



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

APPELLANT: Giovanni Zivoli  
DOCKET NO.: 12-21343.001-C-1 through 12-21343.005-C-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Giovanni Zivoli, the appellant, by attorney Rostislav Pukshansky, of Allen A. Lefkovitz & Assoc. 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
12-21343.001-C-1	08-10-100-010-0000	7,500	8,007	\$15,507
12-21343.002-C-1	08-10-100-011-0000	6,406	8,007	\$14,413
12-21343.003-C-1	08-10-100-012-0000	6,562	8,250	\$14,812
12-21343.004-C-1	08-10-100-013-0000	7,578	8,881	\$16,459
12-21343.005-C-1	08-10-100-014-0000	15,312	17,242	\$32,554

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 2012 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 32-year old, one-story plus partial basement, masonry-constructed, six-unit, multi-tenant commercial strip center property. The subject's improvement size is 5,900 square feet of building area. The subject is located in Arlington Heights, Elk Grove Township, Cook

County, and is classified as a 5-17 property under the Cook County Classification of Real Property Ordinance. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value and that the subject is entitled to vacancy relief as the bases of this appeal.

In support of the market value argument, the appellant submitted a summary appraisal report for the subject property based on its "as-is condition" as of January 1, 2010. The appraiser estimated a fair market value for the subject of \$375,000 based on the income and sales comparison approaches to value while noting that the subject had four tenants and two vacant units for part of the year. The appraiser also conducted an inspection of the subject.

Under the income approach, the appraiser analyzed the rental rates of five properties suggested as comparable. They ranged in size from 800 to 2,790 square feet of building area and in rental rates from \$12.86 to \$18.92 per square foot on a modified gross basis. Four of the five rental comparables were offerings. The subject was then valued at a rate of \$15.00 per square foot on a gross basis, which is below the subject's contract rental of \$17.73 per square foot. After deducting for vacancy and collection loss at 12.50% and expenses at 31%, net operating income was established at \$50,300. A 13.8% capitalization rate was applied to indicate a market value for the subject, under the income approach, of \$365,000.

Under the sales comparison approach, the appraiser analyzed five properties suggested as comparable. They ranged: in size from 4,288 to 14,000 square feet of building area; in sale date from January 2007 to January 2010; and in sale price from \$52.08 to \$137.50 per square foot of building area, including land. After making adjustments to the suggested properties, the appraiser indicated a value for the subject under the sales comparison approach of \$75.00 per square foot, including land, or \$445,000.

The appellant also submitted: a 2012 vacancy chart with rents collected for January through June; and 2009-2011 Schedule Es for the subject property. The appellant argued that the market value should be reduced based on the appraised value plus a 52.54% occupancy level should be applied for the 2012 tax year. 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 \$93,743 was disclosed. This assessment reflects a 50.0% occupancy factor, when the appellant stated the subject experienced a 52.54% occupancy level. At full value, the assessment is \$144,145 which yields a market value of \$576,580, when applying a 25% level of assessment. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for six retail properties. 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 contain between 3,940 and 11,424 square feet of building area, and sold between June 2007 and December 2012 for \$590,000 to \$4,765,000, or \$74.02 to \$417.10 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 appraiser summarized the appraisal, while indicating he put greater reliance on the income approach as the subject property was not owner-occupied. He noted that sale comparable #2 was a single-tenant, owner-occupied property. In response to questioning by the board of review, it was noted that the vacancy was due to normal business operations, with the units being habitable.

The appellant's attorney tendered the subject's 2014 property record card, marked as "Appellant's Hearing Exhibit "A"", indicating the subject received a 51% occupancy factor for the 2014 tax year.

The board of review rested on their written submission.

#### **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 met this burden of proof and a reduction in the subject's assessment is not warranted.

The Board notes that a 50.0% occupancy factor has been applied to the subject's assessment although the subject's actual occupancy was 52.54%. After applying the occupancy factor of 50.0% to the subject's assessment, the Board finds that the subject's market value based on its current assessment is \$374,972. The appraiser indicated the subject's market value, in "as-is condition" was \$375,000 as of January 1, 2010. The appraiser also noted that the subject was 37% vacant during 2010, indicating that the subject's vacancy condition was taken into account in determining the subject's fair market value.

The appellant's counsel also formulated an overvaluation argument using the subject's actual 2012 vacancy level. 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. In fact, the appraiser considered the subject's vacancy level in determining his market value conclusion for the subject.

Accordingly, based on the evidence contained in the record, 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.

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Chairman

*K. L. Ferr*

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Member

*LR*

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Member

*Mark Morris*

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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: August 21, 2015

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*Shroter*

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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.