

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Paul/Marek Di Franco/Kolbiarz  
DOCKET NO.: 02-25157.001-C-1  
PARCEL NO.: 09-27-206-009-0000

The parties of record before the Property Tax Appeal Board (PTAB) are Paul/Marek Di Franco/Kolbiarz, the appellants, by attorney Melissa K. Whitley of Marino & Associates, PC of Chicago the Cook County Board of Review (board).

The subject property consists of a class 5-17 commercial building.

The appellants in this appeal submitted documentation to demonstrate that the subject property was improperly assessed. This evidence was timely filed by the appellants pursuant to the Official Rules of the PTAB. In support of the request for relief due to the subject's diminished income, the appellants prepared and submitted occupancy affidavits, photographs, a permit to wreck dated January 2002, a wrecking bill dated December 2002, and a permit to build dated February 2003, for the subject property. The appellants' affidavit claimed the property was without income and vacant the entire 2002 tax year. Based on this evidence the appellants requested a reduction in the subject's assessment amounting to a 10% occupancy factor.

The board of review submitted "Board of Review-Notes on Appeal" that disclosed the subject's total assessment of \$134,202 which yields a market value of \$353,163 based on 38% of market value. The Assessor applied a 33% occupancy factor to the subject's improvements for tax year 2002. The board offered no other evidence.

At the hearing it was noted that the subject was purchased in 2002 but no sales data was presented by either party. Nor were there any descriptive printouts submitted or a description of the class 5-17 improvement that was supposed to be vacant.

After reviewing the record and considering the evidence, the PTAB finds that it has jurisdiction over the parties and the subject matter of this appeal.

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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: \$ 77,451  
IMPR. \$ 56,751  
TOTAL: \$134,202

Subject only to the State multiplier as applicable.

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When overvaluation is claimed the appellant has the burden of proving the value of the property 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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). 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. Section 1910.65 *The Official Rules of the Property Tax Appeal Board* (86 Ill.Adm.Code §1910.65(c)).

The PTAB finds the appellants' argument that the subject's assessment is excessive when applying an occupancy factor 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, 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. Springfield Marine Bank v. Property Tax Appeal Board 44 Ill.2d 428 at 431

Actual expenses and income and occupancy can be useful when shown that they are reflective of the market. The appellants did not demonstrate that the subject's lost income was reflective of the market. To demonstrate or estimate the subject's market value using an income approach, 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 appellants failed to follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument no weight.

The Property Tax Appeal Board finds the appellants have failed to demonstrate by a preponderance of the evidence that the subject property is overvalued. Therefore, the Property Tax Appeal Board finds that 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.



Chairman



Member



Member



Member



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 29, 2008



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.