



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

APPELLANT: Nick Gutu  
DOCKET NO.: 06-26294.001-C-1  
PARCEL NO.: 19-02-420-011-0000

The parties of record before the Property Tax Appeal Board are Nick Gutu, the appellant(s), by attorney Lisa A. Marino, of Marino & Assoc., PC in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$7,381  
**IMPR.:** \$28,821  
**TOTAL:** \$36,202

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a 3,125 square foot parcel of land improved with two buildings. The first improvement is a one-story, 112-year old, masonry, commercial store containing 1,040 square feet of building area. The second improvement is a one and one-half story, frame, single-family dwelling containing 1,210 square feet of living area. The appellant, via counsel, argued both the market value of the subject property is not accurately reflected in the property's assessed valuation and that there was unequal treatment in the assessment process of the commercial improvement as the bases of this appeal.

The appellant's brief asserts that the commercial improvement contains 714 square feet of building area. The appellant did not submit any other documentation to support this.

In support of the market value argument, the appellant submitted copies of income and expense statements for the subject property for 2003 through 2005 and an income capitalization analysis.

In support of the equity argument, the appellant submitted assessment data and descriptions on a total of three properties suggested as comparable to the commercial building and located within two and one-half blocks of the subject. The data in its entirety reflects that the properties are improved with a one-story, masonry, commercial retail building. The properties range: in age from 55 to 84 years; in size from 1,000 to 4,763 square feet of building area; and in improvement assessments from \$10.84 to \$23.99 per square foot of building area. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$36,202. The board of review's evidence shows each improvement is assessed at a different level of assessment. The commercial portion of the subject is allocated an assessment of \$19,050 with an improvement assessment of \$13,856 or \$13.32 per square foot of building area when using 1,040 square feet of building area. The residential assessment is \$17,152 with an improvement assessment of \$14,965 or \$12.37 per square foot of living area. The subject's final assessment reflects a fair market value of \$219,618 when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5a properties and the Illinois Department of revenue's 2006 three year median level of assessment of 10.12% for Cook County Class 2 properties are applied.

As to the commercial improvement, the board also submitted copies of the property characteristic printouts for the subject as well as raw sales data on seven commercial properties. The sales occurred between January 2001 and September 2002 for prices ranging from \$105,000 to \$360,000 or from \$54.24 to \$240.00 per square foot of building area.

As to the residential improvement, the board of review submitted a grid listing descriptive information and market value and assessment data on seven properties suggested as comparable. The properties are described as frame, single-family dwellings with between one and two baths. The properties range: in age from 82 to 104 years; in size from 1,152 to 1,260 square feet of living area; and in total assessment from \$19,227 to \$20,625. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney asserted that the commercial building contains 714 square feet of building area. The appellant's attorney acknowledged the differences in the square footage as listed by the parties, but did not know how the appellant arrived at their square footage assertion.

The appellant then argued the income of the property reflects the need for a reduction in the assessed value. The attorney argued that the assessment is blended between the two improvements prior to the reduction.

The board of review's representative, Lena Henderson, argued that the income does not reflect a need for a reduction. Ms. Henderson then testified that the improvements are looked at separately when developing an assessment both under a market value and an equity analysis.

After considering the evidence and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

As to the commercial improvement's size, the PTAB finds the appellant failed to submit any evidence to substantiate the subject's size at 714 square feet of building area. Moreover, the PTAB finds the board of review submitted a property record card showing the dimensions of the improvement. Therefore, the PTAB finds the commercial building contains 1,040 square feet of building area.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the PTAB concludes that the evidence indicates a reduction based on market value is not warranted.

The appellant submitted documentation showing the vacancy of the subject property. The PTAB 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 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 expenses and income based on vacancy 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 PTAB gives this argument no weight and finds that a reduction based on market value is not warranted.

Appellants who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. *Property Tax Appeal Board Rule* 1910.65(b). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the PTAB concludes that the appellant has not met this burden and that a reduction is not warranted.

The appellant presented assessment data on a total of three equity comparables. The PTAB finds these comparables similar to the subject. The properties are improved with a one-story, masonry, commercial retail building. The properties range: in age from 55 to 84 years; in size from 1,000 to 4,763 square feet of building area; and in improvement assessments from \$10.84 to \$23.99 per square foot of building area. In comparison, the commercial improvement is allocated an assessment of \$13.32 per square foot of building area is within the range of comparables. The PTAB gives little weight to the board of review's evidence as the data is merely raw sales data.

After considering adjustments and the differences in the comparables when compared to the subject, the PTAB finds the subject's per square foot improvement assessment is supported and a reduction in the subject's assessment is not warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

*Ronald R. Cuit*

Chairman

*Frank J. Huff*

Member

Member

*Mario M. Louie*

*Shawn P. Lerski*

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 23, 2011

*Allen Castrovillari*

Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.