

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Patrick Szurpicki
DOCKET NO.: 03-28615.001-R-1
PARCEL NO.: 17-29-322-023-0000

The parties of record before the Property Tax Appeal Board are Patrick Szurpicki, the appellant, by attorney Lisa A. Marino of Marino & Associates in Chicago, and the Cook County Board of Review.

The subject property consists of a 110-year-old, three-story, multi-family dwelling of masonry construction containing 5,832 square feet of living area with three full bathrooms, three half-baths and a partial-unfinished basement. The subject is located in South Chicago Township, Cook County.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board claiming unequal treatment in the assessment process of the improvement as the basis of the appeal. In support of this claim, the appellant submitted assessment data and descriptive information on three properties suggested as comparable to the subject. The appellant also submitted a five-page brief, photographs of the subject and the suggested comparables and a copy of the board of review's decision. Based on the appellant's documents, the three suggested comparables consist of two-story or three-story, multi-family dwellings of masonry or frame and masonry construction located within the subject's neighborhood. The improvements range in size from 4,540 to 6,302 square feet of living area and range in age from 117 to 123 years. The comparables contain from three to six full bathrooms. The improvement assessments range from \$3.00 to \$4.46 per square foot of living area. Based on the equity comparables submitted, the appellant requested a reduction in the subject's improvement assessment.

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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: \$ 2,215
IMPR.: \$ 26,010
TOTAL: \$ 28,225

Subject only to the State multiplier as applicable.

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The appellant also argued overvaluation in that the income generated by the subject does not warrant its high level of taxation, and therefore its excessive assessment. In support of the request for relief due to the subject's diminished income, the appellant's attorney prepared and submitted an "income approach", using the subject's actual income and expenses. The evidence disclosed the subject property's stabilized net operating income for tax years 2001, 2002 and 2003 to be \$5,841. Applying a capitalization rate of 12.88% produced a market value for the subject of \$45,349. A factor of 16%, which represents the Cook County Real Property Classification level of assessment for Class 2 property, was applied to determine a requested total assessment for the subject of \$7,256. Also, the board of review's decision disclosing the subject's final assessment of \$32,999 for 2003 was presented.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of \$32,999. The subject's improvement assessment is \$30,784 or \$5.28 per square foot of living area. In support of the assessment the board submitted a property characteristic printout and descriptive data on one property suggested as comparable to the subject. The suggested comparable is improved with a two-story, 3,420 square foot, 110-year-old, multi-family dwelling of masonry construction with the same neighborhood code as the subject. The comparable contains three full bathrooms and a full-finished basement apartment. The improvement assessment is \$5.70 per square foot of living area. The board of review's evidence disclosed that the subject sold in March 2001 for a price of \$330,000. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

After reviewing the record 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 appellant's argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers 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 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has overcome this burden.

Regarding the inequity argument, the Board finds the appellant's comparables to be the most similar properties to the subject in the record. These three properties are somewhat similar to the subject in improvement size, amenities, age and location and have improvement assessments ranging from \$3.00 to \$4.46 per square foot of living area. The subject's per square foot improvement

assessment of \$5.28 falls above the range established by these properties. The Board finds the board of review's one comparable to differ significantly from the subject in improvement size. After considering adjustments and the differences in both parties' suggested comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is not supported by similar properties contained in the record.

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 (3rd Dist, 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arms-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)) Having considered the evidence, the Board finds the appellant has not satisfied this burden and a reduction is not warranted.

Regarding the appellant's overvaluation contention, 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" clearly 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 430-431.

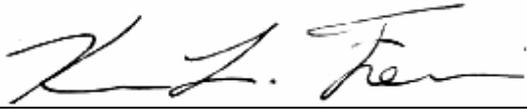
Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses were reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, 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 failed to follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument no weight. As a result of this analysis, the Property Tax Appeal Board finds the appellant has adequately demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence and 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 7, 2007



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.