



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

APPELLANT: Brian Liston  
DOCKET NO.: 10-24132.001-R-1  
PARCEL NO.: 18-07-105-021-0000

The parties of record before the Property Tax Appeal Board are Brian Liston, the appellant, by attorney Brian P. Liston, of the Law Offices of Liston & Tsantilis, P.C. 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:** \$ 18,956  
**IMPR.:** \$ 73,741  
**TOTAL:** \$ 92,697

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story dwelling of masonry construction. The dwelling is 83 years old and contains 3,088 square feet of living area. Features of the home include a partial unfinished basement, a fireplace, and a one and one-half car garage. The subject is located in Hinsdale, Lyons Township, Cook County.

The appellant contends both assessment inequity and overvaluation as the bases of the appeal. In support of the assessment inequity argument, the appellant submitted information on four suggested comparable properties described as two-story dwellings of frame or frame and masonry construction. The comparable properties have the same assigned neighborhood code as the subject. The comparable dwellings are from 68 to 83 years old and contain from 3,127 to 3,742 square feet of living area. One comparable has a partial finished basement, and three have unfinished basements, either full or partial. Each comparable has one or two fireplaces, and three have central air conditioning and a garage. The comparables have improvement assessments ranging from \$73,458 to \$80,079 or from \$21.40 to \$24.88 per square foot of living area. The subject's improvement assessment is \$73,741 or \$23.88 per square foot of living area.

The appellant also argued the subject's income and expenses indicate the subject should have a market value of \$260,684 or \$84.42 per square foot of living area, land included. In support of this argument, the appellant presented the subject's income and expenses for 2010. According to the appellant, the subject had gross income of \$45,600 and allowable expenses of \$11,400. The appellant determined the subject's stabilized net operating income was \$34,200. The attorney used a capitalization rate of approximately 13.12%, which included an effective tax rate of 1.61933% to arrive at an indicated market value of \$260,684. Based on this estimate of value the attorney requested the subject's total assessment be reduced to \$26,068 (\$18,956 for land and \$7,112 for the improvement) after applying the 10% level of assessments for class 2 residential property as established by the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$92,697 was disclosed. The subject's assessment reflects a market value of \$1,036,879 or \$335.78 per square foot of living area, land included, when applying the 2010 three year average median level of assessments for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 8.94% as determined by the Illinois Department of Revenue.

The board of review presented descriptions and assessment information on four suggested comparable properties consisting of two-story dwellings of masonry or frame and masonry construction. The comparable properties have the same assigned neighborhood code as the subject. The dwellings are from 70 to 87 years old and contain from 2,829 to 3,345 square feet of living area. Each comparable has a garage, one or two fireplaces, central air conditioning, and an unfinished basement, either full or partial. These properties have improvement assessments ranging from \$78,539 to \$86,974 or from \$26.00 to \$29.28 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 this appeal. The Board further finds a reduction in the subject's assessment is not warranted.

The appellant argued in part assessment inequity as the basis of the appeal. 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). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

Both parties presented assessment data on a total of eight suggested comparables. The appellant's comparables #2 and #4 were larger in size than the subject and received reduced weight

in the Board's analysis. The Board finds the board of review's comparables and the appellant's comparables #1 and #3 were similar to the subject in size, age, location, and design. Due to their similarities to the subject, these six comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$73,458 to \$86,974 or from \$21.48 to \$29.28 per square foot of living area. The subject's improvement assessment of \$73,741 or \$23.88 per square foot of living area falls within the range established by the most similar comparables. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted on this basis.

The appellant also argued overvaluation as an alternative basis of the appeal. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

The Board finds the subject's total assessment of \$92,697 reflects a market value of approximately \$1,036,879 or \$335.78 per square foot of building area, land included, when applying the 2010 three year average median level of assessments for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 8.94% as determined by the Illinois Department of Revenue.

The appellant formulated an overvaluation argument using the subject's actual income for 2010. The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income unconvincing and not supported by evidence in the record. 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 expenses and income 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 actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and the expenses deducted to arrive at a net operating income reflective of the market and the property's capacity for earning income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds problematic the fact that the appellant's attorney developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion testimony of value for that client's property. (See 86 Ill.Admin.Code 1910.70(f)).

Based on this record, the Board finds a reduction to 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

*Marko M. Louie*

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: July 19, 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.