



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

APPELLANT: Frank Micklin  
DOCKET NO.: 09-27379.001-R-1  
PARCEL NO.: 20-22-313-015-0000

The parties of record before the Property Tax Appeal Board are Frank Micklin, the appellant(s), by attorney Glenn S. Guttman, of Rieff Schramm Kanter & Guttman 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:** \$ 6,406  
**IMPR.:** \$ 7,547  
**TOTAL:** \$ 13,953

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2009 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

**Findings of Fact**

The subject property consists of a one-story dwelling of masonry construction with 1,120 square feet of living area. The dwelling was constructed in 1963. Features of the home include a partial basement and a two car garage. The property has a 5,339 square foot site and is located in Hyde Park Township, Cook County. The subject is classified as a class 2-03 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted a copy of an Illinois statute regarding compulsory sales. 35 ILCS 200/1-23. The appellant also submitted a settlement statement that indicates the subject property was purchased on April 9, 2009 for a price of \$28,000. The seller of the property was Bank of New York, as trustee while the buyer was Micklin Properties, LLC. The settlement statement, on line 704, lists a commission paid at settlement to "REO Trans". Additionally, the appellant submitted undated photos that show that the subject was vacant and boarded. The Board notes that the appellant did not complete Section IV - Recent Sale Data of the appeal disclosing the parties to the transaction were not related, the property was sold using a Realtor, the property had been advertised on the open market with a sign in the yard, the Multiple Listing Service, a newspaper, or on the Internet. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$13,953. The subject's assessment reflects a market value of \$145,343 or \$129.77 per square foot of living area, land included, when using the 2009 three year average median level of assessments for class 2 property of 8.90% under the Cook County Real Property Assessment Classification Ordinance as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on four equity comparables. The board also submitted a list of twenty sales of class 2-03 properties located in the subject's neighborhood.

In written rebuttal, the appellant's attorney stated that the board of review did not offer evidence to refute the appellant's market value argument. He also submitted copies of two Board decisions regarding other properties.

#### **Conclusion of Law**

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). 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). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

As to the appellant's vacancy argument, the appellant submitted undated photos showing the subject property was vacant and boarded. The Board gives this evidence 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.

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 2009. The Board finds the appellant has failed to adequately demonstrate that the subject was overvalued and a reduction in the subject's improvement assessment on the basis of vacancy is not warranted.

As to the appellant's recent purchase argument, when market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). 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). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the appellant did not submit sufficient evidence of the market value of the subject. The Board notes that the statute submitted by the appellant's attorney, 35 ILCS 200/1-23, requires the Board to, "consider whether the compulsory sale would otherwise be considered an arm's-length transaction." When there is a recent sale of the subject, and that sale is a compulsory sale, the Board may consider evidence which would show whether the sale was at fair cash value. Calumet Transfer, 401 Ill. App. 3d at 655-56. The appellant did not provide evidence demonstrating the sale had the elements of an arm's length transaction. The appellant did not complete Section IV - Recent Sale Data of the appeal form. The appellant did not disclose whether the parties to the transaction were related, or whether the property was advertised on the open market. In this case, the appellant did not submit any such evidence to show that the sale of the subject in April 2009 for \$28,000 was at fair cash value.

Such evidence could have included the descriptive and sales information for recently sold properties that are similar to the subject. See id. at 656. Since there is no evidence that the sale of the subject was at fair cash value, the Board finds that the subject is not overvalued and a reduction in the subject's assessment is not justified.

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. Fan*

Member

*Richard A. Huff*

Member

*Marko M. Liscio*

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 20, 2015

*A. Proctor*

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.