

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Richard Kim
DOCKET NO.: 04-27398.001-C-1
PARCEL NO.: 16-14-106-012-0000

The parties of record before the Property Tax Appeal Board (PTAB) are Richard Kim, the appellant, by attorney Glenn S. Guttman of Reiff Schramm & Kanter of Chicago and the Cook County Board of Review (board).

The subject property consists of a 92-year-old, one, two and part three-story, 18,276 square foot, brick, mixed use building on a 9,104 square foot site located in West Township, Cook County.

The above Docket was heard in conjunction with Docket No. 05-25012-C-1.

The appellant, through counsel, in this appeal 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 the subject's diminished income, the appellant prepared and submitted occupancy/vacancy affidavits for the subject property. In support of this claim the appellant submitted 33 copies of favorable assessment vacancy/occupancy appeal results from both the Assessor and the Board of Review. In addition, the appellant argued that the subject should be reclassified from a class 3-18 property to a class 2-12 property. The appellant claimed the subject does not contain more than six apartment units, nor is it more than 20,000 square feet of building.

The appellant appeared before the PTAB and testified that the second and third floors have been vacant for the last 20 years. He disclosed that at one time part of the second and third floors were part of a church. He submitted second floor pictures taken in February 2007 showing a two and three-story open area in severe distress. He described the third floor as a smaller part

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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: \$ 3,947
IMPR. \$37,798
TOTAL: \$41,745

Subject only to the State multiplier as applicable.

PTAB/TMcG.

of the building and as containing living quarters for a church pastor. There are no longer stairs to the third floor. He testified that there are not six apartments in the second and third floors. He testified that the second and third floors are boarded up and that there is an injunction against renting the upper floors. Based upon this evidence, the appellant requested a reduction in the subject's total assessment.

In rebuttal, the board referred to an October 10, 2007 field check disclosing that the subject contained four commercial units, one occupied and six apartments.

The board of review submitted "Board of Review-Notes on Appeal" that disclosed the subject's total assessment of \$86,101 which reflects a market value of \$260,912 as factored by the Cook County Ordinance level of 33%. The board submitted evidence in support of its assessed valuation of the subject property. As evidence the board offered four sales of mixed use buildings that occurred between January 2002 and July 2004 for prices ranging from \$300,000 to \$640,000 land and improvements. No analysis and adjustment of the sales data was provided by the board. The board also submitted the subject's 4904 buff card and various photos of the subject. The buff card is dated October 28, 1981. Based on this evidence, the board requested confirmation of the subject's assessment.

After reviewing the record 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 vacancy, 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 due to vacancy 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 little weight.

The appellant argued assessment inequity as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments 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 a reduction is warranted.

The Property Tax Appeal Board finds the subject property to be a class 2 property based on the Assessor's, Definitions for the Codes for Classification of Real Property. Effective April 14, 2003, a class 2-12 property is an "Apartment or mixed use commercial/residential building two or six units, 20,000 square feet or less, up to 62 years of age." The Board finds the subject corresponds to this description. The appellant's testimony and his pictures disclosed the upper floors contain a former church area and one apartment and all areas in serious disrepair. A church building would fall into a class 2-00 category. Having reviewed the photographs, the buff card and the fieldman's report the PTAB gives less weight to the field report.

The fieldman was not present to testify or explain his finding. There is no evidence the fieldman made an interior inspection of the second or third floor or interviewed the owners. Finally, having made a review of the buff card the PTAB finds the subject contains approximately 17,650 square feet of building area.

The Property Tax Appeal Board finds the appellant has demonstrated by a preponderance of 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: April 1, 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.