

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Santo Paffumi
DOCKET NO.: 03-28135.001-R-1
PARCEL NO.: 12-11-310-036-0000

The parties of record before the Property Tax Appeal Board are Santo Paffumi, the appellant, by attorney Michael E. Crane of Crane & Norcross, Chicago; and the Cook County Board of Review.

The subject property is improved with a 26-year-old; three-story masonry constructed apartment building that contains 6,864 square feet of living area. The property is located in Jefferson Township, Cook County.

The appellant's counsel presented evidence before the Property Tax Appeal Board contending the assessment of the subject property was excessive. In support of this argument appellant's counsel submitted an income approach to value that he prepared using the appellant's 2002 Federal Tax Return Form 1040 Schedule E. Based on the appellant's the foregoing counsel estimated the subject property had a gross income of \$47,000, for the year 2000. Counsel then estimated the subject's expenses to be \$29,940, resulting in a net income of \$22,060. Counsel then capitalized the net income using an estimated capitalization rate

(Continued on Next Page)

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: \$ 2,495
IMPR.: \$ 61,026
TOTAL: \$ 63,521

Subject only to the State multiplier as applicable.

Chairman

Member

Member

Member

Member

DISSENTING:
\_\_\_\_\_
\_\_\_\_\_

CLERK: \_\_\_\_\_
DATE: \_\_\_\_\_

Final administrative decisions of the Property Tax Appeal Board are 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.

of 13.37% to arrive at an estimated market value of \$164,996. Appellant's counsel then indicated in his written submission that if you apply the 16.00% Cook County Real Property Assessment Ordinance level of assessment to the market value finding the 2003 real estate assessment should be reduced from \$63,521 to \$26,399.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$63,521 was disclosed. In addition the board submitted a description and assessment data for the subject.

After reviewing the record 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 contained in the record does not support a reduction in the subject's assessment.

The appellant's counsel argued the subject's assessment was excessive based on its income. In support of this proposition counsel prepared an income approach to value based on the subject's using the appellant's 2002 Federal Tax Return Form 1040 Schedule E. The Property Tax Appeal Board gives this argument and evidence no weight.

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). The appellant did not meet this burden. Additionally, 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. 86 Ill.AdM.Code §1910.65(c). The appellant submitted no such evidence to establish the market value of the subject property.

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:

[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 at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate through 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 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 provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

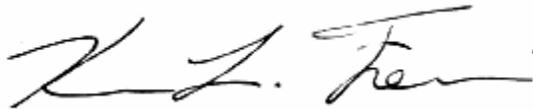
The Board further finds problematical the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion of value for that client's property. . *Official Rules of the Property Tax Appeal Board 1910.70(f)*

In conclusion the Board finds a reduction in the subject's assessment is not justified based on this record.

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: October 10, 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.