



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

APPELLANT: Josephine Luk  
DOCKET NO.: 07-22779.001-C-3  
PARCEL NO.: 14-08-404-011-0000

The parties of record before the Property Tax Appeal Board are Josephine Luk, the appellant(s), by attorney Michael Griffin in Chicago, and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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:** \$79,942  
**IMPR:** \$502,331  
**TOTAL:** \$582,273

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of an 8,415 square foot parcel of land improved with two commercial buildings. The appellant is appealing the assessment of the eight-year old, three-story, commercial building. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the improvement as the bases of this appeal.

In support of the equity argument, the appellant submitted assessment data and descriptions on four properties suggested as comparable to the subject. The data in its entirety reflects that the properties are improved with two or three-story, commercial buildings. The properties range: in age from 92 to 108 years; in size from 4,032 to 14,656 square feet of building area; and in improvement assessments from \$5.18 to \$33.30 per square foot of building area with one assessment (\$5.18) a partial assessment. The square footage as listed by the appellant on the petition differed from the sizes listed on the county printouts submitted by the appellant without any explanation.

The appellant lists the subject as containing 9,654 square feet of building area. In support of this, the appellant submitted at hearing *Appellant's Hearing Exhibit #3*, a copy of the plat of survey for the subject property prior to the wrecking of the old improvement and the construction of the new one. Based on this evidence, the appellant requested a reduction in the subject's assessment.

At hearing, the owner of the subject property, Josephine Luk, testified that the subject improvement has two parts to it. She described the first part as being the older, one-story portion of the building. She described the second portion as the newly constructed three-story portion of the improvement. Ms. Luk circled the older portion of the improvement on *Appellant's Hearing Exhibit #3*. She testified that even though the plat of survey shows the improvement broken up into several different portions, it is one building. She testified the new portion of the building was built in 2006/2007 and remained vacant until 2009. Ms. Luk testified she attempted to lease the building during its vacancy. She testified the second and third floors of the new building still remain vacant.

Ms. Luk acknowledged that the square footage of the previous building that was wrecked, based on the plat of survey, shows a footprint of roughly 3,000 square feet which is much smaller than the property record card showed for the square footage of the first floor of the new building of 4,250 square feet of building area. The appellant argues that the county lists the subject's first floor larger than the footprint of the land would allow.

In addition, the appellant submitted *Appellant's Hearing Exhibits #1 and #2*, copies of photographs of the interior and exterior of the subject property and the exterior of the comparables.

On cross-examination, Ms. Luk testified that the fourth floor is a room to allow access to the rooftop. She testified that the buildings share a common wall, but that there is no access between the buildings.

Ms. Luk acknowledged that the plat of survey was dated prior to the construction of the new building and that she had a new plat, but that she was using this one. She testified the old building burned down in 1999/2000 and her husband was handling the construction until he passed away.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's improvement assessment was \$647,679. The evidence submitted prior to and at hearing shows that the board of review valued each building on the subject property separately with the building under appeal assessed at \$629,848 or \$49.40 per square foot when using 12,750 square feet of building area as listed on the property record card for this building.

In support of the assessment, the board submitted copies of the property record card for the subject as well as raw sales data on

five properties. The sales occurred between September 2002 and May 2008 for prices ranging from \$685,000 to \$5,013,000 or from \$48.72 to \$217.96 per square foot of building area. The property record card indicates the subject contains 18,462 square feet of building area based on a inspection by a field agent in June 2001 of the partially wrecked subject and an inspection by a field agent in March 2006 of the newly built portion of the building. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the board of review's representative, Lena Henderson, argued that the board of review's evidence supported the subject's current assessment.

On cross-examination, Ms. Henderson acknowledged that the printout for comparable #3 indicated more information would become available and she did not know if that information was provided.

Ms. Henderson testified that the assessor's office would go out to the subject property for a field check and measure the property to determine the subject's size. She acknowledged that the property record card lists the subject as inspected in March 2006 and complete in March 2006 which differs from Ms. Luk's testimony. She argued that the county's square footage is more accurate because the building was inspected and measured after it was built.

At the hearing, the appellant's attorney made a new argument that the subject property's market value was not accurately reflected in its assessed value based on the vacancy of the subject. He argued that because the subject was vacant for all of 2007 an occupancy factor should be applied to the subject assessment.

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

As to the subject's size, the PTAB finds the best evidence of the subject's size is the property record card. This evidence shows the subject was inspected in March 2006 and the inspector included a diagram of the property. The appellant submitted a plat of survey dated prior to the construction of the building. She acknowledged she had a plat of survey with the new building, but did not use that for this appeal. Therefore, the PTAB finds that the subject's new improvement contains 12,750 square feet of building area for a total improvement size of both buildings of 18,462 square feet of building area.

As to the appellant's claim made at hearing that the subject was overvalued, the PTAB finds that the appellant did not make this claim on the petition nor did she submit any evidence prior to the hearing that the subject was overvalued. Pursuant to Section 1910.50 of the Official Rules of the Property Tax Appeal Board, "[e]ach appeal shall be limited to the grounds listed in the

petition filed with the Board." (86 Ill.Admin.Code Sec. 1910.50(a) citing to 35 ILCS 200/16-180 of the Property Tax Code) See also Cook County Board of Review v. Property Tax Appeal Board, 345 Ill. App. 3d 539 (1st Dist. 2003). Therefore, the PTAB need not examine the appellant market value claim, but if a review is required, the PTAB finds the appellant has failed to meet the market value burden.

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 testimony presented, the PTAB concludes that the evidence indicates a reduction based on market value is not warranted.

The appellant testified that the subject remained vacant and therefore, there was no income. 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 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 overvaluation 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 met this burden and that a reduction is warranted.

The appellant presented assessment data on a total of four equity comparables. The PTAB gives little weight to the board of review's evidence as the data is merely raw sales data without any assessment information.

The PTAB finds the appellant's comparables similar to the subject in size, location and highest and best use, but differ in age. The properties are improved with two or three-story, commercial buildings. The properties range: in age from 92 to 108 years; in size from 4,032 to 14,656 square feet of building area; and in improvement assessments from \$5.18 to \$33.30 per square foot of building area with one assessment being a partial assessment. In comparison, the subject's improvement assessment of \$49.40 per square foot of building area is above the range of comparables. However, based on the subject's age, the PTAB finds the comparables should be adjusted upward to account for this superior characteristic. 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 not supported and a reduction in the subject's assessment is 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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

*J. R.*

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: February 22, 2013

*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.