

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Peter Bencak  
DOCKET NO.: 04-26613.001-R-1  
PARCEL NO.: 17-06-126-010-0000

The parties of record before the Property Tax Appeal Board (PTAB) are Peter Bencak, the appellant, by attorney Michael E. Crane of Crane and Norcross of Chicago, and the Cook County Board of Review (board).

The subject property consists of a 108-year-old, three-story, three-unit apartment building of masonry construction containing 3,528 square feet of living area and located in West Township, Cook County. The apartment property includes three bathrooms, a full basement and a two-car garage.

The appellant, through counsel, submitted evidence before the PTAB claiming unequal treatment in the assessment process as the basis of the appeal and argued that the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant offered three suggested comparable properties located within a quarter mile of the subject. These properties consist of two or three-story, four or five-unit buildings of masonry or frame construction and range in age from 102 to 114 years. Comparables one and two have two residential improvements and comparable three as a class 2-12 improvement has a commercial unit. The comparables include two, three or five bathrooms, full or partial basements and one site has a three-car garage. The comparables contain between 3,551 and 6,327 square feet of living area and have improvement assessments ranging from \$32,501 to \$47,112 or from \$7.45 to \$9.15 per square foot of living area. In addition, the appellant requested relief due to the subject's diminished income based on an analysis of vacancy evidence. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final improvement assessment of

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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: \$ 5,796  
IMPR. \$49,244  
TOTAL: \$55,040

Subject only to the State multiplier as applicable.

PTAB/TMcG.

\$49,244, or \$13.96 per square foot of living area, was disclosed. In support of the subject's assessment, the board of review offered four suggested comparable properties located within one block of the subject. The comparables consist of three-story, three or four-unit buildings of masonry construction. The comparables are 108 years old and three have full basements, two are finished. They have three or four bathrooms, one is air conditioned and three have two-car garages. The comparable properties contain between 3,375 and 3,975 square feet of living area with improvement assessments ranging from \$48,700 to \$55,815 or from \$14.04 to \$14.49 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject property'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 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 failed to overcome this burden.

The PTAB finds the board's four comparables and the appellant's comparable two are similar to the subject. These properties have improvement assessments ranging from \$9.15 to \$14.49 per square foot of living area. The subject's per square foot improvement assessment of \$13.96 is within this range of properties. The Board finds the remaining comparables carry less weight because they are less similar to the subject in living area or classification. After considering adjustments and the differences in both parties' suggested comparables when compared to the subject property, the PTAB finds the evidence is insufficient to effect a change in the subject's assessment.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. *Property Tax Appeal Board Rule 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. *Property Tax Appeal Board Rule 1910.65(c)*.

The Board finds the appellant's market value argument that the subject's assessment is excessive when applying an income/vacancy approach to value is 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 428 at 431

Actual expenses, income and vacancy factors 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 PTAB finds the appellant did not adequately demonstrate that the subject apartment building was inequitably assessed by clear and convincing evidence and a reduction is not warranted.

This is a final administrative decision 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.



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: September 28, 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.