

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: 2100 South Indiana Building Partnership
DOCKET NO.: 03-28271.001-C-3 thru 03-28271.005-C-3
04-26081.001-C-2 thru 04-26081.005-C-2
PARCEL NO.: See Page 5

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are 2100 South Indiana Building Partnership, the appellant, by Attorney Kevin Burke of Smith Hemmesch Burke Brannigan & Guerin in Chicago; and the Cook County Board of Review by Assistant State's Attorney Joel Buikema with the Cook County State's Attorneys Office in Chicago.

The subject property contains five land parcels improved with a solitary 85-year old, four-story, office building with multiple tenants numbering approximately 30 per year. The improvement consists of 67,500 square feet of gross building area with 59,874 square feet of net rentable area and is sited in the South Loop area of Chicago.

The PTAB finds that these appeals involve common issues of law and fact and a consolidation of the appeals would not prejudice the rights of the parties. Therefore, pursuant to Section 1910.78 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78), the PTAB consolidated the above appeals.

The appellant, via counsel, argued that the fair market value of the subject is not accurately reflected in its assessed value. The appellant submitted information including assessor and Comps service printouts on three comparable properties, all located in Chicago, as is the subject property. The properties contain land parcels that range in size from 10,100 to 93,700 square feet. They are improved with a three-story to six-story, commercial building accorded an average condition and class 'B' office building status by the assessor. These properties range: in age from 46 to 112 years; in vacancy from 30% to 100%; and in net rentable area from 70,000 to 200,000 square feet. The properties sold from December, 2000 to July, 2004, for prices that ranged from \$20.55 to \$21.43 per square foot of building area,

(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 valuations of the property are:

LAND: See Page 5
IMPR.: See Page 5
TOTAL: See Page 5

Subject only to the State multiplier as applicable.

PTAB/KPP

unadjusted. The subject's current improvement assessment reflects a value of \$31.50 per square foot of net rentable area.

The Comps service sheets for the properties indicate that property #1 had considerable deferred maintenance wherein the buyer was undertaking a complete rehabilitation of the property; and that the buyer of property #3 indicated that \$1,000,000 in renovation would be undertaken and that the basement area would be further renovated to accommodate 28 parking spaces.

The appellant's pleadings also included a brief reflecting an actual income and expense analysis developed by the appellant's attorney. This analysis reflected gross revenue at \$792,952 less operating expenses and reserves to indicate a net operating income of \$380,714. Capitalizing the net income by 16.5% estimated a fair market value of \$2,307,357. Further, copies of the subject's Internal Revenue Service filings for tax year 2000 through 2002 were also submitted. Lastly, a vacancy affidavit was submitted wherein the affiant, Allen Levinson, asserted that the subject suffered from a 44% vacancy for tax year 2003 as well as a 45.42% vacancy for tax year 2004. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment that would also reflect application of a 56% occupancy factor for tax year 2003 and of a 55% occupancy factor for tax year 2004.

At hearing, appellant's attorney noted that the Cook County Assessor's Office had accorded a reduction to the subject for both tax years at issue based upon vacancy relief. Regardless of the fact that the board of review had neglected to submit a copy of the subject's property characteristic printouts, appellant's attorney had in his possession a copy of the assessor's decision relating to this subject's 2003 appeal wherein the document accords the subject a reduction based upon "the partial occupancy of your property for one year only". This document along with a second page reflecting the subject's assessment breakdown for the five parcels was submitted into evidence as Hearing Exhibit #1 over the objection of the board's attorney. Further, appellant's attorney stated that he had personally viewed the subject property and would accord it a below average condition as a class 'C' office building.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment was disclosed. The board of review presented descriptions and assessment information on a total of five comparable properties located in Chicago. The properties consist of land area that range from 4,545 to 13,200 square feet. They are improved with a masonry or concrete commercial building accorded either a fair or average condition as well as either a class 'C' or 'B' office building status by the assessor. The comparables range: in stories from 4 to 16; in age from 81 to 109 years; and in net rentable area from 45,000 to 69,134 square feet. The data indicated that properties #1 and #5 were vacant, while properties #2 and #4 were owner-occupied buildings. The properties sold from February,

2002 to October, 2004 for prices that ranged from \$2,509,500 to \$6,800,000 or from \$41.95 to \$136.37 per square foot of building area, unadjusted.

The Comps service sheets also indicated: that property #1 had been vacant and gutted for conversion into a time-share hotel; that the purchase price for property #2 included \$1,105,000 from a previous partial interest transfer and that the buyer was the owner/user; that property #3 was part of a 1031 exchange and that the seller had undertaken \$1,000,000 in upgrades prior to the sale; that property #4 had not been advertised for sale on the open market and that the property's appraisal reflected a \$6,100,000 market value, while the financing for this sale reflected \$7,000,000. Moreover, appellant's attorney argued that property #4 being sited at Michigan Avenue and Monroe Street lacked any proximity to the subject's location at 2100 South Indiana. Further, he asserted this lack of proximity to the subject applies to the board's property #5 which was sited near the Dan Ryan and Eisenhower Expressways.

At the hearing, the board's attorney argued that the appellant's income and expense analysis should be accorded little weight due to the absence of authenticated and/or verified income and expense data. As to the vacancy issue, the board's attorney argued that there is no explanation as to what steps if any the taxpayer has undertaken to remedy the vacancies within the subject's building.

As to the appellant's suggested comparables, the board's attorney argued that appellant's property #1 was accorded financing of \$32,500,000 which implied a complete overhaul of the building considering the purchase price was \$4,110,000. As to appellant's property #2, he asserted that this property was not located within a close proximity to the subject, while property #3 was purchased in 2000 with an additional \$1,000,000 in renovations because the property had been vacant. In contrast, he asserted that the subject property is not vacant.

Furthermore, the board's attorney argued that there was no evidence that the subject property suffered from any of the problems reflected in the properties' printouts. Therefore, there was a lack of comparability. Lastly, the board's attorney indicated that he had no personal knowledge either as to the disparity in fair versus average condition or in the different categories of office buildings. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant's attorney argued that the board's evidence relied upon Comps service printouts which on their face indicate that the information therein is obtained from sources deemed reliable, but not guaranteed; and therefore, he asserted the evidence should be considered questionable if not stricken by the PTAB. In addition, he argued that there has been no testimony that any of the board's sales data was verified.

In closing, the board's attorney noted that both parties' evidence consisted of Comps service printouts submitted without further testimony and/or verification.

After hearing the testimony 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 PTAB further finds a reduction in the subject's assessment is warranted.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. 86 Ill.Admin.Code 1910.63(e). 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.Admin.Code 1910.65(c). Having considered the evidence presented, the PTAB finds that the appellant did not meet its burden and no change is warranted.

In totality, the parties submitted eight sale comparables for consideration by the PTAB. Diminished weight was accorded to all of the properties for a plethora of reasons including: lack of proximity to the subject property; variances in building category, age, condition and/or occupancy level; variances in highest and best use; variances in conditions of sale; as well as the lack of testimony and/or verification of data that on its face was not guaranteed to be accurate.

Further, the PTAB finds unpersuasive the appellant's request for an additional reduction based upon the subject's actual income and expense analysis with a vacancy of either 44% in tax year 2003 or 45.42% in tax year 2004. Hearing Exhibit #1 evidenced that the subject was accorded a reduction on the basis of partial occupancy for the 2003 tax year at issue. Therefore, appellant failed to provide sufficient evidence to accord the subject a supplemental assessment reduction on this vacancy issue.

Moreover, the PTAB 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:

it 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. Id.

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, the appellant must establish through the use of market data the following: market rent, vacancy and collection losses, and expenses in order 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 follow this procedure in developing the income approach to value; therefore, the PTAB gives this argument no weight.

On the basis of the evidence submitted, the PTAB finds that the evidence has not demonstrated that the subject's improvement is overvalued. Therefore, the PTAB finds that a reduction in the subject's assessment is not warranted.

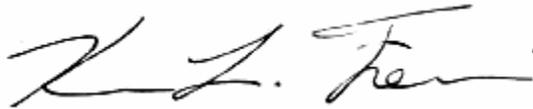
DOCKET #	PIN	LAND	IMPROVEMENT	TOTAL
03-28271.001-C-3	17-22-319-014	\$61,617	\$548,483	\$610,100
03-28271.002-C-3	17-22-319-015	\$15,060	\$ 15,980	\$ 31,040
03-28271.003-C-3	17-22-319-016	\$16,377	\$ 829	\$ 17,206
03-28271.004-C-3	17-22-319-017	\$45,239	\$ 2,988	\$ 48,227
03-28271.005-C-3	17-22-319-027	\$12,323	\$ 572	\$ 12,895

DOCKET #	PIN	LAND	IMPROVEMENT	TOTAL
04-26081.001-C-2	17-22-319-014	\$61,617	\$548,483	\$610,100
04-26081.002-C-2	17-22-319-015	\$15,060	\$ 15,980	\$ 31,040
04-26081.003-C-2	17-22-319-016	\$16,377	\$ 829	\$ 17,206
04-26081.004-C-2	17-22-319-017	\$45,239	\$ 2,988	\$ 48,227
04-26081.005-C-2	17-22-319-027	\$12,323	\$ 572	\$ 12,895

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

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.