



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

APPELLANT: Frank J Scapelli/ Pamela J. Poincelet Trust #1  
DOCKET NO.: 11-02022.001-R-1  
PARCEL NO.: 03-27-233-007

The parties of record before the Property Tax Appeal Board are Frank J Scapelli/ Pamela J. Poincelet Trust #1, the appellant; and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$23,914  
**IMPR.:** \$63,359  
**TOTAL:** \$87,273

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story split-level dwelling of frame and brick exterior construction containing 3,312 square feet of living area. The dwelling has three apartments and was built in 1969. The dwelling is situated on approximately 7,920 square feet of land area located in West Dundee, Dundee Township, Kane County, Illinois.

The appellant appeared, with counsel, before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property prepared by C. Peter Soderquist, a state certified appraiser. The appraiser was not present at the hearing. The purpose of the appraisal report was to estimate the market value of the subject property as of February 23, 2011. The appraisal report conveys an estimated market value for the subject property of \$225,000 as of February 23, 2011, using the cost, sales comparison and income approaches to value.

Under the cost approach, the appraiser estimated a replacement cost new for the subject improvement of \$331,200. The appraiser

then subtracted 45% for depreciation or \$149,040, for a depreciated value of the structure of \$182,160. The appraiser then added \$5,000 for the depreciated value of other improvements to arrive at a total depreciated value of improvements of \$187,160. The appraiser estimated the subject's land value to be \$50,000 for an estimated value of the subject property under the cost approach of \$237,000, rounded.

Under the sales comparison approach to value, the appraiser utilized seven comparable sales and three listings located in Dundee, West Dundee, Elgin and Algonquin, Illinois. The comparables lot sizes were not disclosed. The comparables consist of multi-tenant dwellings of 2 to 6 units that contain from 1,233 to 5,796 square feet of living area. The dwellings were built from 1881 to 1976. No other information regarding the features of the comparables was disclosed by the appraiser. The comparables sold from March 2008 to February 2011 for prices ranging from \$157,500 to \$435,000 or from \$58.29 to \$142.86 per square foot of living area including land. The three listings had an asking prices ranging from \$199,900 to \$524,999 pr from \$58.59 to \$109.43 per square foot of living area including land.

The appraiser adjusted the comparables for differences when compared to the subject for date of sale, size and condition. Based on the adjusted sale prices, the appraiser concluded the subject had an estimated market value under the sales comparison approach of \$230,000, rounded, or \$70.00 per square foot of living area including land.

Under the income approach to value, the appraiser calculated a potential gross income for the subject of \$28,740. The appraiser acknowledged that the subject's contract rent is on the low end of the range based on his investigation of market rents in the subject's area. The appraiser then subtracted \$2,012 for vacancy and collection loss for an effective gross income of \$26,728. Expenses totaling \$10,757 were then subtracted from the effective gross income to arrive at a net annual income of \$15,971. The appraiser used the debt coverage ratio method to estimate an overall capitalization rate of 7.8% and estimated the subject had a market value under the income approach of \$205,000, rounded.

The appraiser placed the most emphasis on the sales and income approaches to value and estimated the subject property had a market value of \$225,000 as of February 23, 2011.

The appellant submitted a second income approach to value the subject using the subject's actual income and expenses. The subject had a potential gross income of \$31,800, minus expenses totaling \$21,870, for a net income of \$9,930. Using a capitalization rate of 7.5%, the subject's concluded value under the income approach was \$132,400 under this analysis.

The appellant argued that the board of review's comparable #6, which is the same property as the appraiser's comparable #1, has

an illegal 4<sup>th</sup> apartment unit that has not been acknowledged by either party.

Based on this evidence, the appellant requested the subject's assessment be reduced to \$74,993 to reflect the appraised value.

At the hearing, the board of review objected to consideration of the appraisal since the appraiser was not present to provide testimony and/or be cross-examined with regard to the report. The objection was taken under advisement by the Board's Administrative Law Judge.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$87,273 was disclosed. The subject's assessment reflects an estimated market value of \$262,633 or \$79.30 per square foot of living area including land using Kane County's 2011 three-year average median level of assessments of 33.23%.

In support of the subject's assessment the board of review submitted information provided by the Dundee Township Assessor's Office containing a grid analysis of two comparable sales located in the Dundee Highlands subdivision, like the subject. The board of review's comparable #1 is the same property as the appraiser's comparable #6. The comparables consist of a two-story and a three-story multi-tenant dwelling containing 3,312 and 5,796 square feet of living area. The dwellings were built in 1970. The comparables have 3 and 6 apartment units. The comparables sold in May 2008 and January 2011 for \$365,000 and \$276,000 or \$62.97 and \$83.33 per square foot of living area including land, respectively.

The assessor also provided information on three equity comparables. Due to the fact the appellant's argument is based on overvaluation the Board will not otherwise discuss the equity comparables.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

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. The Board further finds the evidence in the record supports the subject's assessment.

As an initial matter, the Property Tax Appeal Board hereby sustains the objection of the board of review as to hearsay. The Board finds that in the absence of the appraiser at hearing to address questions as to the selection of the comparables and/or the adjustments made to the comparables in order to arrive at the value conclusion set forth in the appraisal, the Board will consider only the appraisal's raw sales data in its analysis and give no weight to the final value conclusion made by the appraiser. The Board finds the appraisal report is tantamount to

hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2<sup>nd</sup> Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1<sup>st</sup> Dist. 1971). In the absence of an appraiser being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusion of \$225,000 as of February 2011 has been significantly diminished.

For this appeal, 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); 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 sales in this record support the subject's assessment.

As to the second income approach to value submitted by the appellant using the subject's actual income and expenses, 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 and expenses 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:

it 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, which 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.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses were 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 expenses to arrive at a net operating 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 follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument no weight.

The courts have 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 (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 (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. Since there is credible market sales contained in the record, the Board will place most weight on this evidence.

The parties submitted a total of eight sales and three listings for the Board's consideration. The Board gave less weight to the appraiser's comparables #1, #2, #3, #4 and #5 due to their significantly older ages when compared to the subject. Additionally, comparables #1, #2 and #3 are considerably smaller when compared to the subject and comparables #2 and #3 had sale dates occurring greater than 29 months prior to the subject's January 1, 2011 assessment date. The Board gave less weight to the appraiser's comparables #8, #9 and #10 due to their significantly larger sizes when compared to the subject. The Board also gave less weight to the board of review's comparable #2 due to its sale date occurring greater than 29 months prior to the subject's January 1, 2011 assessment date. The Board finds the remaining two sales were most similar to the subject in location, style, construction, size and features. These properties also sold most proximate in time to the January 1, 2011 assessment date at issue. Due to the similarities to the subject, these comparables received the most weight in the Board's analysis. The comparables had sale dates occurring in August 2010 and January 2011 for prices of \$220,000 and \$276,000 or 58.29 and \$83.33 per square foot of living area, including land. The subject's assessment reflects a market value of \$262,633 or \$79.30 per square foot of living area, including land, which is within the range of the best comparables both in terms of overall value and on a square foot basis. Therefore, the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and no reduction in the subject's assessment is 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: November 22, 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.