



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

APPELLANT: Bernard Hammer  
DOCKET NO.: 08-24026.001-R-1  
PARCEL NO.: 17-09-210-005-0000

The parties of record before the Property Tax Appeal Board are Bernard Hammer, the appellant(s); 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:** \$20,812  
**IMPR.:** \$17,480  
**TOTAL:** \$38,292

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a 2,420 square foot parcel of land improved with two-story, frame, mixed-use building containing 1,748 square feet of building area. The appellant argued unequal treatment in the assessment process and that the assessment does not accurately reflect the subject's market value as the bases of the appeal.

In support of the equity argument, the appellant submitted a brief arguing that the subject property is over assessed as compared to newer, masonry properties. The appellant asserts that the subject property is not 113 years old, but actually more than 137 years old and pre-dates the great Chicago fire. He asserts the subject was built on wooden posts and lacks a foundation as reason to support the age of the building. The brief describes the basement's condition. The appellant asserts the subject should not be assessed at a level of more than 50% of the average of the suggested comparables. He further argues errors in the county's description of the property.

In this brief, the appellant included a grid of 29 suggested comparables. The comparables are described as masonry, two or three-story, mixed-use buildings located within five blocks of the subject. The properties range: in age from 5 to 132 years; in size from 2,800 to 9,886 square feet of building area; and in improvement assessment from \$1.47 to \$13.64 per square foot of living area.

The appellant also asserts the subject's land is over assessed. To support this, the appellant included 22 land comparables. The properties range in land size from 1,200 to 5,900 square feet and have land assessments from \$2.24 to \$7.72 per square foot.

The appellant further argued that the 2008 real estate market is soft and that 2008 values are lower than 2007 values and asked the PTAB to take judicial notice of this fact.

In support of the market value argument, the appellant argues the subject property is vacant, but that he still needs to bear the cost of maintaining the building. He requests an abatement of 80% on the assessment until the property is rented.

The appellant also submitted the rebuttal documentation presented in the prior year appeal for this property. The appellant submitted a brief asserting that the board of review has erroneous data for the subject's bath count and that data on three of the appellant's comparables changed which reduced those assessments. The appellant further asserts that the board of review's two printouts contain erroneous characteristic information for many of the board's comparables as well as some comparables used by the appellant. The appellant asserts that the notes section acknowledges the need for a reduction due to the subject's frame construction and lack of a foundation.

The appellant further argues that judicial notice should be taken that masonry construction costs much more than stucco or wood construction. The appellant asserts that the articles included in the rebuttal evidence show that the cost of brick veneer walls and two brick thick walls would cost more to construct than stucco and wood walls.

Finally, the appellant lists several of the board of review's comparables and argues that these properties are not similar to the subject because they are 150% to 700% larger in size than the subject.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$69,196 with an improvement assessment of \$48,384 or \$27.68 per square foot of building area was disclosed. The board of review's evidence lists the subject at 113 years old. In support of the subject's assessment, the board of review submitted a grid with one comparable listed and a copy of the subject's board of review level appeal. This one property is a three-story, masonry, mixed-use building containing 2,550 square feet of building area

situated on a 2,007 square foot parcel. This property has a land assessment of \$11.28 per square foot and an improvement assessment of \$28.30 per square foot of building area.

The additional documentation includes a printout of 39 suggested comparables. The board of review's comparable listed on the grid is also included in this printout. The properties are described as mixed-use buildings located within the subject's neighborhood code. The properties range: in age from 34 to 129 years; in size from 2,346 to 12,180 square feet of building area; and in improvement assessment from \$7.53 to \$44.32 per square foot of building area. Four of these suggested comparables are prorated at values of \$5.14 and \$10.21 per square foot of building area. This printout does not provide any land information. In the notes section of this printout, the board of review has the history of the appeal. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a brief asserting he met his burden of going forward and that the board of review failed to provide substantive, documentary evidence or legal argument sufficient to support the assessment and only the appellant's evidence should be considered. The appellant reiterated the errors in the properties characteristics and the appellant's argument that the subject is over assessed.

At hearing, the appellant, Bernard Hammer, reiterated his argument that the subject was built prior to the Chicago fire in 1871 and that the subject floods when it rains. He argued that the subject is frame and built on posts while the comparables are all masonry construction. He asserts the subject's condition cannot be the same as the masonry buildings.

Mr. Hammer then requested that the PTAB take judicial notice that the real estate market has declined from 2006 to 2007 and 2008.

Mr. Hammer argued the board of review failed to correct the assessor's error in the assessment. He asserted that based on the newspaper articles submitted as evidence, the assessment should have gone down and not up. He asserted that he has paid the bills for the property because the property is vacant.

Mr. Hammer indicated that the story of the three Little Pigs teaches children that houses made of brick can withstand exterior forces of power while a wooden house cannot compare to a house of bricks. He asked the Property Tax Appeal Board to take judicial notice of this principle.

Mr. Hammer requested the Property Tax Appeal Board also take judicial notice of the notes made by the board of review in their evidence in both the 2007 and 2008 appeals concerning the condition of the subject and the insurance value for the subject.

Mr. Hammer asserted that the board of review only submitted one comparable on its grid sheet and that this property is a three-

story, masonry, mixed-use building that is not similar to the subject and does not rebut his evidence.

As to the subject's land, Mr. Hammer testified that all the comparables are assessed less than the subject. He further asserted that the mass appraisal system is defective. He argued that land on one side of the street should not be valued more than land on the other side of the street.

The board of review's representative, Michael Terebo, argued that the board's comparables supports the subject's assessment. He asserted that several of the board of review's comparables are within the age range as listed by the assessor.

As to the subject's vacancy, Mr. Terebo argued the appellant made an equity argument and did not submit any evidence to show the subject was vacant.

Mr. Terebo testified that the evidence submitted by the board of review does not indicate if the suggested comparables are frame or masonry construction. He had no knowledge as to how the assessor arrived at the subject's condition and state of repair as average. Mr. Terebo testified that the statements written in the notes section of the board of review's evidence are the positions of the board of review.

Mr. Terebo testified that because the property was still under appeal with the PTAB for the 2007 assessment year, the board of review will not make any reductions to the property for the 2008 assessment year.

In rebuttal, Mr. Hammer argued that the board of review has failed to rebut his evidence that the subject is over assessed. He reiterated his request for judicial notice that the real estate market has declined from 2005 to 2007 and 2008.

Mr. Hammer submitted *Appellant's Hearing Exhibit #1*, a highlighted copy of a cartoon from *Chicago Magazine*. Mr. Hammer asserted this cartoon, which depicts the City of Chicago's sewage problems in the mid 1800's, is proof that the subject property was built prior to the Chicago Fire and requested the Property Tax Appeal Board to take judicial notice of this article in finding that the subject was at least 137 years old in 2007. The board of review objected to the request for judicial notice that the subject was built prior to the Chicago fire.

Mr. Terebo testified that if the board of review cannot find any comparable properties, they don't have any evidence that the subject is not assessed properly. He testified that the board of review takes no position on the request for judicial notice in regards to the cost of masonry versus stucco or wood. In regards to the request for judicial notice that the market was declining from 2005 to 2007 and 2008, Mr. Terebo testified there is no objection to that request. He had no comment on the appellant's

argument that the story of the Three Little Pigs shows that brick is stronger than wood.

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

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 argued 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 made this argument, the appellant did not demonstrate through an expert in real estate valuation to show how subject's lack of income reflected on its market value. 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 vacancy is not warranted.

The appellant also contends unequal treatment in the subject's improvement and land assessment. Taxpayers 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 (1989). ). A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). After an analysis of the assessment data, the PTAB finds the appellant has met this burden.

As to the requests for judicial notice, the PTAB takes judicial notice that the real estate market declined from 2006 to 2008. However, the PTAB does not take judicial notice that frame construction is less valuable than masonry construction. The PTAB finds that this fact is not commonly known or readily ascertainable and is subject to reasonable dispute. In addition, the PTAB will not take judicial notice that the story of the Three Little Pigs teaches the principle that brick houses are stronger than wood houses.

As to the age of the property, the PTAB will not take judicial notice that the subject property was built prior to the Chicago Fire. The PTAB finds *Appellant's Hearing Exhibit #1* is insufficient to show when the subject was built. The appellant failed to submit any documentation to show what the building requirements were at the time the assessor claims the subject was built. However, the PTAB does find that the subject is significantly aged and that the subject is built on posts and lacks a foundation.

As to the land, the appellant presented 22 land comparables and the board of review presented one land comparable. The PTAB finds these properties similar to the subject. They range in land size from 1,200 to 5,900 square feet and have land assessments from \$2.24 to \$11.29 per square foot. In comparison, the subject's land assessment of \$8.60 per square foot is within the range of these comparables. After considering adjustments and the differences in the comparables when compared to the subject, the PTAB finds the subject's per square foot land assessment is supported and a reduction in the land assessment is not warranted.

As to the improvement, the parties presented a total of 68 properties suggested as comparable. The PTAB finds the appellant's comparables #4, #8, #15, #24 and #26 and the board of review's comparables #1 through #10 most similar to the subject in size. These properties received the most weight in the analysis. The properties are mixed-use buildings that range in size from 2,346 to 3,830 square feet of building area and have improvement assessments from \$12.38 to \$28.30 per square foot of building area. In comparison, the subject's improvement assessment of \$27.68 per square foot of building area is within the range of these comparables. However, these comparables are masonry while the subject is a frame structure build on posts

with no foundation. The PTAB finds that the subject's assessment should reflect this difference by being below the range of the most similar comparables.

The PTAB gives little weight to the appellant's suggested comparables #20 and #27 which are similar in size to the subject. The PTAB finds these suggested comparables are multi-family dwelling and/or have assessment that are more than half that of the other comparables with no evidence to show these are not partial or prorated assessments. In addition, the PTAB finds the remaining properties were significantly larger in size to the subject and, therefore, less comparable; these comparables were also given less weight.

Therefore, after considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is not supported and a reduction in the improvement 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

*[Signature]*

Member

*[Signature]*

Member

*[Signature]*

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: December 21, 2012

*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.