #2 was a bank REO sale in the report. The appraiser concluded that REO land sales that were taking place became the market because they were so freely available. O'Dwyer was shown Appellant's Exhibit C, PTAX-203, Illinois Real Estate Transfer Declaration associated with land sale #2. The taxpayer objected to the exhibit. The Property Tax Appeal Board overrules the objection finding the document was being offered for impeachment purposes. O'Dwyer testified that Exhibit C identified the land sale as an REO sale. He also agreed his only land sale that was not a bank foreclosure was his land sale #3, which was the same as Dost's land sale #2, that sold for \$4.61 per square foot of land area. O'Dwyer described land sale #3 as being slightly superior to the subject.

2016 SYNOPSIS – COMMERCIAL CHAPTER

With respect to the cost approach to value, O'Dwyer was questioned about the lack of discussion in the appraisal about depreciation, deterioration and obsolescence. On page 30 of the report the appraiser acknowledged that the subject's roof is described as being in average condition. The witness testified that the cost approach was given almost no weight whatsoever even though it does not say that in the report.

With respect to the income approach to value O'Dwyer agreed his estimate of EGI of approximately \$2,416,000 was almost the same as Dost's estimate of EGI of approximately \$2,410,000. The witness also agreed that the table on page 67 of the report was from the Institute of Real Estate Management (IREM). The information that the appraiser looked at was from the right-hand side of the table with the heading "Chicago, IL Low Rise Over 24 Units." The data consisted of 6 buildings with 993 units. O'Dwyer described the data as "blind" meaning one does not know the location of the buildings in the Chicagoland area, the design features of the buildings and the amenities of the buildings. O'Dwyer stated on page 66 of his report that multi-family buildings that are low-rise containing more than 24-units typically have expenses near 41%. The witness explained this was taken from the IREM table on page 67 of the appraisal that reported total expenses to be 41.3%. However, the total expenses included the real estate taxes. O'Dwyer testified his analysis of expenses excluded real estate taxes.

With respect to the capitalization rate, the appraisal report contained a table on page 69 disclosing that the overall capitalization rate for the National Apartment Market during the first quarter of 2013 ranged from 3.50% to 10.00% with an average of 5.73%. Page 70 of the appraisal contained another table from the PWC Real Estate Investor Survey reporting the overall capitalization rate for apartments for the third quarter of 2013 ranged from 3.50% to 10.0% with an average of 5.61%, showing a decline in capitalization rates for investment grade properties. The appraisal at page 70 also reported comparable sale capitalization rates ranging between 7.10% to 11.58%. O'Dwyer testified that those were capitalization rates he developed but did not publish in the appraisal. He testified that the data was from the CoStar sheets and were probably for the three sales used in the appraisal. The witness testified that the capitalization rates might have been developed using the CoStar reports or they might have used CoStar and then developed a capitalization rate using other sources. O'Dwyer further testified that it was not common for other appraisers to develop a band of investment technique and that he never uses the band of investment technique. He did not believe that the band of investment technique would be an indication of what a capitalization rate ought to be. The witness also testified he does not have any market derived capitalization rates in the capitalization rate analysis.

O'Dwyer was shown Appellant's Exhibit D, which included a CoStar report for improved sale #2 and the PTAX-203, Illinois Real Estate Transfer Declaration associated with improved sale #2. The taxpayer objected to the exhibit. The Property Tax Appeal Board overrules the objection finding the document was being offered for impeachment purposes. O'Dwyer reported this property as having sold for a price of \$5,000,000, which was reported on the transfer declaration, however, the CoStar sheet reported a sales price of \$4,450,000. CoStar reported a capitalization rate for this property of 7.3%. With respect to the location of comparable sale #3, O'Dwyer agreed there are a lot of mobile homes in Park City. He also agreed that 60 of the 320 units at this comparable had tax credits and the property was to be rehabilitated. The witness thought

2016 SYNOPSIS – COMMERCIAL CHAPTER

that they wanted to increase the number of two-bedroom units at this property. He agreed that the units at the subject property were about 250% larger than the units at comparable sale #3.

The owner requested that the fair market value of the subject property should not exceed \$11,500,000 as established by the board of review.

Conclusion of Law

The issue before the Property Tax Appeal Board is determining the market value or fair cash value of the subject property as of January 1, 2013. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). 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 appellant, Grant Township/Kay Starostovic, and the Fox Lake Fire Protection District, intervenor, contend the subject property had a market value \$14,000,000 as of January 1, 2013 based on the opinion of value developed by real estate appraiser Eric W. Dost. The owner/taxpayer, Timber Oaks Acquisition, LLC, argued the subject property had a market value of \$11,750,000 as of January 1, 2013, based on the opinion of value developed by real estate appraiser John O'Dwyer. The Lake County Board of Review had established a total assessment for the subject property of \$3,832,950, which reflects a market value of \$11,531,137 when using the 2013 three year average median level of assessment for Lake County of 33.24% as determined by the Illinois Department of Revenue. The board of review presented no evidence in support of the assessment. Both appraisers offered opinions of value that were greater than the market value reflected by the subject's assessment.

Initially, the Board finds the record disclosed the subject property was the subject matter of a sale in April 2012 for a net consideration of \$18,621,687. However, the subject sold with another property and the price was allocated in some fashion. Furthermore, the record indicated that a mortgage was assumed, which may have had an impact on the purchase price. Finally, neither appraiser found or asserted that the purchase price was indicative of fair cash value as of January 1, 2013. As a result the Board gives little weight to the sale in determining the correct assessment for the subject property as of the assessment date at issue.

Of the two appraisers only O'Dwyer developed the cost approach to value. However, O'Dwyer testified this approach was given almost no weight. The Board also finds the cost approach to value contained in the appraisal had no discussion with respect to the development of the various estimates of depreciation and obsolescence by O'Dwyer, which undermines the conclusion of

2016 SYNOPSIS – COMMERCIAL CHAPTER

value under the cost approach. With respect to the land value used by the appraiser in the cost approach, it was brought out that two of the land sales used by O'Dwyer were the results of bank foreclosures and sold for prices of \$.15 and \$.81 per square foot of land area. The remaining land sale used by O'Dwyer had sold for a price of \$4.61 per square foot of land area. The record also contained five land sales identified by Dost, which included the one non-bank foreclosure land sale presented by O'Dwyer. The land sales provided by Dost had unit prices ranging from \$1.18 to \$4.98 per square foot of land area. Considering these land sales, the Board finds that O'Dwyer's estimate of land value of \$2.00 per square foot of land area is too low and that Dost's estimate of land value of \$3.00 per square foot of land area is better supported. In conclusion the Board gives little weight to the cost approach to value developed by O'Dwyer.

Both Dost and O'Dwyer developed the sales comparison approach to value with Dost, using five comparable sales, arriving at an estimated value of \$60,000 per unit and O'Dwyer, using three comparable sales, arriving at an estimated value of \$50,000 per unit. The two appraisers had a common comparable sale located in Antioch that sold in June 2013 for a price of \$6,002,000 or \$62,521 per unit. The Board finds that the two remaining comparables used by O'Dwyer sold in February 2011 and March 2011, not as proximate in time to the assessment date at issue as the comparable sales used by Dost. Furthermore, comparable sale #3 used by O'Dwyer was not particularly similar in unit size, was primarily improved with one-bedroom units and was also the subject of tax credits. As a result the Board finds these sales are to be given little weight. With respect to Dost's improved sale #1, this was the property that sold concurrently with the subject property in April 2012. As noted the price for the subject and this property were allocated and both appeared to involve a mortgage assumption impacting the price. The Board gives this sale less weight. Dost's comparable sale #5 was described as being superior to the subject property in age/condition, location and economic characteristics. This property sold for a unit price of \$127,679 per unit, which appears to be an outlier as compared to the other sales in the record, therefore, less weight was given this sale. The Board finds the best sales in the record include Dost's comparable sales #2, #3 and #4, which includes O'Dwyer's sale #1. The Board finds that O'Dwyer stated in his appraisal review that he verified Dost comparable sale #3 and concluded that this sale appears to be a relevant data point for the valuation of the subject property. These three comparables sold for prices ranging from \$47,222 to \$62,521 per unit. Based on these sales and considering the testimony of witnesses, the Board finds that Dost's conclusion of value of \$60,000 per unit or \$14,100,000 under the sales comparison approach is better supported.

Both appraisers developed the income approach to value and were in near agreement as to the subject's EGI with Dost arriving at an EGI of \$2,410,299 and O'Dwyer arriving at an EGI of \$2,416,169. The appraisers differed in operating expenses with Dost arriving at total expenses of \$824,309 while O'Dwyer arrived at operating expenses of \$960,332. The Board finds that Dost's estimate of expenses was better supported with reference to the subject's historical expenses, surveys and, importantly, expense comparables that he identified and included in the report. Therefore, the Board finds that Dost's estimate of net operating income of \$1,585,990 is better supported.

The last step under the income approach was to estimate the capitalization rate to be applied to the subject's net income. Dost arrived at a capitalization rate of 7.5% using an investor survey, the band of investment technique and an analysis of the capitalization rates reported for the

2016 SYNOPSIS – COMMERCIAL CHAPTER

comparable sales. O'Dwyer estimated a capitalization rate of 8.5% using an investor survey for investor grade properties to develop a floor and looked at the net operating income that they were provided and used the assessor's market value to develop a ceiling. The Board finds that the methods used by Dost better comport with appraisal theory. The Board also finds that Dost's estimated capitalization rate is somewhat supported by CoStar's reported capitalization rate for O'Dwyer's sale #2 of 7.30%. The record also disclosed that both appraisers were in agreement that the tax load factor to be added to the capitalization rate was 3.8879%. Based on this record the Board finds that Dost's loaded capitalization rate of 11.388% is better supported, which when used to capitalize Dost's estimate of net income results in an estimated market value under the income approach of \$13,900,000. In conclusion the Board finds that Dost's estimate of market value under the income approach is better supported.

After considering the evidence and testimony presented, the Board finds the opinion of value offered by Dost is the most credible in this record and finds the subject property had a market value of \$14,000,000 as of January 1, 2013. Since market value has been determined the 2013 three year average median level of assessments for Lake County of 33.24% as determined by the Illinois Department of Revenue shall apply.

2016 SYNOPSIS – COMMERCIAL CHAPTER

APPELLANT:	Health Care Service Corporation
DOCKET NUMBER:	12-04275.001-C-3
DATE DECIDED:	October, 2016
COUNTY:	Williamson
RESULT:	Reduction

The subject property consists of a 12.17 acre site improved with a one-story office building containing 76,845 square feet of building area that was constructed in 2003. The building has a poured reinforced concrete foundation and exterior walls of steel frame covered with brick veneer and Dryvit. The building is heated and cooled with 17 roof top, gas fired, forced air heating and central air conditioning units. The floors are concrete slab on grade covered with a combination of commercial grade carpeting, vinyl laminate and ceramic tile while some areas having sealed concrete floors. The windows are insulated double pane plate glass in anodized aluminum frames. Interior walls are composed of metal studding covered with taped and painted drywall. The ceilings are composed of a suspended aluminum grid with acoustical tiles and recessed fluorescent fixtures. The building has a sprinkler system. Site improvements include 662 asphalt parking spaces, asphalt driveways, concrete sidewalks, overhead lighting, signage and an underground sprinkler system. The property is located in Marion, West Marion Township, Williamson County. The subject property is used as a "call center" for Blue Cross/Blue Shield.

The appellant contends both overvaluation and assessment inequity as the bases of the appeal. In support of the overvaluation argument the appellant submitted a narrative appraisal of the subject property prepared by James H. Webster of James H. Webster & Associates, Ltd., Urbana, Illinois. Webster was called as the appellant's first witness. Webster is an Illinois State Certified General Real Estate Appraiser and has the MAI designation from the Appraisal Institute. Webster identified Appellant's Hearing Exhibit #17 as the appraisal he prepared of the subject property.

Webster described the building as being an office building designed and built for the owner/occupant Blue Cross/Blue Shield. He testified the building is good quality and is a single user facility. The appraiser further described the building as having a reception room, conference rooms, executive office rooms, two sets of restrooms, a large cafeteria, a break room, a kitchen for the employees and a large computer room. The appraiser described a majority of the building as being open bull-pen office cubicles which have power transmitted through trench cable phone and data lines. The building has four data closets to enable distribution. (Appellant's Hearing Exhibit #17, page 31.) The witness further testified the subject property has a raised floor and the property is zoned C-1, general commercial.

The property rights valued by Webster are the fee simple estate. (Appellant's Hearing Exhibit #17, page 12.) Webster determined the highest and best use of the site as vacant was for office or office/warehouse use. The appellant's appraiser determined the highest and best use of the site as improved was the present use. (Appellant's Hearing Exhibit #17, page 35.) In estimating the market value of the subject property the appellant's appraiser developed the income approach to value and the sales comparison approach to value.

2016 SYNOPSIS – COMMERCIAL CHAPTER

In developing the sales comparison approach to value the appraiser used six comparable sales located in the Illinois communities of Decatur, Mattoon, Springfield, Peoria and Effingham. Comparable #1 was a three-story office building with finished basement constructed in 2009. Comparable #1 was located in Decatur and improved with a building that has 97,280 square feet of gross building area (including basement) and sold in November 2010 for a price of \$9,100,000 or \$93.54 per square foot of building area, including land. Comparable #2 was located in Mattoon and is improved with a three-story office building, known as the Masonic Building, with 33,235 square feet of building area. The building is approximately 80-years old. The property sold in July 2011 for a price of \$2,400,000 or \$72.21 per square foot of building area. Comparable #3 was composed of seven properties located in Springfield improved with buildings that ranged in size from 5,140 to 11,316 square feet of building area for a total combined building area of 64,608 square feet. The transaction occurred in March 2009 for a combined price of \$5,470,000 or \$84.66 per square foot of building area. Comparable #4 was located in Springfield and was improved with a three-story building constructed in 2007 that contained 114,840 square feet of building area. The building sold in August 2011 for a price of \$17,850,000 or \$155.43 per square foot of building area. Sale #5 was located in Peoria and was improved with two 2-story buildings. One building had 28,856 square feet and was constructed in 1987 and the second building had 33,360 square feet of building area and was constructed in 1968. The appraiser indicated that there was a sale price of \$7,000,000 for multiple properties with \$3,500,000 or \$56.25 per square foot of building area representing an allocation of the purchase price to the comparable. Comparable #6 was located in Effingham and was improved with a one-story office building with 40,544 square feet of building area, inclusive of the finished basement, that was constructed in 1968 with an addition in 1990 and remodeled in 2002. This property sold at auction for a price of \$1,516,000 or \$37.39 per square foot of building area. Webster made adjustments to the comparables for such factors as condition of sale, date of sale, location, size, age/condition, quality/condition, finish and land to building ratio. The adjustments ranged from -40% to 25% to arrive at adjusted prices ranging from \$56.03 to \$93.26 per square foot of building area. The appraiser determined the subject property had an indicated value under the sales comparison approach of \$80.00 per square foot of building area or \$6,150,000, rounded.

Under the income capitalization approach to value the appraiser used four rental comparables and one offering. The appraiser did not identify the street addresses of the comparables but indicated rental #1 was located in a community of similar size; rental #2 is located in Urbana; rental #3 and #4 are located in Springfield. The appraiser described the rental comparables as ranging in size from 6,600 to 102,654 square feet of building area with ages ranging from 18 to 40 years old. Rental comparable #1 had a triple net lease; rental comparables #2, #3 and the offering had gross rents; and rental #4 was leased on a "full-service" basis. The comparables had rents ranging from \$5.45 to \$12.67 per square foot of building area. The appraiser made adjustments to the rental comparables for location, size, age/condition, quality/finish and lease terms to arrive at adjusted rents per square foot ranging from \$6.00 to \$8.87 per square foot of building area. Webster estimated the subject property would have a market rent of \$8.00 per square foot of building area, triple net, resulting in a potential gross income of \$614,760. The appraiser made an 8% deduction or \$49,180 for vacancy loss stating on page 43 of the report, [t]he vacancy rate is consistent with offices in the Jacksonville area", which he acknowledged as a typographical error. He testified that the vacancy rate is to be a typical vacancy rate for the

2016 SYNOPSIS – COMMERCIAL CHAPTER

market. Deducting for vacancy resulted in an effective gross income (EGI) of \$565,580. The appraiser deducted 3% of (EGI) or \$16,967 for management expenses; professional expenses of \$2,500; miscellaneous expenses of \$15,000; and reserves for replacements \$25,001 to arrive at a net operating income of \$506,112.

The appraiser developed the capitalization rate attributable to the subject property of 8.19% using the band of investment technique. The appraiser indicated this rate was consistent with investor surveys, a rate derived from his comparable sale #3, two active listings in Springfield and a 2011 office sale in Bloomington, Illinois. Capitalizing the net income of \$506,112 using a rate of 8.19% resulted in an estimated value under the income approach of \$6,180,000.

The appraiser testified that his estimate of market rent for the subject property was on triple net terms where the tenant pays the real estate taxes so real estate taxes were not included in the income approach. The witness explained, however, that real estate taxes were included as part of the miscellaneous expenses for when property is vacant. He testified that real estate taxes were not incorporated in the capitalization rate; the taxes are incorporated in the capitalization rate when you estimate market rent on gross terms.

Webster did not develop the cost approach to value due to the subjectivity of depreciation.

In reconciling the two approaches to value the appraiser determined the sales comparison approach and the income approach resulted in a reasonably narrow range; he took both into consideration, and arrived at an estimated market value of \$6,165,000 as of January 1, 2012.

Under cross-examination Webster agreed that Marion, Illinois, is outside the normal coverage area where his company does appraisal work. He agreed that the normal coverage area for his company is east central Illinois and does not include southern Illinois. Webster testified he has appraised two other properties in Williamson County besides the subject property.

The appellant's appraiser also agreed that he inspected the subject property on Friday, February 1, 2013, travelling to and from Urbana to Marion, and taking less than two hours for the inspection. He testified he had seen the property before February 1. The witness agreed the appraisal was completed on Monday, February 4, 2013, as reflected on the letter of transmittal contained within the report. The appraiser testified that he works almost every day but could not remember if he worked on either Saturday, February 2nd or Sunday, February 3rd.

Webster also agreed that he determined the site improvements to be in good condition with no items of deferred maintenance observed. He stated in the report that the subject had an effective age of two years with the remaining economic life estimated to be 48 years. The appraiser agreed he concluded the present use of the subject property was as a claim processing center and it was designed as a proto-type for several other processing centers for Blue Cross/Blue Shield.

The appellant's appraiser agreed with the definition of a special purpose property contained in the Dictionary of Real Estate published by the Appraisal Institute, as a property with a unique physical design, special construction materials, or a layout that particularly adapts its utility to the use for which it was built, also called a special design property. Webster also agreed that

2016 SYNOPSIS – COMMERCIAL CHAPTER

special use property can be defined as a limited market property with a unique physical design, special construction materials, or a layout that restrict its utility for which it was built. The witness also agreed there is a difference between office space and special use property. He further agreed that he mentioned the subject property had trenched cable, phone and data lines. Webster agreed the subject property had a concrete slab for the entire building and a raised floor on top of the concrete slab, which was less than six inches tall. The trenched cable, phone and data lines were placed under the raised floor and that was the way it was designed for Blue Cross/Blue Shield. The appraiser was of the opinion the subject property has some characteristics that are a little unique but not so unusual that it is a special use.

Webster further testified it was not an important factor that the subject property was being leased. He agreed that the owner of the property is Health Care Service Corporation but it was occupied by Blue Cross/Blue Shield. He understood there was an internal related transaction between related entities, while the purpose of the appraisal was to value the property as fee simple; therefore, the lease was not relevant.

With respect to the comparable sales Webster testified only comparable sale #5 located in Peoria was a call center. The appraiser also thought comparable sale #4 had some of those uses but he would not call it a data center. The witness did not know if any of the comparable sales he used had an elevated floor or trenched cable, phone and data lines. Webster also agreed there was a discounted price associated with comparable sale #6 that sold at auction.

The appraiser stated there was an error on page 31 of the appraisal in that the subject property is approximately 9 years old and the effective age was 9 years. With respect to the allocated price of \$3,500,000 to comparable sale #5, Webster accepted the \$3,500,000 from the broker, Webster did not perform the allocation and he did not know the basis of the allocation. He further explained that he did not provide the addresses for the rental comparables based on confidential agreements he had. He agreed that anybody reviewing the appraisal would have no way to determine whether or not the rental comparables were truly comparable to the subject property since there are no addresses available for them to go review these properties.

Under redirect examination Webster testified he would have disclosed if he did not feel competent from a geographical perspective to appraise the property.

With respect to comparable sale #2, the 80-year old two-story building, Webster testified the building was gutted out and redone in a high quality manner. He further testified this property was purchased by a communication company for a lot of open bullpen office space. With respect to his comparables being located in Illinois, Webster explained that the farther away the comparables are the adjustments become more subjective. The appraiser further testified he would not call the subject property a special use, he did not believe the property was that unique.

The next witness called by the appellant was Kevin Schafer, who is employed by Health Care Service Corporation and is involved in facilities management at the subject property. Schafer ensures that all preventive maintenance is done on the building, adds data equipment to the computer room, ensures all building safety systems are tested and up to code, and obtains bids for work involving the rearranging of rooms or construction. He has worked for Blue Cross for

2016 SYNOPSIS – COMMERCIAL CHAPTER

31 years, has been involved in facilities management for 17 years and is familiar with the subject property.

Shafer testified that he visited a property located at 1616 West Main in Marion, identified by property index number (PIN) 06-13-358-008 and looked up the public document online associated with the property. He also examined the property located at 404 North Monroe identified by PIN 06-13-479-001. The witness also looked at the building at 900 Skyline Drive identified by PIN 06-16-200-069. The appellant offered Appellant's Exhibit 16, which contained copies of the property record cards for the aforementioned properties, which was accepted into evidence. Appellant's Exhibit 16 disclosed that these three properties had total assessments ranging from \$47,400 to \$238,450 or from \$7.25 to \$14.36 per square foot of building area, including land. The subject property has a total assessment of \$2,920,420 or \$38.05 per square foot of building area, including land.

Under cross-examination Shafer explained that he is employed by Health Care Services, which operates under the name Blue Cross/Blue Shield. He testified that to his knowledge there is no lease between Blue Cross/Blue Shield and Health Care Service Corporation. The witness testified the subject property had a raised floor as of January 1, 2012. He agreed that the cable lines and data lines are under the raised floor. The witness indicated there were no other unique features of the building.

Shafer testified he actually went and looked at the buildings located at 1616 West Main, 404 North Monroe and 900 Skyline Drive. The witness testified the building located at 900 Skyline Drive had been there a long time and was a former Lowe's. The witness did not know the construction details associated with the building at 1616 West Main nor did he know the age of the building at 404 North Monroe. Shafer agreed that he did not know anything more about the buildings than what was contained on the property record cards attached to Appellant's Exhibit 16.

Based on this evidence the appellant requested the subject's total assessment be reduced to \$1,750,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$2,920,420. The subject's assessment reflects a market value of \$8,920,037 or \$116.08 per square foot of building area, land included, when using the 2012 three year average median level of assessment for Williamson County of 32.74% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted an appraisal estimating the subject property had a market value of \$8,850,000 or \$110.61 per square foot of building area, including land, as of January 1, 2012. The appraisal was prepared by John A. Clarke, John M. Karnes and William P. Dockins of Mark Twain Real Estate Services, Inc. The board of review called as its witness John Karnes. Karnes is self-employed and owns Dockins Valuation Company in Cape Girardeau, Missouri. The company primarily prepares real estate appraisals and does some consultation. Karnes has the MAI designation from the Appraisal Institute and is licensed as a real estate appraiser in ten states. At the time he prepared the appraisal he was a candidate for the MAI designation, he had completed and had passed the

2016 SYNOPSIS – COMMERCIAL CHAPTER

exams but had not completed the demonstration appraisal report. The witness obtained the MAI designation in April of 2016. At the time he prepared the appraisal of the subject property Karnes was an Illinois Certified General Real Estate Appraiser. Karnes was accepted as an expert.

Karnes testified he was familiar with the subject property and assisted another appraiser, John Andrew Clark, in appraising the property. They were requested to determine the market value of the property. He testified that they first met with the supervisor of assessments to get the property record card, the plat maps, the legal descriptions and public documents. They then physically inspected the interior and exterior of the subject property taking measurements, taking photographs and making notes about the construction, condition, age and the like.

Karnes testified the building was constructed in 2003 as a call center with a gross building area of 76,845 square feet. The witness testified the subject is an open concept, cubicle-type call center with a few private offices, restrooms, break area, commercial grade carpeting, a couple of storage rooms, IT type rooms and mechanical rooms that had sealed concrete floors. The appraiser testified the flooring had chases for telephone lines and computer lines. He indicated the building has raised flooring to make wiring easier, which he considered a special feature of construction.

Karnes then testified that he then began gathering comparable data using his own database, contacting other appraisers and using LoopNet, which is a national database. The board of review's appraiser testified he was aware of the term special purpose property and was of the opinion the subject was a special purpose property in that it was designed and is suitable for call center/data processing type businesses. He testified that all the comparables he used were call centers. He chose to use other call centers due to the nature of the building with an open area with cubicles and numerous people working in the cubicles doing the same thing. Karnes was of the opinion this is not a typical office building that is often cut up into smaller offices. Karnes identified BOR Exhibit A as the appraisal of the subject property he prepared.

The appraisal indicated that the value reported is the "as is" market value of the fee simple interest in the subject property. (BOR Exhibit A, page 14.) The appraiser explained that this means the property was being appraised as it exists with no hypothetical conditions or extraordinary assumptions. The property rights appraised were the fee simple title to the subject property subject to any easements or restrictions of record. (BOR Exhibit A, page 14.) Karnes testified the highest and best use of the property was its present use.

Karnes testified the cost approach to value was not developed because determining depreciation can be suggestive and often inaccurate. The witness believed the cost approach would not be a reliable indicator of value.

The next approach to value considered by Karnes was the income approach to value. The appraiser first estimated the market rent of the subject property using ten comparable rentals located in Cape Girardeau, Missouri; Kennett Missouri; Hopkinsville, Kentucky; Rockford, Illinois; Lincoln, Nebraska; Springfield, Missouri; Columbia, South Carolina; and Huntsville, Alabama. The comparables were constructed from 1960 to 2010 and ranged in size from 13,674 to 152,166 square feet of building area. The witness testified each comparable was a call center

2016 SYNOPSIS – COMMERCIAL CHAPTER

or data processing center. The comparables had rents ranging from \$11.92 to \$16.23 per square foot of building area on a triple-net or modified net basis. Based on these rentals the appraiser estimated the subject property had a market rent of \$12.00 per square foot, triple net, resulting in a potential gross income of \$922,140. The appraiser then deducted 5% of potential gross income or \$46,110 for vacancy and collection loss to arrive at an effective gross income (EGI) of \$876,030. With respect to expenses Karnes deducted 6.00% of EGI or \$52,560 for management expenses and 3.00% of EGI or \$26,280 for reserves for replacement to arrive at a net operating income of \$797,190.

The next step in the income approach to value was to estimate the capitalization rate. In estimating the capitalization rate the appraiser used published rates from four sources, the mortgage constant method, the band of investment method and direct capitalization using seven sales from the sales comparison approach to value. Using this information the appraiser arrived at a capitalization rate of 9.00%. Capitalizing the net income resulted in an estimated market value under the income approach to value of \$8,855,000.

The final approach to value developed by Karnes was the sales comparison approach to value using eight comparable sales located in Rockford, Illinois; Springfield, Illinois; Hopkinsville, Kentucky; Eagan, Minnesota; Lincoln, Nebraska; Springfield, Missouri; Columbia South Carolina; and Huntsville, Alabama. The witness testified each of the comparables was a call center or a data processing center. The comparables were improved with six one-story buildings, one two-story building and one three-story building that ranged in size from 34,453 to 152,166 square feet of building area and were constructed from 1999 to 2010. Seven of the comparables were described as being leased and comparable sales #1, #3, #5, #7 and #8 were Karnes' rental comparables #6, #4, #7, #9 and #10, respectively. Furthermore, Karnes comparable sale #2 was the same property as Webster's comparable sale #4. The sales occurred from January 2010 to November 2012 for prices ranging from \$3,679,854 to \$29,150,000 or from \$106.81 to \$202.11 per square foot of building area, including land. The appraiser made adjustments to the comparables for location, age/condition and size to arrive at adjusted prices ranging from \$99.89 to \$135.98 per square foot of building area, including land. The appraiser estimated the subject property had an estimated value of \$115.00 per square foot of building area, including land, or \$8,835,000.

Karnes was of the opinion sales #1 and #3 were most similar to the subject property. Sale #1 was a one-story Blue Cross/Blue Shield call center located in Rockford. Sale #3 was a one-story building located in Hopkinsville, Kentucky.

In reconciling the two opinions of value, Karnes testified the income approach was given more emphasis as these types of properties are typically purchased or constructed for their income producing capability. The appraiser estimated the subject property had a market value of \$8,850,000 as of January 1, 2012.

Under cross-examination Karnes testified that he did not use the term "special use" or "special purpose" in the appraisal. The witness also agreed that if a property sold specific to a lease that is in place it can be a leased fee. Karnes further testified that the vacancy rate of five percent was based on studies of the market and taking into consideration the creditworthiness of a tenant. The appraiser testified he had not visited all the properties that he listed; he had visited the

2016 SYNOPSIS – COMMERCIAL CHAPTER

comparable located in Alabama but not the comparables located in Minnesota and South Carolina.

The appraiser testified that the property rights conveyed of the comparable sales were the fee simple estate so no adjustment was made for this characteristic. The appraiser also testified that the report contained an error on page 2 where it was indicated the appraisal was to provide an "as is" market value estimate for the subject for mortgage analysis purposes. The witness asserted that the value determined is market value whether it was for mortgage or for ad valorem taxation purposes and market value is what a property should reasonably sell for if exposed to the market a reasonable amount of time.

Karnes indicated that he did not notice a height limitation on the property due to the airport. On page 15 and page 29 of the appraisal Karnes indicated the subject site was zoned C-1, general commercial. The witness testified that page 29 of the report contained an error where it states, "Being legally permissible is unchallenged as the site is located in an area that is not subject to zoning restrictions."

Karnes agreed that his comparable sale #1 was constructed for a long-term triple net lease to the seller and asserted the property sold in terms of cash or cash equivalency. The appraiser indicated that comparable #2 was a fee simple, built for AIG and was cash to seller. The witness indicated sale #3 was fee simple, was constructed as a call center for the tenant, the price was based upon a 10-year triple net lease and cash to seller. Karnes indicated that comparable sale #4 was 93% occupied by two tenants as call centers and was fee simple. The board of review appraiser agreed that the report does not indicate sale #5 was fee simple but he testified that it was. The witness agreed that the term of a lease can have a bearing on value. Karnes did not know the term of the lease associated with sale #5. The witness agreed that sale #6 was under a long term lease to T-Mobile; sale #7 was not claimed to be fee simple; and sale #8 was not claimed to be fee simple.

Karnes testified he has done no less than 30 appraisals in Williamson County with two or three being for the assessor and the others were for lenders, typically. The witness also agreed that fee simple is unencumbered by any other interest or estate and a lease is considered one of the estates. Karnes agreed that he had no comparables from southern Illinois.

Karnes agreed that rental comparable #1 had been extensively remodeled and six years remained on the lease. The witness agreed that rental comparable #2 was constructed as a call center and the interior was divided into several small offices, which could allow the building to have a number of uses. Rental comparable #3 was a former Sears store that was extensively remodeled for the tenant. The witness testified that rental #4 was constructed as a call center but he did not recall the amount of time left on the lease. Rental comparable #5 was leased to Blue Cross/Blue Shield and was vacated by the tenant in 2011. Karnes indicated that rental #7 was constructed for a long term lease but he did not know how long the lease was and thought this building was built for the current tenant. The witness indicated that rental #8 was built for the tenant in 2006. The appraiser indicated this property sold for an indicated capitalization rate of 7.96%. Rental comparable #9 sold in November 2012 with an indicated capitalization rate of 7.23%. The appraiser also indicated that rental comparable #10 was built to suit for the tenant. Karnes

2016 SYNOPSIS – COMMERCIAL CHAPTER

indicated there was a penalty of \$1.72 million if the lease was not renewed upon expiration and the rent was supposed to be 95% of market rent plus \$2.52 per square foot.

The final witness called on behalf of the board of review was Jeffrey Robinson, Williamson County Supervisor of Assessments. Robinson has been supervisor of assessments for 22 years and first began working in the assessment office in 1985. Robinson also testified that he had been licensed as an appraiser in 1996. Robinson further testified he had been appointed to various committees such as by the governor to the Woodland Task Force Committee; by the Department of Revenue to work on Bulletin 810; and by the Department of Revenue to the Manufactured Home Assessment Task Force. Robinson has also been a member of the Greater Regional Economic Development Board, has served on the executive board of the Regional Planning Commission, is a member of the Chief County Assessment Officers Association and served as a board member for the Illinois Property Assessment Institute, an educational group that gives classes to educate assessors and assessment officials. Robinson has had over 960 hours of educational hours with the Illinois Property Assessment Institute and the International Association of Assessing Officials (IAAO).

Robinson is familiar with the subject property and was there for the original inspection and valuation of the property. The witness indicated that the last time the value changed on the property was in 2007 due to a countywide multiplier that was applied due to the state sales ratio study. Robinson testified the assessment of the property has remained the same since 2007.

The witness explained that in valuing property for assessment purposes they value the structure that is there. He indicated that they primarily use the cost approach which is tapered into the market using a mass appraisal. Robinson explained that the three approaches to value are used but they rely more on statistical data to do large groups of property.

Robinson testified that he recognized the properties contained in Appellant's Exhibit 16 (Appellant's original Exhibit B), which included the property record cards of the equity comparables identified by the appellant. With respect to the property located at 900 Skyline Drive, Robinson testified this building was originally constructed as a Lowe's but the date of construction was not indicated on the property record card. The witness indicated that the portion of the building on parcel number (PIN) 01-16-200-069 contained 48,944 square feet. He testified that a construction company purchased the property and placed some office area in the front and a small office area in the back used by the construction company while the rest of the structure is used as a warehouse. He explained that the rest of the building is located at 700 Skyline Drive, which was remodeled into doctor's offices. Robinson described the property located at 1616 West Main (PIN 06-13-358-008) as a two story building of brick construction on a slab foundation with a one-story frame addition on a slab foundation on the west side of the building and a one-story frame portion off the back of the building. The witness indicated this building had a two-story area with 3,968 square feet of ground floor area and one of the one-story areas has 420 square feet and the other one-story area has 480 square feet. Robinson testified the original building was constructed in 1935 with additions in 1986 and 1987. The witness described the final comparable located at 404 North Monroe (PIN 06-13-479-001) as a one-story steel building with 3,300 square feet of building area. He was unable to tell the age of the building by reviewing the property record card.

2016 SYNOPSIS – COMMERCIAL CHAPTER

Under cross-examination Robinson testified that the office area located at 900 Skyline Drive was not as large as the office areas at 1616 West Main and 404 North Monroe. He testified that less than 1/3 of the building was office area.

In rebuttal the appellant called James Webster who testified that he did not consider the subject property as being special use; he described the subject as an office building and stated he would never consider it special use.

Conclusion of Law

The appellant contends in part that the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33⅓% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). 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 subject's total assessment of \$2,920,420 reflects a market value of \$8,920,037 or \$116.08 per square foot of building area, land included, when using the 2012 three year average median level of assessment for Williamson County of 32.74% as determined by the Illinois Department of Revenue. The appellant submitted an appraisal prepared by James H. Webster estimating the subject property had a market value of \$6,165,000 as of January 1, 2012. The board of review presented an appraisal prepared by John M. Karnes estimating the subject property had a market value of \$8,850,000 as of January 1, 2012. The Property Tax Appeal Board finds the best evidence of market value to be the appraisal and testimony presented by the board of review's appraiser, John M. Karnes.

In estimating the market value of the subject property both appraisers developed the income approach to value and the sales comparison approach to value. With respect to the income approach to value, the Board finds that developed by Karnes was superior to that developed by Webster. The Property Tax Appeal Board finds that Karnes had a better description of the rental comparables and better description of the data concerning lease terms and the rental rates of the rental comparables utilized to estimate the subject's market rent. For each rental comparable Karnes provided a photograph, address, building description and lease terms which were considered in determining the subject's market rent. Additionally, each of the rental comparables used by Karnes had a similar use as the subject property. Other than size and age, Webster provided no such detailed information on the rental comparables he used to estimate the subject's market rent. The Board finds that Karnes' estimate of market rent is more credible than that developed by Webster. The Board further finds Karnes' testimony with respect to the estimate of

2016 SYNOPSIS – COMMERCIAL CHAPTER

vacancy and collection loss and expenses was credible. Furthermore, Karnes' estimate of the capitalization rate of 9.00% was well supported with data in the appraisal and was slightly above the capitalization rate developed by Webster of 8.19%. For these reasons the Board finds the income approach to value developed by Karnes was superior and more credible to that developed by Webster.

With respect to the sales comparison approach, the Board again finds the comparable sales used by Karnes were more similar to the subject property than the comparable sales used by Webster. The sales used by Karnes were generally more similar to the subject in age, use and construction than the sales selected by Webster. The Board finds that even though many of the comparable sales used by Karnes were located in different states throughout the country, the witness adequately explained the adjustment process to account for differences in location. The Board gave less weight to the sales comparison approach developed by Webster as comparable sale #2 was not similar to the subject in style and age; Webster's sale #3 was composed of seven separate buildings each with a separate address and each was significantly smaller than the subject building; Webster's sale #5 was composed of two buildings with each being significantly older than the subject building and the price attributed to this sale was an allocation; and Webster's sale #6 was older than the subject property and sold at auction. Webster's sale #1 had attributes similar to the subject property and sold in November 2010 for a price of \$93.54 per square foot of building area, including land. Webster's sale #4 was also used by Karnes as his comparable sale #2 and sold in August 2011 for a price of \$155.43 per square foot of building area, including land. The Board finds the two best sales used by Webster tend to support Karnes' estimate of market value under the sales comparison approach \$115.00 per square foot of building area, including land.

The appellant did raise the issue with respect to the fact that many of the comparable sales used by Karnes were leased at the time of sale. The Board finds, however, the appellant did not provide any evidence to demonstrate the fact that the comparables were leased caused their respective purchase prices to not be reflective of fair cash value.

Based on this record the Board finds the sales comparison approach to value developed by Karnes was more credible than the sales comparison approach developed by Webster. In conclusion the Board finds Karnes' estimate that the subject property had a market value of \$8,850,000 as of January 1, 2012 is the best estimate of market value in this record.

Alternatively the appellant made an assessment equity argument. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989); 86 Ill.Admin.Code §1910.63(e). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. The Uniformity Clause of the Illinois Constitution provides that: "Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401 (1960). Taxation must be in proportion to the value of the property being taxed. Apex Motor Fuel, 20 Ill. 2d at 401; Kankakee County Board of Review, 131 Ill.2d at 20. Fair cash value of the property in question is the cornerstone of uniform assessment.

2016 SYNOPSIS – COMMERCIAL CHAPTER

Kankakee County Board of Review, 131 Ill.2d at 20. It is unconstitutional for one kind of property within a taxing district to be taxed at a certain proportion of its market value while the same kind of property in the same taxing district is taxed at a substantially higher or lower proportion of its market value. Kankakee County Board of Review, 131 Ill.2d at 20; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234 (1998). After an analysis of the assessment data the Board finds a reduction is not warranted on this basis.

The appellant submitted assessment information on three comparables to demonstrate assessment inequity. The Board finds the assessment comparables provided by the appellant were not similar to the subject in style, age, construction and/or features. There was no showing by the appellant that the subject property was being taxed at a substantially higher proportion of fair cash value than the assessment comparables presented by the appellant. The Board finds the appellant did not demonstrate with clear and convincing evidence that the subject property was being inequitably assessed.

In conclusion, the Property Tax Appeal Board finds that the subject property had a market value of \$8,850,000 as of January 1, 2012. Since market value of the subject property has been determined the 2012 three year average median level of assessment for Williamson County of 32.74% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)). Accordingly, a reduction in the subject's assessment is appropriate.

2016 SYNOPSIS – COMMERCIAL CHAPTER

APPELLANT:	<u>Shannon Court Limited Partnership</u>
DOCKET NUMBER:	<u>09-35660.001-C-2</u>
DATE DECIDED:	<u>August, 2014¹</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>No Jurisdiction</u>

The subject property consists of a 12,200 square foot site improved with a five-story, low rise apartment building containing 57,905 square feet of living area. The property is classified as a class 3-91, apartment building over three stories with seven or more units, under the Cook County Real Property Assessment Classification Ordinance. The property is located in Hanover Township, Cook County.

The appellant filed the appeal challenging the assessment for the 2009 tax year on March 19, 2012 based on assessment equity, an actual income analysis, and a contention of law. Submitted in this appeal was information on assessment comparables, an actual income analysis, and a brief. The appellant's brief argues that the appellant filed an appeal before the county assessor on January 22, 2010 and the board of review on June 14, 2010. The brief also indicated that appellant hired an agent to assist in filing its appeals, but that the appellant never received a decision from the board of review. Therefore, the appellant asserts that the board of review should be equitably stopped from arguing an untimely filing because the board of review allegedly failed to notify the appellant of the board of review's decision; and thereby, the appellant should be permitted to file a property tax appeal with the Property Tax Appeal Board.

After being notified of the appeal, the board of review filed a copy of the Notes on Appeal indicating that the appellant had filed a complaint before the board of review, while submitting sales data on six suggested sale comparables.

At a pre-hearing conference, the board of review's representative moved for dismissal for a lack of jurisdiction arguing that the appellant untimely filed its 2009 tax appeal before the Property Tax Appeal Board approximately one and one-half years after its initial appeal before the board of review. The assistant state's attorney representing the board of review asserted that the appellant failed to timely file an appeal before the Board.

The Board designated a briefing schedule for the assistant state's attorney and appellant's attorney. The state's attorneys' brief was timely received as well as the response brief from the appellant's attorney.

After reviewing the record and considering the evidence the Property Tax Appeal Board finds that it does not have jurisdiction over this appeal.

Section 16-160 of the Property Tax Code provides in part that:

¹ Decision was appealed. Subsequently administrative review was dismissed for defective service; case closed as of November, 2016.

2016 SYNOPSIS – COMMERCIAL CHAPTER

In counties with 3,000,000 or more inhabitants, beginning with assessments made for the 1996 assessment year for residential property of 6 units or less and beginning with assessments made for the 1997 assessment year for all other property, and for all property in any county other than a county with 3,000,000 or more inhabitants, any taxpayer dissatisfied with the decision of a board of review or board of appeals as such decision pertains to the assessment of his or her property for taxation purposes, or any taxing body that has an interest in the decision of the board of review or board of appeals on an assessment made by any local assessment officer, may, (i) in counties with less than 3,000,000 inhabitants within 30 days after the date of written notice of the decision of the board of review or (ii) in assessment year 1999 and thereafter in counties with 3,000,000 or more inhabitants within 30 days after the date of the board of review notice or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 its final action on the township in which the property is located, whichever is later, appeal the decision to the Property Tax Appeal Board for review. . . .

35 ILCS 200/16-160. In accordance with this statutory authority, Section 1910.30(a) of the rules of the Property Tax Appeal Board provides that the taxpayer must file an appeal within 30-days of the written notice of the decision of the board of review or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 of the Property Tax Code (35 ILCS 200/16-125) its final action on the township in which the property is located, whichever is later. (86 Ill.Admin.Code 1910.30(a). This framework requires as a prerequisite to filing an appeal with the Property Tax Appeal Board a decision from the board of review pertaining to the assessment of the property for the tax year at issue.

The evidence in this record disclosed the appellant did file an assessment complaint with the Cook County Board of Review for the 2009 tax year with a decision rendered on July 30, 2010. In addition, the record indicated that the board of review certified closure of the subject's township to the assessor's office on September 13, 2010. Therefore, if the appellant did not have a tangible decision from the board of review, the appellant still had a responsibility to timely file within 30-days of the certification date. Instead, the appellant filed a 2009 appeal with the Board on March 19, 2012 which is approximately one and one-half years later. In summary, this record is void of any evidence that the appellant timely filed an appeal for the 2009 tax year that would confer jurisdiction on the Property Tax Appeal Board.

Based on this record, the Property Tax Appeal Board grants the motion of the Cook County Board of Review and dismisses the appeal on the basis of a lack of jurisdiction.

2016 SYNOPSIS – COMMERCIAL CHAPTER

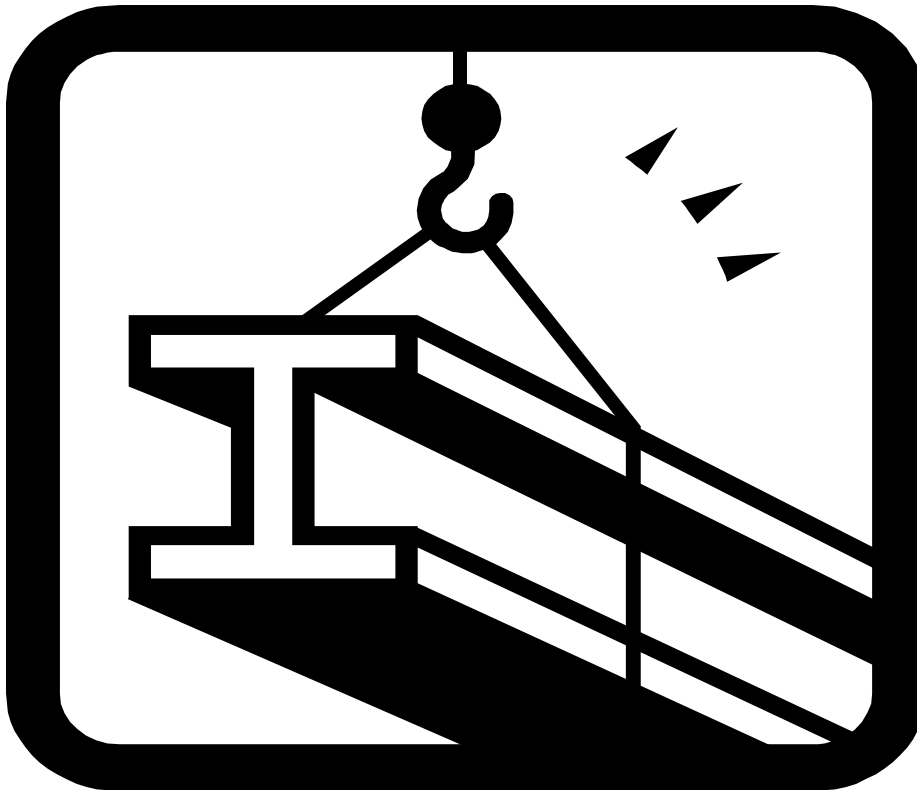
2016 COMMERCIAL CHAPTER

Index

*[Items Contained in Italics Indicate
Arguments or Evidence in Opposition to the Appellant's claim]*

<u>SUBJECT MATTER</u>	<u>PAGES</u>
Jurisdiction – no final board of review decision issued	C-38 to C-39
Overvaluation – appraisal <i>Comparable sales; "economic unit"</i>	C-9 to C-11
Overvaluation – appraisals each of skilled nursing facility & independent living facility <i>Criticisms of appraisals; reconstructed cost approach</i>	C-5 to C-8
Overvaluation – sale price with adjustments for personal property <i>Comparable sales; subject's sale not arm's length</i>	C-2 to C-4
Overvaluation & Equity – appraisal (office building) <i>Appraisal</i>	C-26 to C-37
Undervaluation – appraisal (apartment buildings) <i>Owner/intervenor: appraisal; allocated sale price</i>	C-12 to C-25
INDEX	C-40 to C-40

PROPERTY TAX APPEAL BOARD
SYNOPSIS OF REPRESENTATIVE CASES
2016 INDUSTRIAL DECISIONS



PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
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2016 SYNOPSIS – INDUSTRIAL CHAPTER

2016 INDUSTRIAL CHAPTER

Table of Contents

<u>APPELLANT</u>	<u>DOCKET NUMBER</u>	<u>RESULT</u>	<u>PAGE NO.</u>
Air Flow Company	13-03616.001-I-1	No Change	I-2 to I-4
Corrigan, Lloyd	10-24902.001-I-1	No Change	I-5 to I-5
Minooka CHSD No. 111	10-00785.001-I-3	An Increase	I-6 to I-7
Nippon Express USA, Inc.	14-02721.001-I-1	No Change	I-8 to I-11
Slack, Philip	13-24052.001-I-1	No Change	I-12 to I-14
INDEX			I-15 to I-15

2016 SYNOPSIS – INDUSTRIAL CHAPTER

APPELLANT:	<u>Air Flow Company</u>
DOCKET NUMBER:	<u>13-03616.001-I-1</u>
DATE DECIDED:	<u>April, 2016</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>No Change</u>

The subject property is improved with a one-story masonry constructed industrial building with approximately 25,350 square feet of building area. The building was constructed in 1974. Features of the building include a poured reinforced masonry foundation with spread footings and piers below the exterior walls; brick exterior walls; a flat roof; an 18 foot clear ceiling height in the warehouse; two interior recessed docks; two drive-in doors; 10% of the building area is office space; the office area has central air conditioning; the building has a sprinkler system throughout; two washrooms in the office space; and two washrooms in the warehouse. The property has a 55,053 square foot site resulting in a land to building ratio of 2.17:1. The property is located in Addison, Addison Township, DuPage County.

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 \$1,460,000 as of July 11, 2013. The appraisal was prepared by Kestutis Puidokas, Certified General Real Estate Appraiser; Harry M. Fishman, Certified General Real Estate Appraiser; and Mitchell J. Perlow, Certified General Real Estate Appraiser, of Property Valuation Services.

The appraisal identified the client as American Chartered Bank. The appraisal indicated the report was to be used by the client in evaluating loan collateral. The appraisal also stated that there were no other authorized users of the report. (Appraisal page 2.)

In estimating the market value of the subject property the appraisers developed the sales comparison approach to value using five comparable sales located in Addison and Elmhurst. The comparable sales were improved with one-story buildings ranging in size from 12,844 to 33,000 square feet of building area. The buildings were constructed from 1968 to 1991. The properties had from 10% to 25.9% of the building area as office space; ceiling heights ranging from 16 to 20 feet; three of the comparables had one, two or six docks; three comparables had one or two drive-in doors; and two comparables had three or eight overhead doors. The properties had land to building ratios ranging from 2.14:1 to 2.73:1. The sales occurred from October 2011 to May 2013 for prices ranging from \$665,000 to \$1,700,000 or from \$42.42 to \$79.06 per square foot of building area. The appraisal stated that comparable sale #3 does not appear to have been marketed for sale as the seller wanted to dispose of it quickly after the tenant went bankrupt. In the adjustment process the appraisers were of the opinion that comparables sales #1 and #5 were superior to the subject property and required overall downward adjustments while the remaining comparables were inferior to the subject and required overall upward adjustments. Based on these sales the appraisers arrived at an estimated market value of \$57.50 per square foot of building area, including land, for an overall market value of \$1,460,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$524,570. The subject's assessment reflects a market value of

2016 SYNOPSIS – INDUSTRIAL CHAPTER

\$1,574,340 or \$62.10 per square foot of building area, land included, when using the 2013 three year average median level of assessment for DuPage County of 33.32% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted evidence provided by Frank A. Marack, Jr., Chief Deputy Assessor of Addison Township. Marack provided information on six comparable sales located in Elmhurst, Addison and Elk Grove that were improved with one-story buildings of masonry construction that ranged in size from 18,788 to 26,271 square feet of building area. The buildings were constructed from 1967 to 1995. The comparables had office space ranging from 2.92% to 10.99% of building area, building heights ranging from 17 to 28 feet and land to building ratios ranging from 1.60:1 to 3.08:1. Comparable #5 was described as containing two units. The evidence provided by Marack disclosed that comparables #2, #5 and #6 were either 50% or 100% occupied or leased at the time of sale and comparables #2 and #6 were not advertised. Furthermore, comparable sale #4 provided by Marack was the same property as appellant's appraisal comparable sale #1. The sales occurred from January 2011 to December 2013 for prices ranging from \$1,155,000 to \$1,700,000 or from \$60.90 to \$79.06 per square foot of building area, including land. Marack made adjustments to the comparables for differences from the subject to arrive at adjusted prices ranging from \$58.12 to \$73.58 per square foot of building area, including land. Based on these sales Marack was of the opinion the subject property had a market value of \$1,865,000 or \$73.57 per square foot of building area.

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 record contains an appraisal provided by the appellant containing five comparable sales and six comparable sales provided by the board of review, one of which was also contained in the appraisal.

The Board finds the appellant's appraisal was prepared for collateral purposes, the client was identified as American Chartered Bank, and the report indicated there were no other authorized uses or users. As a result of these statements the Board gives little weight to the conclusion of value contained in the appraisal but will review the comparable sales described in the report.

Of the ten sales in this record, the Board gives little weight to appellant's appraisal comparable sales #2 and #3 as each comparable had significantly more percentage of office space than the subject building, neither building was similar to the subject in size, comparable #3 was not similar to the subject in age and comparable #3 was not marketed. The Board gave little weight to comparable sales #2 and #6 submitted by the board of review due to the evidence indicating neither was advertised and each was 100% occupied or leased at the time of sale. The Board also gave less weight to comparable sale #3 presented by the board of review as it was improved

2016 SYNOPSIS – INDUSTRIAL CHAPTER

with a building superior to the subject in age being constructed in 1995 while the subject was constructed in 1974 and superior to the subject in building height with 28 feet while the subject has 18 feet of clear ceiling height.

The Board gave most weight to appellant's appraisal comparable sales #1, #4 and #5 as well as board of review sales #1, #4 and #5. Appellant's comparable sale #1 is the same property as board of review comparable sale #4. These comparables ranged in size from 17,202 to 25,025 square feet of building area and were constructed from 1967 to 1986. The comparables had office space ranging from 9.96% to 13.7% of total building area, ceiling heights ranging from 16 to 23 feet and land to building ratios ranging from 2.08:1 to 2.34:1. These properties sold from April 2012 to October 2013 for prices ranging from \$1,100,000 to \$1,700,000 or from \$55.72 to \$79.06 per square foot of building area, including land. Four of the comparables had a much narrower range from \$55.72 to \$64.10 per square foot of building area, including land. The Board finds the subject's assessment reflects a market value of \$1,574,340 or \$62.10 per square foot of building area, including land, which is well supported by the best comparable sales in this record. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

2016 SYNOPSIS – INDUSTRIAL CHAPTER

APPELLANT:	<u>Lloyd Corrigan</u>
DOCKET NUMBER:	<u>10-24902.001-I-1</u>
DATE DECIDED:	<u>April, 2016</u>
COUNTY:	<u>Cook</u>
RESULT:	<u>No Change</u>

The subject property is a 54 year-old, one-story building of 2,754 square feet of building interior area. The property has a 4,059 square foot site and is located in Niles Township, Cook County. The property is a Class 5-93 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 information on three suggested comparable sales.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$62,517. The subject's assessment reflects a market value of \$250,068, or \$90.80 per square foot of building interior area including land, when applying the 2010 level of assessment for Class 5 property of 25.00% 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 five suggested comparable sales.

In rebuttal, the appellant argued that the comparables submitted as evidence by the board of review should be given diminished weight because they were dissimilar to the subject in various key property characteristics. The appellant reaffirmed the request for an assessment reduction.

At hearing, the appellant reaffirmed his request for an assessment reduction.

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 best evidence of market value to be the board of review comparable sales #1, #2 and #4. These comparables sold for prices ranging from \$91.07 to \$126.07 per square foot of building interior area, including land. The subject's assessment reflects a market value of \$90.80 per square foot of building interior area including land, which is below the range established by the best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified.

2016 SYNOPSIS – INDUSTRIAL CHAPTER

APPELLANT:	<u>Minooka CHSD No. 111</u>
DOCKET NUMBER:	<u>10-00785.001-I-3</u>
DATE DECIDED:	<u>July, 2016</u>
COUNTY:	<u>Grundy</u>
RESULT:	<u>An Increase</u>

The subject property consists of a one-story industrial warehouse that contains 456,479 square feet of building area. The building was constructed in 2005. Features include 45 exterior truck docks with levelers, two drive in doors, 5,626 square feet of office area, 30 foot clear ceiling heights in the warehouse area and a sprinkler fire suppression system. The subject property has a 35.35 acre site. The subject property is located in Aux Sable Township, Grundy County, Illinois.

The appellant, a taxing body, submitted evidence before the Property Tax Appeal Board claiming under-valuation as the basis of the appeal.¹ In support of this argument, the appellant submitted an appraisal of the subject property estimating a market value of \$16,000,000 as of January 1, 2010. The appraisal was prepared by Eric Dost, a state licensed appraiser. The appraiser developed the three traditional approaches to value in arriving at the final opinion of value. Based on this evidence, the appellant requested an increase in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$4,000,000 was disclosed. The subject's assessment reflects an estimated market value of \$12,132,241 when applying Grundy County's 2010 three-year average median level of assessment of 32.97%. 86 Ill.Admin.Code §1910.50(c)(1).

In response to the appeal, the board of review submitted a Real Estate Transfer Declaration disclosing the subject sold in October 2012 for \$17,500,000. Line 7 of the Real Estate Transfer Declaration shows the subject property was not advertised for sale. Based on this evidence, 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 the appellant met this burden of proof.

The Board gave little weight to the subject's October 2012 sale price. The Board finds the subject sale price is not indicative of market as the transaction occurred over two years subsequent to the subject's January 1, 2010 assessment date. Moreover, the Board finds line 7 of

¹ The owner/taxpayer, Alberto-Culver USA, Inc., did not timely file a Request to Intervene in this appeal pursuant to Section 1910.60(c) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.60(c)).

2016 SYNOPSIS – INDUSTRIAL CHAPTER

the Real Estate Transfer Declaration shows the subject property was not advertised for sale on the open market to be considered an arm's-length transaction that is reflective of market value.

The Board finds the best evidence of market value contained in this record is the appraisal submitted by the appellant estimating a market value of \$16,000,000 as of January 1, 2010. The subject's assessment reflects an estimated market value of \$12,132,241, which is considerably less than the appraisal submitted by the appellant. Therefore, an increase in the subject's assessment is justified. Since fair market value has been established, Grundy County's 2010 three-year average median level of assessment of 32.97% shall apply.

2016 SYNOPSIS – INDUSTRIAL CHAPTER

APPELLANT:	<u>Nippon Express USA, Inc.</u>
DOCKET NUMBER:	<u>14-02721.001-I-1</u>
DATE DECIDED:	<u>November, 2016</u>
COUNTY:	<u>DuPage</u>
RESULT:	<u>No Change</u>

The subject property consists of an industrial warehouse/distribution facility of tilt-up construction with 123,008 square feet of building area consisting of three units that feature 9.51% office space, 18 overhead doors, 21 load levelers and with 27 foot building height. The building was constructed in 1985. The property has a 241,540 square foot site resulting in a land to building ratio of 1.96:1 and is located in Wood Dale, Addison Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by Attorney Banakis contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on four comparable sales. Counsel indicated on the record that the comparable data was prepared by another attorney within the law firm who is no longer with the firm. The very limited data in the Section V grid analysis reveals that the comparable parcels range in size from 191,664 to 348,480 square feet of land area. The parcels are improved with buildings that range in size from 98,445 to 140,698 square feet of building area. The comparables were built between 1969 and 1979 as depicted on a separate summary sheet. The comparables had land to building ratios ranging from 1.62:1 to 2.81:1. The properties sold between November 2012 and December 2013 for prices ranging from \$3,500,000 to \$5,000,000 or from \$23.36 to \$35.54 per square foot of building area, including land.

Based on this evidence, the appellant requested a total assessment of \$1,674,660 which would reflect a market value of approximately \$5,023,980 or \$40.84 per square foot of building area, including land.

In the course of questioning Attorney Banakis about his evidence, the board of review representative Carl Petersen ascertained that appellant's comparables #1 and #4 were each located in Cook County. Counsel for the appellant contended that none of the comparables were physically distant from the subject property. Petersen inquired as to the building heights of the appellant's comparables which were 18 or 24 feet for comparables #1 through #3; the building height of comparable #4 was unknown. Petersen also inquired about the percentage of office space of the appellant's comparables discovering that comparables #1 through #3 had from 5% to 8.8% office space. Appellant's comparable #3 was acknowledged to have been a 1031 exchange which raises questions about the arm's length nature of the transaction.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$1,774,160. The subject's assessment reflects a market value of \$5,323,012 or \$43.27 per square foot of building area, land included, when using the 2014 three year average median level of assessment for DuPage County of 33.33% as determined by the Illinois Department of Revenue.

2016 SYNOPSIS – INDUSTRIAL CHAPTER

Petersen had taken an oath for the proceeding and asserted in the course of the hearing that the appellant's Cook County comparables are not suitable "due to the level of taxation" reflecting a different tax rate that is paid in DuPage County which would affect the rents.

In support of its contention of the correct assessment the board of review submitted information prepared by Frank Marack, the Chief Deputy Assessor of the Addison Township Assessor's Office. Marack's data consisted of a "report" based on the market approach concluding a value for the subject of \$7,135,000. The board of review called Marack as its sole witness to testify regarding the comparables he chose and the adjustments that he made. Marack's report included six properties located in DuPage County where comparables #1 and #2 reflected two separate sales of the same property that occurred in May 2014 and June 2013, respectively.

The comparable parcels range in size from 220,414 to 402,494 square feet of land area. The parcels are improved with one-story or part one-story and part two-story buildings of masonry, tilt-up or masonry and metal construction. The buildings range in size from 103,478 to 258,444 square feet of building area. Comparables #1 and #2 had an "effective" date of construction of 1993; the remaining five comparables were built between 1969 and 1989. The comparables had building heights ranging from 20 to 29 feet, had 1 or 4 units and with percentage of office space ranging from 5.15% to 23.48%. The comparables had land to building ratios ranging from 1.60:1 to 2.35:1. The properties sold between June 2013 and December 2014 for prices ranging from \$4,815,000 to \$12,500,000 or from \$40.33 to \$71.89 per square foot of building area, including land. The last page of Marack's report depicts "adjustments" to each of the comparables for various characteristics resulting in reported adjusted sale prices ranging from \$44.20 to \$77.64 per square foot of building area, including land.

Given this data, Marack chose \$58.00 per square foot as an appropriate market value conclusion for the subject property. Marack was asked if it was his opinion that the subject's assessment was incorrect and he testified that it was not his opinion. Marack stated that the subject's assessment should be confirmed for purposes of uniformity as mass appraisal techniques are done for assessment purposes, but for the purposes of this appeal hearing before the Property Tax Appeal Board, the assessor's office prepares a singular valuation. In light of those differing principles or bases of valuation, Marack did not feel it be would appropriate to seek an increase in the assessment of the subject property.

Based on the foregoing evidence and testimony, the board of review requested confirmation of the subject's assessment.

On cross-examination, counsel inquired of the witness whether any of the board of review's sales were part of a portfolio or bulk sale transaction. Marack testified that to his knowledge none of the sales were part of a portfolio or bulk sale transaction. At the hearing, appellant's counsel presented Marack with a multi-page CoStar printout (Appellant's Exhibit #1 at hearing) represented as a multi-state portfolio sale involving 93 properties, one of which was board of review comparable sale #3.

The board of review objected to the appellant's exhibit as the document was not timely filed as rebuttal. The objection was taken under advisement at the hearing. The Property Tax Appeal Board hereby sustains the objection. By letter issued on December 17, 2015, appellant's counsel

2016 SYNOPSIS – INDUSTRIAL CHAPTER

was given 30 days to submit rebuttal evidence in accordance with Section 1910.66 of the Board's procedural rules (86 Ill.Admin.Code §1910.66). Appellant's Exhibit 1 presented at hearing concerns an October 2014 sale transaction which appellant could have discovered and presented in the appropriate time period as rebuttal evidence.

As to the details of the October 2014 sale of board of review comparable #3, Marack testified that he relied upon the PTAX-203 Illinois Real Estate Transfer Declaration referencing that the transfer was by warranty deed along with the PTAX-203 Supplemental Form A which depicted the property as having been advertised on the market for 13 months prior to the sale. Marack had no knowledge of the bulk or portfolio sale transaction referenced by appellant's counsel.

Upon questioning, Marack refused to agree that his comparable #7 with 258,444 square feet was substantially larger than the subject, instead characterizing it as a "larger" building for which he made adjustments for the size difference. As to the adjustment process depicted on the last page of his report of plus (+) indicating an upward adjustment, minus (-) indicating a downward adjustment and similar (=) indicating no adjustment was warranted, Marack agreed that there is no evidence in the record of what specific adjustments were made or methodology used.

Marack testified that five of the seven sales presented occurred after the lien date of January 1, 2014.

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 parties submitted a total of eleven comparable sales of ten properties to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparable sales #1, #3 and #4 along with board of review comparable #4 as these buildings were constructed between 1969 and 1976, making each of these comparables older than the subject building that was constructed in 1985. Reduced weight has also been given to appellant's comparable sale #2 as the sale occurred in November 2012, a date more remote in time to the valuation date at issue of January 1, 2014. The Board finds that board of review comparables #5 and #7 differ from the subject in land size and/or building size which has resulted in reduced weight for these properties in the Board's analysis.

The Board finds the best evidence of market value to be board of review comparable sales #1, #2, #3 and #6. These three most similar comparable properties sold between June 2013 and October 2014 for prices ranging from \$4,815,000 to \$7,450,000 or from \$40.33 to \$67.55 per square foot of building area, including land. The subject's assessment reflects a market value of \$5,323,012 or \$43.27 per square foot of building area, including land, which is within the range established by the best comparable sales in this record and appears to be supported when giving

2016 SYNOPSIS – INDUSTRIAL CHAPTER

due consideration to differences in age, size, design and/or number of units. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

2016 SYNOPSIS – INDUSTRIAL CHAPTER

APPELLANT:	Philip Slack
DOCKET NUMBER:	13-24052.001-I-1
DATE DECIDED:	June, 2016
COUNTY:	Cook
RESULT:	No Change

The subject property is a seven year-old, one-story industrial building of masonry construction containing 7,504 square feet of building area. The property has a 7,521 square foot site and is located in Lyons Township, Cook County. The property is a Class 5-93 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. The appellant disclosed this contention on the first page of his Industrial Appeal form filed with the Board. The appellant reaffirmed this contention at hearing. In support of this argument, the appellant submitted information on four suggested comparables that did not contain sales data, but contained assessment data with calculations of improvement assessment per square foot. These four comparables disclosed a range in size from 8,640 to 34,772 square feet of building area, or from \$2.97 to \$7.08 per square foot. The appellant requested a total assessment reduction to \$47,343.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$99,572. The subject's assessment reflects a market value of \$398,288, or \$53.08 per square foot of building area including land when applying the level of assessment of 25.00% for Class 5 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 five suggested sales comparables.

At hearing, the appellant appeared with counsel, David Platek. Mr. Platek requested leave to appear as attorney for the appellant, who originally filed this appeal *pro se* with the Board. Platek was granted leave to appear and present the appeal on behalf of the appellant. Platek moved to continue the hearing due to what he characterized as a "data entry error" in the appellant's evidence of the subject property. A recitation of the history of the case was read into the record by the Administrative Law Judge (hereinafter the "ALJ"). All parties had been notified of the receipt of all evidence, that the time for submission of evidence had been closed, that the case had been set for hearing in February 24, 2016 but was postponed pursuant to a request by the appellant, and that hearing was reset to May 3, 2016. The ALJ then denied the appellant's Motion to Continue the hearing and instructed Platek to proceed with his case. Platek stated that, although the Property Index Number disclosed on the appellant's evidence was correct, the description of the subject property submitted by the appellant was apparently for a different property. The ALJ commented to the parties that the board of review's evidence appeared to disclose property characteristics of the subject and that, notwithstanding the appellant's contention that his property characteristics of the subject were incorrectly submitted, the appellant did submit four comparable properties with assessment data. Platek then argued the appellant's case while referring to the total evidence submitted by both parties. He

2016 SYNOPSIS – INDUSTRIAL CHAPTER

distinguished the subject from the board of review's five sales comparables as not recent or in a different neighborhood from the subject.

The appellant testified that his son, Philip Slack, Jr., prepared the Industrial Appeal before the Board. The board of review representative asked both the appellant and attorney Platek if they were appealing the assessment on a contention of overvaluation based on sales market data or on assessment inequity. Platek responded that the contention was "market theory" and "market comparables." In closing argument, Platek reiterated that the appellant's contention was a "market comparables analysis." He also noted that the appellant's evidence consisted of "partial assessment" data for each of his four comparables. The board of review argued in closing that, although the appellant stated his contention of "market theory," he did not submit recent sales data, but submitted partial assessment data instead. The board of review also referred to two prior cases decided by the Board, #11-26030.001-I-1 and #12-24045.001-I-1. The board of review observed that the appellant submitted partial assessment data in each of those prior cases and that the Board denied the appellant's request in those cases for an assessment reduction, in part due to the appellant's failure to indicate whether the partial assessments had been prorated.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. The appellant asserted this contention in his Industrial Appeal form filed with the Board and reiterated it at hearing. 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 appellant failed to submit sales data in support of his contention of overvaluation. The four comparables the appellant did submit contained only data of improvement assessments per square foot. In contrast, the board of review submitted sales comparables, one from 2013, three from 2011 and one from 2008. Discounting the sale from 2008, the board of review's sales comparables #1, #2, #3 and #4 are the best evidence of market value. These comparables sold for prices ranging from \$56.44 to \$69.55 per square foot of building area, including land. The subject's assessment reflects a market value of \$53.08 per square foot of building area including land, which is below the range established by the best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified.

The appellant indicated on his Industrial Appeal form that he proceeded on a sales comparable theory of overvaluation and reiterated that contention at hearing, but his evidence addressed an assessment inequity argument. This evidence was submitted to the board of review in a timely manner. Notwithstanding this incoherence, the Board observes that when unequal treatment in the assessment process could be construed as the basis of an appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties

2016 SYNOPSIS – INDUSTRIAL CHAPTER

showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant failed to submit sufficient evidence in support of an assessment inequity contention. Each of the appellant's four comparables disclosed "partial assessment" or "first pass assessment" data for tax lien year 2012. The appellant did not provide documentary evidence or testimony to explain the failure to submit full assessment data for the lien year. Further, since three of these four comparables ranged from 15,539 to 34,772 square feet of building area, they were dissimilar to the subject. Therefore, even assuming the appellant properly averred an assessment inequity argument, the Board finds the appellant did not prove it by clear and convincing evidence. A reduction in the subject's assessment is not warranted.

2016 SYNOPSIS – INDUSTRIAL CHAPTER

2016 INDUSTRIAL CHAPTER

Index

*[Items Contained in Italics Indicate
Arguments or Evidence in Opposition to the Appellant's claim]*

<u>SUBJECT MATTER</u>	<u>PAGES</u>
Overvaluation – appraisal for loan collateral evaluation <i>Comparable sales & assessor's higher value conclusion</i>	I-2 to I-4
Overvaluation – comparable sales <i>Comparable sales</i>	I-5 to I-5
Overvaluation – comparable sales <i>Comparable sales</i>	I-8 to I-11
Overvaluation – supplied equity data, but argued market value <i>Comparable sales</i>	I-12 to I-14
Undervaluation – appraisal <i>2012 unadvertised sale price</i>	I-6 to I-7
INDEX	I-15 to I-15

PTAB-21 (R-12/17)



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