



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

APPELLANT: Michael Stiglianese  
DOCKET NO.: 10-02323.001-I-2  
PARCEL NO.: 03-32-204-040

The parties of record before the Property Tax Appeal Board are Michael Stiglianese, the appellant, by attorney Brian P. Liston, of the Law Offices of Liston & Tsantilis, P.C. in Chicago; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$106,750  
**IMPR.:** \$459,950  
**TOTAL:** \$566,700

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 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 is improved with a one-story industrial building of brick exterior construction with 23,508 square feet of building area.<sup>1</sup> The building was originally constructed in

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<sup>1</sup> The appellant's appraisers reported building sizes of 23,468 and 23,188 square feet of building area. The appraisals did not contain a schematic

1981 with an addition in 1989. The building has two separate users. The building has 1,904 square feet of office area. The office area and 50% of the shop area has central air conditioning. The effective clear ceiling height is 18 feet. The subject building is 100% sprinkled. The subject building has four overhead doors and three load levelers. The subject has 6,272 square feet of asphalt paving and 624 square feet of concrete paving. The subject property has a 46,000 square foot or a 1.056 acre site resulting in a land to building ratio of 1.96:1. The property is located in Addison, Addison Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted two appraisals of the subject property. Appraisal #1 was prepared by John Grimes, MAI and an Illinois State Certified General Appraiser. The appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Using the sales comparison approach to value, the appraiser estimated the subject property had a market value of \$1,300,000 as of January 1, 2009. Appraisal #2 was prepared by appraisers, Ronald A. Wozniak, Illinois Certified General Real Estate Appraiser and Mark S. Grimes, MAI and a Certified General Real Estate Appraiser. The appraisers were not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Using the sales comparison approach and income capitalization approach, the appraisers estimated the subject property had a market value of \$1,150,000 as of November 17, 2010.

The appellant's attorney called no witnesses.

Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

At the hearing the board of review objected to the appraisal reports contending the appraisers were not present to be cross-examined. The Board reserved ruling on the objection.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of

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drawing of the subject building. The assessing officials reported a building size of 23,508 square feet of building area with a schematic drawing. Based on this record, the Board finds the subject has 23,508 square feet of building area.

\$566,700. The subject's assessment reflects a market value of \$1,702,825 or \$72.44 per square foot of building area, land included, when using the 2010 three year average median level of assessment for DuPage County of 33.28% as determined by the Illinois Department of Revenue.

Representing the board of review was member Carl Peterson. Peterson called Addison Township Chief Deputy Assessor Frank Marack Jr. as a witness to testify regarding the evidence he prepared on behalf of the board of review.

The board of review submitted the subject's property record card, parcel history, a schematic drawing of the subject and a grid analysis of seven comparable sales.

Marack first testified about the subject property. Marack stated that the subject was built in three stages. Marack testified that the first stage was built in 1981 and was approximately 26.7% of the total building with an exterior height of 15 feet. Marack testified that the second stage of construction also took place in 1981 and was approximately 25.8% of the building with an exterior height of 19 feet. Marack then stated that the last stage of the building was for 47.5% of the building with an exterior height of 18 feet and was constructed in 1989. Marack testified that the subject building has an effective ceiling height of 18 feet. Marack also testified that the office space is roughly 8.1% of the building area. Marack stated that the subject property has an effective age of 1985. Marack testified that the subject building is a multi-tenant building that was originally constructed to be three units.

With respect to the board of review comparables, Marack testified that the comparables are located in Addison Township and within 2.5 miles of the subject property. The comparables are improved with one-story industrial buildings of brick exterior construction. The comparables were constructed from 1966 to 1990. The comparables have sites that range in size from 1.00 to 1.55 acres. The comparables have land to building ratio's that range from 1.94:1 to 3.26:1. The comparables range in size from 19,628 to 25,324 square feet of building area. The comparables sold from January 2008 to June 2009 for prices ranging from \$1,512,500 to \$2,300,000 or from \$67.28 to \$107.17 per square foot of building area, land included.

Under cross-examination Marack testified that when corrections were made to the amount of office space in the subject property, the entire building was not re-measured. Marack also testified

that he did not know if the property next door at 733 to 743 Annoreno sold during the relevant period from three years prior to the lien date.

Based on this evidence, the board of review requested a confirmation in the subject's assessed valuation.

### 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.

In support of the overvaluation argument the appellant submitted two appraisals. The first appraisal estimated the subject had a market value of \$1,300,000 as of January 1, 2009. The second appraisal had an estimated market value of \$1,150,000 as of November 17, 2010. The board of review objected to the appraisal reports contending that neither appraiser was present to be cross-examined. The Board hereby sustains the objection. The Board finds the appellant's appraisers were not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1<sup>st</sup> Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination". This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Based on this case law, the Board gives

the conclusion of value contained in these appraisals no weight since the appraisers were not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process and the ultimate conclusion of value.

The courts have also stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2<sup>nd</sup> Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5<sup>th</sup> Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. The Board finds there are credible market sales contained in this record, and therefore, the Board will examine the raw sales data contained in this record, including the sales/listings in the appellant's appraisals.

The Board finds the record contains 17 comparable sales/listings submitted by the parties in support of their respective positions. The Board gave less weight to the comparables in appellant's appraisal #1, comparable #4 in appellant's appraisal #2 and board of review comparables #2, #3, #4, #6 and #7. These properties sold from December 2007 to December 2008, which are dated and less indicative of fair market value as of the subject's January 1, 2010 assessment date. The Board gave less weight to comparables #2 and #3 in appellant's appraisal #2 due to their considerably smaller building size when compared to the subject. The Board gave less weight to comparable #1 in appellant's appraisal #2 due to the reported deferred maintenance of the roof and sprinkler system that affected the sale price. The Board finds the remaining three comparables are more similar to the subject in land size, building size, style and features. These properties sold or was listed for sale from February 2009 to May 2010 for prices ranging from \$1,475,000 to \$1,565,000 or from \$67.28 to \$79.73 per square foot of building area including land. The subject's assessment reflects a market value of \$1,702,825 or \$72.44 per square foot of building area including land, which falls within the range established by the most similar comparables in this record on a per square foot basis. After considering adjustments to the comparables for any differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment

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is supported. Therefore, no 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.

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Chairman

*Klaus Albino*

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Member

*[Signature]*

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Member

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Member

*Jerry White*

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Acting 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 24, 2015

*[Signature]*

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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.