PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Diamond Developing Co.
DOCKET NO.: 05-02505.001-C-1
PARCEL NO.: 05-25-008-010

The parties of record before the Property Tax Appeal Board are Diamond Developing Co., the appellant, by attorney Greg Roosevelt, in Edwardsville, and the Effingham County Board of Review.

The subject property is improved with a one-story, six-unit, Section 515 low-income housing apartment building. Five, one-bedroom units each contain 624 square feet of living area, while one, two-bedroom unit contains 875 square feet. The building was constructed in 1989 and is located in Beecher City, Liberty Township, Effingham County.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. In support of this overvaluation argument the appellant submitted a consulting report prepared by a licensed general real estate appraiser estimating the subject property had a market value of $100,035 as of January 1, 2005. The report was prepared in accordance with sections 10-240, 10-245 and 10-250 of the Property Tax Code (35 ILCS 200/10-240, 10-245 and 10-250) using only the income approach to value. The report indicates Illinois statutes mandate the method by which Section 515 low-income housing projects are to be valued for ad valorem tax purposes. Section 10-245 of the Property Tax Code requires assessing officials to consider actual or probable net operating income and historical expenses of a property, with a vacancy rate of not more than 5%, to be capitalized at normal market rates to calculate a fair cash value of any Section 515 low-income housing project. (35 ILCS 200/10-245) The appellant submitted the final decision issued by the Effingham County Board of Review establishing a total assessment for the subject of $60,340, which reflects a market value of approximately $176,743 as reflected by its assessment and Effingham County's 2005 three-year median level of assessments of 34.14%. Based on this evidence the appellant requested the subject's assessment be reduced to reflect the subject's appraised value.

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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 **Effingham** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$	1,860
IMPR.:	$	32,292
TOTAL:	$	34,152

Subject only to the State multiplier as applicable.

PTAB/MRT/7/08

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property.

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 Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved 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). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

Section 10-235 of the Property Tax Code provides that it is the policy of the State of Illinois that Section 515 low-income housing projects are to be valued based on their economic productivity to their owners to insure that high taxes do not result in rent levels that cause excess vacancies, loan defaults, and loss of rental housing facilities to those that are in most need. (35 ILCS 200/10-235). Section 10-245 establishes the method of valuing Section 515 low-income housing projects in accordance with this policy. Section 10-245 of the Property Tax Code states:

> Notwithstanding Section 1-55 and except in counties with a population of more than 200,000 that classify property for the purposes of taxation, to determine 33 and one-third percent of the fair cash value of any Section 515 low-income housing project, in assessing the project, local assessment officers must consider the actual or probable net operating income attributable to the project, using a vacancy rate of not more than 5%, capitalized at normal market values. The interest rate to be used in developing the normal market value capitalization rate shall be one that reflects the prevailing cost of cash for other types of commercial real estate in the geographic market in which the Section 515 project is located. (35 ILCS 200/10-245).

Section 10-250 sets forth the certification process and the notification requirements as follows:

> After (i) an application for a Section 515 low-income housing project certificate is filed with the State Director of the United States Department of Agriculture Rural Development Office in a manner and form prescribed in regulations issued by the office and (ii)

> the certificate is issued certifying that the housing is a Section 515 low-income housing project as defined in Section 2 of this Act, the certificate must be presented to the appropriate local assessment officer to receive the property assessment valuation under this Division. The local assessment officer must assess the property according to this Act. Beginning on January 1, 2000, all certified Section 515 low-income housing projects shall be assessed in accordance with section 10-245. (35 ILCS 200/10-250).

Here, the record is clear that the subject property is a Section 515 low-income housing project authorized and constructed in accordance the Federal Housing Act and the Farmers Home Administration (now United States Department of Agriculture, Rural Development Office). The Board finds the subject property has been certified in accordance with Section 10-250 of the Code. (35 ILCS 200/10-250). The Board, therefore, finds the subject property is to be assessed according to section 10-245 of the Property Tax Code (35 ILCS 200/10-245) in order to meet the objectives and intent of the legislature as set forth in section 10-235 of the Code. (35 ILCS 200/10-235). The appellant submitted a consulting report in which the appraiser used the actual income and expense history of the subject property in projecting its net operating income for 2005. The appraiser calculated a normal market capitalization rate. The Board finds the valuation methodology employed by the appraiser conforms to the requirements of section 10-245 and the intent of section 10-235 of the Code. (35 ILCS 200/10-235 and 10-245).

Based on the foregoing analysis of the record, the Property Tax Appeal Board finds the subject property was not assessed in accordance with the Property Tax Code. The Board also finds the appellant presented a consulting report indicating it was prepared in accordance with sections 10-235 through section 10-250 of the Property Tax Code. (35 ILCS 200/10-235 through 10-250). As a result, the Board finds the appellant has proven by a preponderance of the evidence that the subject was overvalued. Therefore, a reduction in the assessment of the subject property is warranted. The board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's argument as required by Section 1910.40(a) of the rules of the Property Tax Appeal Board and is found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. The final value estimate for the subject property by the appellant's appraiser was $100,035 as of January 1, 2005. Since fair market value has been established in accordance with section 10-245 of the Property Tax Code, the three-year median level of assessments for Effingham County of 34.14% shall apply.

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.