FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Shannon Court Ltd. Partnership
DOCKET NO.: 02-30354.001-C-2
PARCEL NO.: 06-26-365-005-0000

The parties of record before the Property Tax Appeal Board are Shannon Court Ltd. Partnership, the appellant(s), by attorney Christopher D. Oakes, Esq., of Cox, Oakes & Associates, Ltd. in Schaumburg; the Cook County Board of Review by Cook County Assistant State's Attorney Joel Buikema; and Elgin School District U-46, the intervenor, by attorney Scott Metcalf of Franczek Radelet P.C. in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***a reduction*** 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:	$12,078
IMPR.:	$218,260
TOTAL:	$230,338

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 12,200 square foot parcel of land containing a 32-year old, masonry, five-story, apartment building. The improvement contains 49 units and 43,652 square feet of net rentable area. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the land and the improvement as the basis for this appeal.

In support of the equity argument, the appellant submitted a brief from the appellant's attorney and an analysis titled "2002 Study of Comparable Assessed Value of Apartment Communities Hanover Township, Cook County, Illinois". The appellant also submitted a brief in support of the valuation appeal and a copy of a previous PTAB decision for the subject.

At hearing, preliminary matters were addressed. The appellant objected to the intervention of School District U-26 in the 2002 appeal as the Resolution Authorizing Intervention was defective. The intervenor's attorney acknowledged the defect in the resolution which authorized intervention for 2006 and 2007 assessment appeals.

The Property Tax Appeal Board Rules state:

> Intervenors: 1) Any taxing body that has a revenue interest in an appeal before the Property Tax Appeal Board may become an intervening party by filing in triplicate with the Clerk of the Property Tax Appeal Board a Request to Intervene. 2) The Request to Intervene must be accompanied by a copy of the resolution of the governing board of the taxing body authorizing its legal representative to file a Request to Intervene on its behalf. 86 Ill. Adm. Code 1910.60.

The PTAB finds the intervenor did not give proper authorization to its legal representative to file a Request to Intervene on its behalf for the 2002 assessment year. Therefore, the PTAB finds that Elgin School District U-46's intervention is stricken and it is not a party to this appeal.

The appellant then called its witness, Kevin Morse. Mr. Morse testified he is the president of MGM Property Management and held a real estate broker's license in Illinois from 1989 to 2010. In addition, Mr. Morse testified he has a certification as an apartment supervisor through the National Association of Apartment Associations.

Morse testified he was employed by Equity Property Management as a regional manager and then as the vice president from 2002 through January 2007. He testified his duties included the supervision of the management of the properties being managed by Equity Property Management. He stated that the subject property was included as one of those properties.

Morse testified that he is very knowledgeable about the subject property. He stated he oversaw the staff that managed the property and the day-to-day operations of the property; he was intimately involved in accounting matters, and involved in tax appeals. Morse asserted he visited the property at least monthly over the six year period he managed the property.

Morse testified he was involved with setting the rents for the subject property by performing an "in-house market study of the area" which consisted of calling other property managers for properties that were similar to the subject and in close proximity to ascertain their rents. Morse stated that he physically visited some of the properties and toured their units.

Morse testified that he prepared the document entitled "2002 Study of Comparable Assessed Value For Apartment Communities Hanover Township, Cook County, Illinois" which was marked as Appellant's Exhibit #1. Morse testified he gathered the data in the exhibit in the fall of 2003. The exhibit contains seven sections.

As to the introduction section of the exhibit, Morse testified this section explains the methodology of the study. He asserted one of the criteria used to find similar properties was that they be located within a two mile radius of the subject. He opined that the closer the property, the more similar in location. He testified he did not look to properties located in a different county because they were not similar due to the differing tax structures of each county.

The second criterion used was that the properties have similar gross rents to the subject. He opined that properties with similar rents are similar. Morse testified the subject property and the comparables have a range of annual gross rent from $11.58 to $11.88 per square foot of rentable area, a deviation of less than 3%.

The third criterion was that heat be included in the rent, because it was an amenity included in the subject's rent and the fourth was that the properties all be located in Hanover Township.

Section two of appellant's exhibit contains a colored photograph, assessment data, and description of the subject property. Morse testified the subject is a masonry, 49 unit, five-story, apartment building. He asserted that the amenities include a laundry room and that the apartment building shares a parking lot and clubhouse facilities with an adjacent condominium building. Morse testified he gathered the assessment data from the assessor's office.

Section three contains information on the suggested comparables. Morse testified that comparable #1 is located in the same township and within two miles as the subject. He asserted that both this comparable and the subject are located on the Lake Street corridor, just west of the Elgin/O'Hare expressway. Morse then described the Lake Street corridor.

Morse testified he has been to comparable #1. He stated he took the photograph of this comparable prior to October 2003. He described the characteristics of this comparable. Morse asserted that the assessment information listed for this comparable was gathered through the assessor's office.

As to comparables #2, #3 and #4, Morse indicated these properties are also located within two miles of the subject along the Lake Street corridor. He stated he took the photographs of these comparables prior to fall 2003. Again Morse testified that he gathered the assessment data from the assessor's office. He

described the characteristics of comparable #3. Morse also described the characteristics of comparable #4 and indicated he has toured this property multiple times.

Section four contains a map of the suggested comparables' locations in relation to the subject property.

Morse testified that section five of the exhibit is the rental survey for the subject and the suggested comparables. He indicated this survey grid breaks out the number of units and their styles, the rent on a per square foot basis, and amenities. Morse testified he gathered the information on the comparables by speaking with the owner or property manager of each property.

Morse stated that for the smaller properties he gathered the information via telephone and on the larger properties it was through the leasing office of the property. Morse asserted that he did not have his written notes which contain the names of the individuals he spoke to; he testified these documents were filed with his previous employer, the management company of the subject property. Morse testified that, when he called the property telephone number, he was told the individual he was speaking with was the owner and opined that he had no reason to believe that they were being inaccurate.

Morse testified that he asked the individuals information regarding rent, but that he may have also asked them redundant questions because he already had the information. Morse described how he contacted the individuals from each property to gather information. Morse opined that based on the rental information gathered, the properties were similar to the subject because there is less than a 3% deviation of rent per square foot between the subject and the comparables.

In section six of the appellant's exhibit, Morse testified this section contains information on the assessed values for the subject and the four suggested comparables. Morse stated this section lists the square footage of the land and improvements for the subject and the suggested comparables as well as their assessed values.

Morse testified he was familiar with the land size and the rentable square footage of the subject from the ordinary course of business and a plat of survey. He asserted he gathered the land square footage for the comparables from the assessor's office. He testified that the subject's land assessment for 2002 was $1.23 per square foot and that the suggested comparables had land assessments of $.99 per square foot.

Morse testified he utilized the information in section five to arrive at the figures in section six for the suggested comparables. He reiterated he gathered the assessment data from the assessor's office. Morse could not recall if the information was obtained from the website or from physically going to the assessor's office to obtain the information.

As to the improvements, Morse testified that he calculated the gross rent from the data he gathered in section five. Morse asserted that for the 2002 assessment year the subject property was assessed at $9.59 per square foot of rental area while the comparables' improvement assessments averaged $5.39 per rentable square foot.

Section seven of appellant's exhibit lists the 2002 assessment for the subject property and the land and improvement assessments that the appellant is requesting. Morse testified that the gross rent % deviation is calculated in the requested assessment figures because there is a 3% deviation of the rent per square foot between the subject and the suggested comparables.

Morse testified to the additional documents at the back of the exhibit. He stated he did not prepare these documents, but obtained them from the assessor's office. They consist of printouts of assessment amount for the subject and the suggested comparables from years 2002 through 2006.

Under cross examination, Morse acknowledged he was not an appraiser; he stated he has taken some classes on appraisal theory. He estimated he visited the property monthly, but could not recall the exact amount of times.

Morse could not recall the names of any other properties that he looked at other than the four properties used as suggested comparables. He described his process in determining which properties were similar to the subject. He acknowledged that the suggested comparables are not five stories as the subject is.

Morse testified the subject is located in Streamwood and the suggested comparables are located in Hanover Park. He stated the suggested comparables were all located in close proximity to each other, in the Lake Street corridor. He acknowledged that other apartments exist in Streamwood, but opined that the four suggested comparables were the most similar to the subject. Morse agreed that the suggested comparables do not have elevators and that the subject does, but opined that this difference did not substantially change the rental rates. He asserted that, although there were differences in the properties, such as elevators and number of stories, the rental rates are a strong indication that the properties are similar enough.

Morse testified that the pool in which tenants to Shannon Court have access is not owned by Shannon Court and an additional fee is paid for use of the pool.

Morse again testified that he does not recall the names of the individuals he spoke with on the telephone and that the notes he took at the time are located with his former employer who manages the subject property. Again, Morse testified that he was given no indication that the people he spoke to on the telephone were not the person they purported to be, that of the owner.

As to section five of the exhibit, Morse testified the amenities column was to emphasize that heat was included in the rent. He acknowledged that a pool was an amenity and that an elevator may be an amenity.

Morse testified he was not sure of the date when he visited the suggested comparables and did not know if he visited them in 2002 with the exception of suggested comparable #4 which he visited in the fall of 2003.

Morse testified he gathered the rental information for the 2002 appeal in the fall of 2003. He opined that rental rates would not substantially change from year to year and the properties' rents were within the 3% deviation.

In response to questions, Morse acknowledged that it was an industry practice to offer specials or enticements for residents. He also acknowledged that the appellant's exhibit does not contain any information on this subject. He opined that the level of vacancy was not important to this study, but may be important to an income capitalization approach.

In redirect, Morse testified that the conversations he had with the property owners would have been approximately seven years ago. He testified the information he was given is what is typically given out by owners and managers to prospective tenants.

In regards to the pool, Morse reiterated that Shannon Court did not own the pool. He testified that if a tenant wanted to use the pool they would have to pay the association that owned and operated the pool for its use. He further testified that Shannon Court did not receive any revenue from the use of the pool.

He opined that a high vacancy rate could be reflective of poor management and an assessment reduction for poor management should not occur. He opined that the rental rate would include the elevator for the subject.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's improvement assessment was $418,599 or $9.59 per square foot of rentable area and land assessment was $16,104 or $1.32 per square foot. The board also submitted raw sales information for a total of six properties suggested as comparable to the subject. The comparables sold from September 1998 to December 2008 for prices ranging from $1,800,000 to $4,625,000 or from $28,125 to $112,805 per unit. At hearing, the board of review rested on the evidence.

In rebuttal, the appellant's attorney submitted a brief asserting that the board of review's evidence does not address the appellant's appeal based on uniformity of the assessments. The appellant asserts that several sales occurred significantly after the lien date and have no relevance in time to 2002. In addition,

the appellant presented the assessed values for the board of review's remaining sales properties, with the exception of one property located in DuPage County, to establish that these properties are under assessed based on their sale prices.

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

Appellants 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, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. *Property Tax Appeal Board Rule* 1910.65(b). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the PTAB concludes that the appellant has met this burden and that a reduction is warranted.

The appellant presented assessment data on a total of four equity comparables. The PTAB finds these comparables similar to the subject. The testimony shows the comparables are located within two miles of the subject property, have similar rental units and all have heat included in the rent. The PTAB finds that this evidence along with the narrow rental price per square foot of rental area establish the comparability of the properties to the subject.

As to the land, the comparables range in size from 33,472 to 388,029 square feet and have land assessments of $.99 per square foot. In comparison, the subject property's land assessment of $1.32 per square foot falls above the assessments of the comparables. As to the improvements, the comparables range in size from 19,800 to 190,080 square feet of rental area and in improvement assessments from $4.04 to $6.17 per square foot of rental area. In comparison, the subject's improvement assessment of $9.59 per square foot of rental area falls above the range established by these comparables.

The PTAB accorded little weight to the board of review's evidence because of a failure to submit evidence that addressed the appellant's equity appeal. The board's evidence of unadjusted sales information did not include any assessment information. The assessment information provided by the appellant in rebuttal shows that the properties submitted by the board of review were assessed at a value substantially less than the sale price. In addition, the board of review submitted a property located within

DuPage County which does not assess property at the same level as Cook County.

As a result of this analysis, the PTAB further finds that the appellant has adequately demonstrated that the subject's improvement was inequitably assessed by clear and convincing evidence and that a reduction 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: December 3, 2010

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.