



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

APPELLANT: Martin Cosgrave  
DOCKET NO.: 07-23165.001-R-1 through 07-23165.003-R-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Martin Cosgrave, the appellant(s), by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-23165.001-R-1	15-34-432-001-0000	11,091	57,140	\$68,231
07-23165.002-R-1	15-34-432-002-0000	3,964	60,116	\$64,080
07-23165.003-R-1	15-34-432-003-0000	8,208	35,112	\$43,320

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of three parcels of land with improvements located thereon. The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of this argument the appellant submitted a narrative appraisal estimating the market value for two of the parcels and their improvements at \$380,000 as of January 1, 2007. The appraisal was undertaken by Rufino Arroyo and George K. Stamas of Meridian Appraisal and Consulting Group, Ltd. The appraisal indicates the appraisers are State of Illinois certified general appraisers. In estimating the market value of the subject property the appraisal contained the sales comparison approach to value. The appraisal indicates that the cost and income approaches to value, both customary methods of valuation, were omitted at the specific request of the client. In addition, the

appraisers indicate in the appraisal the assumption that the real estate taxes will be reduced.

The report stated that an inspection of the property was made on June 15, 2009. The appraisal describes these two parcels of land totaling 7,566 square feet and improved with a mixed-use building. The appraisal further describes the subject as a two-story, masonry building built in 1893 and 1942. The color photographs in the appraisal of the exterior of the building show two distinct buildings adjacent to one another. There are no interior photographs. The appraisal breaks down the building as one commercial unit used as a pub and four apartment units. The appraisal finds the subject's highest and best use as improved is its current use.

Under the sales comparison approach, the appraisers analyzed the sales of five masonry, two or three-story, mixed-use buildings located within the subject's market. The properties range in age from 78 to 104 years and in size from 5,760 to 15,919 square feet of building area. The appraisal does not indicate how many residential units each property contains. The comparables sold from April 2005 to December 2007 for prices ranging from \$150,000 to \$635,000, or from \$26.04 to \$44.64 per square foot of building area, including land. The appraisers adjusted each of the comparables for several factors. The appraisal indicates differences in economic characteristics requiring adjustments include the attributes of the property such as operating expenses, quality of management, tenant mix, rent concessions, lease terms, lease expirations dates, renewal options, and lease terms. The appraisal did not include any information on these elements for the subject or the comparables nor were any adjustments made based on these elements. Based on the similarities and differences of the comparables when compared to the subject, the appraisers estimated a value for these two parcels under the sales comparison approach of \$42.50 per square foot of building area or \$380,000, rounded.

As to the third parcel, the appellant submitted a brief arguing that the subject property is misclassified as a commercial property and should be classified as a mixed-use property. In addition, the appellant argues the subject was vacant during 2007 and that the improvement assessment should be reduced to reflect this vacancy.

In support of the vacancy argument, the appellant submitted an affidavit from Martin Lynch, the agent for the owner, attesting that the subject is a 1,200 square foot building that was 100% vacant in 2007. The affidavit reads that this property was leased to a flower shop and then abandoned the building without removing their equipment or paying rent in 2007. The property was advertised for rent after it was abandoned. Black and white photographs showing the empty interior space were included.

In support of the classification change, the appellant submitted an affidavit from the same agent attesting that the property is

one-story, contains less than 6 units and 20,000 square feet, and contains one commercial unit and one residential apartment. Black and white photographs show a small kitchenette, a sink, a toilet, and a shower base. Based on this evidence, the appellant requests a reduction in the assessment for all three parcels.

The board of review submitted its "Board of Review Notes on Appeal" for the one parcel classified as residential, 15-34-432-002-0000, wherein this parcel's total assessment of \$64,080 was disclosed. The remaining two parcels, which according to the appellant, are classified as commercial properties have total assessments of \$\$68,231 for parcel 15-34-432-001-0000 and \$43,320 for parcel 15-34-432-003-0000. These assessments reflect market values of: \$638,247 for parcel 15-34-432-002-0000 when applying the Illinois Department of Revenue's three-year median level of assessment of 10.04% for class 2 properties; \$179,555 for parcel 15-34-432-001-0000 when applying the 38% Cook County Ordinance level of assessment for class 5a commercial property; and \$114,000 for parcel 15-34-432-003-000 when applying the 38% Cook County Ordinance level of assessment for class 5a commercial property.

In support of the assessment for parcel 15-34-432-002-0000 the board of review submitted descriptions and assessment information on four properties suggested as comparable. These properties are each described as two-story, masonry, mixed-use dwellings with one commercial unit and four residential units. The properties range: in age from 91 to 117 years; in size from 2,208 to 3,190 square feet of living area; and in improvement assessments from \$8.24 to \$10.39 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 the appeal. After submission of evidence, the appellant waived his right to a hearing.

The appellant contends overvaluation as the basis of the appeal. 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)).

As to the third parcel, 15-34-432-003-0000, the PTAB finds that the appellant failed to submit sufficient evidence to show that this parcel is a mixed-use building. The agent's affidavit attests that the subject is a one-story building which was leased to one tenant, a flower shop. The second affidavit contradicts this by attesting that the subject has two units. The photographs do not show a separate living area and do not include any pictures of a bedroom. A commercial property may contain a

kitchen area and the appellant failed to show that this was not the case for this property. Therefore, the PTAB finds the subject is properly classified by the board of review as a commercial property.

The appellant also submitted documentation showing the vacancy of this parcel. 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 for this parcel is not warranted.

In determining the fair market value of the remaining two parcels the PTAB finds the appellant's appraisal flawed. The appraisers did not perform the income and cost approaches to value although they acknowledge these are viable approaches and the subject is an income producing property. The appraiser specifically excluded these approaches at the request of the client, not based on their own determination. In addition, the inspection of the property was conducted almost two and one-half years after the lien date and the appraisal fails to indicate if these parcels were in the same condition on the lien date.

The PTAB also finds that appraisal is flawed in describing the parcels and providing supporting photographs. The appraisers indicate the property is one building; however, the photographs show two buildings adjoining each other. The appraisers do not

explain this nor do they submit interior photographs to clarify how the exterior reflects a different appearance than what is actually there.

The PTAB finds the cost approach would have laid out the elements of construction and further described the characteristics of these parcels and whether they are two distinct buildings or one building. The board of review has listed these parcels as two distinct building based on their county classification. The appellant has not met the burden of showing that the subject is one building; the appraisal is unclear, does not show that this is one building as opposed to two adjacent buildings owned by one person, and does not support a class change.

In addition, the PTAB finds that because the subject is an income producing property, an income approach should have been done to provide support for the sales comparison approach; especially since the sales comparison approach in missing data elements.

In the sales comparison approach, the appraisers failed to fully describe the comparables by indicating how many commercial units and how many residential units were contained in each property. There were no adjustments made to the comparables based on these characteristics. In addition, the appraisers indicate that an important factor in the adjustment process is economic characteristics such as tenant mix, lease terms, renewal options, and lease provisions; however the appraisal does not provide this information on the subject parcels or the suggested comparables and no adjustments are made for these characteristics.

Therefore, the PTAB finds that the appellant failed to submit complete, accurate, and credible evidence to show, by a preponderance of this evidence, that the subject property is overvalued and the PTAB finds 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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*J. R.*

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: July 19, 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.