

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Ferhat/Tom Shero
DOCKET NO.: 04-27009.001-R-1
PARCEL NO.: 13-15-207-030-0000

The parties of record before the Property Tax Appeal Board (PTAB) are Ferhat/Tom Shero, the appellant, by attorney Deborah Petro of Chicago and the Cook County Board of Review.

The subject property consists of a 66-year-old, three story, 7,000 square foot, masonry mixed use building on an 8,750 square foot site. The subject, classified as a 5-17, is composed of eight apartments and six stores located in Jefferson Township, Cook County.

The appellant through counsel appeared before the PTAB and submitted documentation to demonstrate that the subject property was improperly assessed. This evidence was timely filed by the appellant pursuant to the Official Rules of the PTAB. In support of the request for relief due to vacancies and the subject's diminished income, the appellant prepared and submitted occupancy affidavits and income and expenses for the subject property. The appellant requested an overall occupancy factor of 42% based on the appellant's evidence of occupancy affidavits and income and expense evidence.

The appellant also argued the subject should be classified as a mixed use class 3-18.

Based on this evidence the appellant requested relief in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" that disclosed the subject's total assessment of \$111,162. The board submitted evidence in support of its assessed valuation of the subject property. The board argued the Assessor's initial assessment for the class 5-17 property was \$150,102 and revised on appeal to \$111,162. The revised assessment was due to the application of a 66.2% occupancy factor. The board rested on the "one year only" action by the Assessor. Based on this evidence the Board of Review rested on this evidence and requested confirmation of the appellant's current assessment.

(Continued on Next Page)

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: \$34,894
IMPR. \$41,164
TOTAL: \$76,058

Subject only to the State multiplier as applicable.

PTAB/TMcG. 9/08

After hearing the testimony and considering the evidence, the PTAB finds that it has jurisdiction over the parties and the subject matter of this appeal.

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, 728 N.E.2d 1256 (2nd Dist. 2000). 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. Section 1910.65 *The Official Rules of the Property Tax Appeal Board* (86 Ill.Adm.Code §1910.65(c)).

The PTAB finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's lost income 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 and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's lost income was 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.

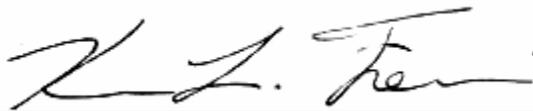
However, the Assessor has classified the subject as a 5-17, i.e. a one story commercial building. The PTAB finds a class 5-17 classification does not reflect the subject, a three story mixed use building. A review of the Assessor's "Definitions for the Codes for Classification of Real Property" finds the closest definition that fits the subject is a class 3-18 property with three stories, seven or more apartments and stores. The PTAB finds the appellant's evidence meets the definition of a class 3-18 mixed use property factored at 26% for 2004.

The Property Tax Appeal Board finds the appellant has demonstrated by the evidence that the subject property is overvalued. Therefore, the Property Tax Appeal Board finds that a reduction in the subject's assessment 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: 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.