



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Francis Willsey
DOCKET NO.: 05-20448.001-R-1
PARCEL NO.: 15-36-204-032-0000

The parties of record before the Property Tax Appeal Board are Francis Willsey, the appellant(s), by attorney Kevin P. Burke, of Smith Hemmesch Burke Brannigan & Guerin of Chicago; and the Cook County Board of Review.

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: \$ 16,896
IMPR.: \$ 56,117
TOTAL: \$ 73,013

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 26,400 square foot parcel of land improved with a 137-year old, three-story, stucco, multi-family dwelling containing 6,822 square feet of living area, three apartment units, and three and one-half baths, four fireplaces, and a full, unfinished basement. The appellant argued both unequal treatment in the assessment process and that the market value of the subject property is not accurately reflected in the property's assessed valuation as the bases of this appeal.

In support of the equity argument, the appellant, via counsel, submitted information on a total of three properties suggested as comparable and located within the subject's neighborhood. The properties are described as two-story, masonry, multi-family dwellings with five apartment units, five baths, and a full, finished basement being used as an apartment. The properties range in age from 47 to 49 years; in size from 4,250 to 5,212

square feet of living area; and in improvement assessment from \$5.80 to \$7.90 per square foot of living area.

In support of the market value argument, the appellant submitted copies of income tax statements for the subject property for 2002 through 2004. The appellant's attorney then calculated a net operating income and capitalization rate for the subject to estimate a market value. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$73,013 and the improvement assessment of \$56,117 or \$8.23 per square foot of living area were disclosed. This total assessment reflects a market value of \$456,331 using the level of assessment of 16% for Class 2 property as contained in the Cook County Real Property Assessment Classification Ordinance. In support of the subject's assessment, the board of review presented descriptions and assessment information on a total of three properties suggested as comparable and located within the subject's neighborhood. The properties are described as two-story, stucco or masonry, multi-family dwellings with two, four or five apartment units and baths, one or six fireplaces for two properties, and, for two properties, a full basement with one being used as an apartment. The properties range: in age from 38 to 90 years; in size from 4,024 to 5,484 square feet of living area; and in improvement assessment from \$8.76 to \$12.91 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment. Based on this evidence, the board of review requested confirmation of the subject'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 Board further finds a reduction in the subject's assessment is not warranted.

The appellant contends unequal treatment in the subject's improvement assessment 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 assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The parties submitted a total of six properties suggested as comparable to the subject. The PTAB finds all the comparables are similar to the subject in design, size, construction, and age. These properties are stucco or masonry, two-story, multi-family dwellings located in the subject's neighborhood. The properties range: in age from 38 to 90 years; in size from 4,024 to 5,484 square feet of living area and in improvement

assessments from \$5.80 to \$12.91 per square foot of living area. In comparison, the subject's improvement assessment of \$8.23 per square foot of living area is within the range of comparables. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is supported and a reduction in the subject's assessment is not warranted.

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, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (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. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the PTAB concludes that the evidence indicates a reduction is not warranted.

The appellant submitted documentation showing the income of the subject property. The PTAB gives the appellant's argument little weight. 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 that 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. at 431.

Actual expenses and income based on vacancy can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant did not demonstrate through an expert in real estate valuation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, 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 reflective of the market and the property's capacity for earning income. The appellant did not

provide such evidence and, therefore, the PTAB gives this argument no weight and finds that a reduction is not 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: November 25, 2009

Allen Castrovillari

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.