



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

APPELLANT: Mickey Hornick  
DOCKET NO.: 08-21502.001-R-1  
PARCEL NO.: 14-21-303-015-0000

The parties of record before the Property Tax Appeal Board are Mickey Hornick, the appellant(s), by attorney Patrick J. Cullerton, of Thompson Coburn LLP 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: \$ 15,820**  
**IMPR: \$ 59,556**  
**TOTAL: \$ 75,376**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject has 3,000 square feet of land, which is improved with a 115 year old, three-story, masonry, mixed-use building. The subject's improvement size is 4,239 square feet of building area, and its total assessment is \$75,376. This assessment yields a fair market value of \$785,167, or \$185.22 per square foot of building area (including land), after applying the 2008 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 9.60%.

In support of this claim, the appellant submitted: a brief; a rent roll, an income analysis; exterior photos; and a 2008 vacancy affidavit for the subject property. The appellant's affidavit disclosed that the subject property was 33% vacant from January 1, 2008 through December 31, 2008. Based upon 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" wherein its final assessment of \$75,376 was disclosed. To demonstrate the subject was correctly assessed, the board of review presented descriptions and assessment information regarding four suggested comparable properties consisting of two or three story, masonry or frame and masonry, mixed-use buildings located within the subject property's neighborhood. The suggested comparables range in age from 16 to 93 years old and range in size from 2,750 to 3,408 square feet of building area. These properties have improvement assessments that range from \$14.37 to \$16.65 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant's attorney stated that the third floor apartment is in relatively okay condition. He also stated this apartment was not rented by year-end. The appellant's attorney also stated the subject restaurant is operated by the property owner and is subject to a non arm's-length lease. Additionally, the appellant's attorney stated that the second floor unit is configured for an apartment, but is used by the restaurant and property owner for storage. Lastly, the appellant's attorney reiterated the previously submitted bases of the appeal.

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. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant submitted documentation showing the income 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 Board gives no weight to this evidence and finds that a reduction on this basis is not warranted.

As to the appellant's vacancy argument, the Board finds no evidence in the record that the subject's assessment is incorrect when vacancy is considered. The mere assertion that vacancies in a property exist, does not constitute proof that the assessment is incorrect or that the fair market value of a property is negatively impacted. There was no showing that the subject's market value was impacted by its vacancy during 2008. The Board gives little weight to the board of review's equity comparables in that the evidence fails to address the appellant's market value argument.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the subject was overvalued 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.



Chairman



Member



Member



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: February 21, 2014



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.