



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

APPELLANT: Stanislaw Stafira  
DOCKET NO.: 10-23863.001-I-1 through 10-23863.002-I-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Stanislaw Stafira, the appellant; 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
10-23863.001-I-1	18-36-411-007-0000	3,176	37,409	\$ 40,585
10-23863.002-I-1	18-36-411-008-0000	3,141	36,191	\$ 39,332

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a seven year old, one-story, concrete, industrial building. The subject's improvement size is 7,060 square feet of building area and its total assessment is \$79,917. This assessment yields a fair market value of \$319,668, or \$45.28 per square foot of building area (including land), after applying the 25% assessment level for industrial properties under the 2010 Cook County Classification of Real Property Ordinance. The assessor reduced the assessment from \$142,112 based on occupancy and/or market value relief. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value, that the subject is entitled to vacancy relief, and that the subject's classification is incorrect as the bases of this appeal.

In support of the market value argument, the appellant submitted an industrial appraisal report for the subject property based on its "as-is" condition as of January 1, 2009. The appraiser estimated a fair market value for the subject of \$400,000 based on the income and sales comparison approaches to value while noting that the subject was 50% owner-occupied and 50% vacant. The appraiser also conducted an inspection of the subject, however, was not present at the hearing to testify as to his reasoning and his value conclusions.

Under the income approach, the appraiser analyzed the rental rates of three industrial condominium properties suggested as comparable. They ranged in size from 4,500 to 6,250 square feet of building area and in rental rates from \$8.50 to \$9.00 per square foot on a net basis, after adjustments. The subject was then valued at a rate of \$8.00 per square foot on a net basis, lower than that of the comparables. After deducting for vacancy and expenses, net operating income was established at \$43,206. A 10% capitalization rate was applied to indicate a market value for the subject, under the income approach, of \$430,000.

Under the sales comparison approach, the appraiser analyzed five sold properties combined with two additional properties listed "for sale." They ranged: in size from 3,000 to 9,800 square feet of building area; in sale date from February 2007 to May 2009 (with two properties listed "for sale"); and from \$41.30 to \$83.39 per square foot of building area, including land. No information was supplied regarding the grantor, grantee, or number of days on the market for comparable #1. Additionally, comparable #4 was listed as a non-market deal to related parties. Comparables #6 and #7 were listed "for sale" yet included in the analysis. It should also be noted that six of the seven suggested comparables were industrial condominium units while the seventh was an industrial building. The subject property was classified as an industrial building during the 2010 tax year as well as at the time of the hearing. After making adjustments to the suggested properties, the appraiser indicated a value for the subject under the sales comparison approach of \$60.00 per square foot, including land, or \$400,000.

The appellant also submitted: a closing statement indicating the subject was purchased on February 22, 2005 for \$418,000; a rental listing agreement dated October 22, 2008 indicating a unit with undisclosed square footage was available for \$7.00 per square foot on a net basis; a Multiple Listing Service printout indicating 2,500 square feet of the subject was available for \$7.00 per square foot; three color photographs showing industrial space was for lease or sale through Groebe Realty; and assessor printouts for three suggested comparable properties that are listed as having partial assessments. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$79,917 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for four industrial warehouse or industrial manufacturing buildings located within five miles of the subject. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County Assessor's Office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as

such. The memorandum further states that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The comparables are described as one-story, masonry, industrial warehouse or industrial manufacturing buildings. Additionally, the comparables are from 33 to 69 years old, and have from 4,728 to 7,671 square feet of building area. The comparables sold between September 2006 and October 2007 for \$385,000 to \$2,442,000, or \$50.19 to \$391.97 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant, Stafira Stanislaw, testified that he uses the building for his hardwood flooring business, which includes storage of the wood. He further testified that the subject property should receive a change in classification, from 5-93 to 2-12, based on the fact there is an apartment in the building. He referred to the photographs on page 7 of the appraisal. In rebuttal, the board of review's representative, Lena Henderson, stated the photographs were unclear that there was an actual apartment in the subject. She further argued that the subject's current value is below that of the market value indicated by the appraisal. The appellant's attorney, Tina Zekich, was puzzled by this argument and had no response.

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

The appellant contends that his industrial building should be reclassified as a Class 2-12 due to apartment usage in the building. The Cook County Real Property Classification Ordinance indicates that Class 2 property is defined as "real estate improved with a building put to commercial and residential use, of six or less units where the building measures less than 20,000 square feet of above grade space." It further defines *Real estate used for commercial purposes* as "any real estate used primarily for buying and selling of goods and services, or for otherwise providing goods and services, including any real estate used for hotel and motel purposes" while *Real estate used for industrial purposes* is defined as "any real estate used primarily in manufacturing, as defined in this section, or in the extraction or processing of raw materials unserviceable in their natural state to create new physical products or materials, or in the processing of materials for recycling, or in the transportation or storage of raw materials or finished physical goods in the wholesale distribution of such materials or goods for sale or leasing."

Having considered the evidence presented, the Board concludes that the appellant has not provided sufficient evidence to warrant a change in the subject property's classification.

The evidence reflects that the subject property is used for the sale and storage of hardwood flooring, which would be classified as industrial usage under the Cook County Real Property Classification Ordinance. The appellant provided color photographs as well as an assessor printout confirming this industrial usage, while the board of review included a property record card verifying the industrial usage through an April 2012 field check. Under the ordinance, a property must have commercial and residential usage, not industrial usage. Additionally, the photographs in the appraisal are inconclusive as to apartment usage. The Board finds that under the facts of this appeal, the appellant did not satisfy the burden of challenging the correctness of the assessment by proving that the subject is used for commercial as opposed to industrial purposes.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). Having considered the evidence presented, the Board finds that the evidence indicates a reduction is not warranted.

The Board finds that the subject's current market value is \$319,668. The appraiser indicated the subject's market value, in "as-is" condition" was \$400,000 as of January 1, 2009. The appraiser also noted that 50% of the subject was owner-occupied and 50% was vacant, indicating that this condition was taken into account in determining the subject's market value. Additionally, the Board finds that the appraisal is unpersuasive as the appraiser was not present to testify at the hearing as to how adjustments were made for building size, financing conditions, and the arm's-length nature of the transactions in the sales comparison approach. Therefore, the Board accords diminished weight to this appraisal and finds that the estimate of value for the subject property is unreliable.

The appellant's counsel also formulated an overvaluation argument using the subject's estimated vacancy. The Board finds the appellant's argument that the subject's assessment be reduced by applying a vacancy factor unconvincing. 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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual income, expenses, and vacancy can be useful when shown that they are reflective of the market. The appellant did not demonstrate through any documentation or an expert appraisal witness that the subject's vacancy is reflective of the market, therefore, the Property Tax Appeal Board gives this argument little weight, and no reduction is warranted on this basis.

Additionally, no weight was given to the February 2005 purchase of the subject as it is too distant in time from the January 1, 2010 valuation date to be reflective of the subject's current market value. Accordingly, based on this record and the testimony provided, the Board finds a reduction in the subject's assessment based on overvaluation 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. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

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: October 18, 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.