PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Jadwiga Berlinska
DOCKET NO.: 04-22723.001-R-1
PARCEL NO.: 02-12-200-058-0000

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

The subject property consists of a 28-year-old, three-story multi-family dwelling of masonry construction containing 6,435 square feet of living area with six full bathrooms. The subject is built on slab and located in Palatine Township, Cook County.

The appellant, through counsel, raised two arguments: first, that there was unequal treatment in the assessment process of the improvement; and second, that the fair market value of the subject is not accurately reflected in its assessed value as the bases for this appeal. In support of the equity argument, the appellant submitted assessment data and descriptive information on three properties suggested as comparable to the subject. 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. One of the comparables has the same neighborhood code as the subject. The improvements range in size from 6,372 to 6,840 square feet of living area and range in age from 11 to 25 years. The comparables contain six full bathrooms while one comparable has six additional half-baths. Two comparables have air-conditioning as well as a four-car garage. The improvement assessments range from $6.93 to $7.87 per square foot of living area.

As to the market value argument, the appellant's attorney prepared and submitted an "income approach", using the subject's actual income and expenses. In addition, the appellant provided a one-page letter from Prime Appraisal, LLC dated June 17, 2005 suggesting that the subject's rental rates and expenses are within the current market range for properties of the same type,

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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:	$ 2,220
IMPR.:	$ 55,465
TOTAL:	$ 57,685

Subject only to the State multiplier as applicable.

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age and location as the subject. Based on the evidence submitted, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of $57,685. The subject's improvement assessment is $55,465 or $8.62 per square foot of living area. In support of the assessment the board submitted property characteristic printouts and descriptive data on four properties suggested as comparable to the subject. The suggested comparables are improved with three-story, 28-year-old, multi-family dwellings of masonry construction located on the same street and block as the subject. The improvements range in size from 6,372 to 6,507 square feet of living area. The comparables contain six full bathrooms. The improvement assessments range from $8.58 to $8.67 per square foot of living area. 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 not overcome this burden.

Pursuant to Pace Realty Group, Inc., v. The Property Tax Appeals Board, 306 Ill. App. 3d 718, 728, 713 N.E.2d 1249, 239 Ill. Dec. 399 (1999), the Appellate Court found that in determining what properties are truly comparable, there is error as a matter of law when the selection of a comparable includes a property which has also received the same contested assessment. Further, the Court stated that conducting a uniformity analysis in such a manner will lead to absurd results and will render the assessment appeal process meaningless. Therefore, the Board shall accord no weight to suggested comparables which are: sited within the subject’s complex, also under appeal, and reflect a similarly contested assessment. Thereby, comparable one submitted by the board of review will be accorded no weight in this case’s analysis.

Regarding the inequity claim, the Board finds the appellant's comparable one and the board of review's comparables two, three and four to be the most similar properties to the subject in the record. These four properties are similar to the subject in improvement size, location, amenities and age and have improvement assessments ranging from $7.87 to $8.67 per square foot of living area. The subject's per square foot improvement assessment of $8.62 falls within the range established by these

properties. The Board finds the appellant's remaining comparables less similar to the subject in improvement size, design and/or location. 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 supported by the most similar properties contained in the record.

As to the market value argument, the appellant's attorney prepared and submitted an "income approach", using the subject's actual income and expenses. In addition, the appellant provided a one-page letter from Prime Appraisal, LLC dated June 17, 2005 suggesting that the subject's rental rates and expenses are within the current market range for properties of the same type, age and location as the subject.

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 (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.

The Board further 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" 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 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 failed to adequately demonstrate that the subject's improvement was inequitably assessed or overvalued and a reduction in the subject's assessment is not 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: April 24, 2009

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.