



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

APPELLANT: Berwyn Development Corp.
DOCKET NO.: 05-20619.001-C-1
PARCEL NO.: 16-31-115-009-0000

The parties of record before the Property Tax Appeal Board are Berwyn Development Corp., the appellant(s), by attorney Patrick J. Cullerton, of Thompson Coburn LLP in Chicago; and the Cook County Board of Review.

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: \$10,716
IMPR.: \$15,717
TOTAL: \$26,433

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 3,760 square foot parcel of land improved with an 81-year old, two-story, masonry, commercial building containing 4,621 square feet of building area. The appellant, via counsel, argued that there was unequal treatment in the assessment process as the basis of this appeal.

In support of the equity argument, the appellant submitted a legal brief asserting that the board of review must uniformly apply a policy to all taxpayers. The appellant asserts that Cook County and the board of review have a policy of granting partial assessments to properties based on the vacancy of that property. The appellant included a copy of an affidavit from the appellant's representative attesting to the fact that the subject had no occupants during the 2005 assessment year. A copy of a second affidavit from the appellant's representative attests to the fact the subject is part of a redevelopment plan and demolition of the subject has been delayed due to negotiations for financing and that no income was generated from the property

in 2005. In addition, the appellant submitted a copy of the decision for the adjacent parcel which received a reduction from the assessor's office for vacancy as well as the evidence presented to the assessor's office for this parcel (Exhibit #25); the appellant asserts this parcel is part of the same redevelopment plan as the subject. The appellant's brief states "[t]he subject property was inadvertently not appealed to the Assessor, and it should not receive different treatment as a result." Copies of photographs of the subject were also included.

As proof of the board's policy of granting vacancy relief based on a flat percentage debasement of the improvement assessment without analysis of a property's market value the appellant presented the following documents: a copy of an affidavit from a Cook County Assessor's Office employee attesting to a particular property as receiving a occupancy factor based on the habitability of the property; copies of legal briefs, Cook County Assessor's Office appeal forms, income and vacancy information, and decisions from the Cook County Assessor's Office indicating a reduction in the assessed value based on partial occupancy for 24 properties; a copy of the Official Rules of the Cook County Board of Review; and Cook County Assessor's Office Virtual Website printouts and various county forms relating to an appeal based on vacancy. It is noted that Exhibit #7 as listed in the appellant's documentation was not included in the evidence. Based upon this analysis, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's improvement assessment was \$32,056. The board also submitted copies of the property characteristic printouts for the subject as well as raw sales data on four properties. The sales occurred between June 2001 and October 2003 for prices ranging from \$210,000 to \$320,000 or from \$47.55 to \$72.73 per square foot. The board also included a copy of the warranty deed for the sale of the subject in August 2004 for \$450,000.

The board also submitted a legal brief arguing that the PTAB should not grant the appellant relief because they missed their opportunity to get relief at the assessor's office. The brief also argued that the PTAB looks to market income and not the subject's actual income and that a reduction based on vacancy looks to the actual income of the property. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After considering the evidence and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

Appellants 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, 544

N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. *Property Tax Appeal Board Rule* 1910.65(b). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the PTAB concludes that the appellant has met this burden and that a reduction is warranted.

As to the appellant's argument of equity, the PTAB finds the subject property is similarly situated as the adjacent property. The PTAB further finds the appellant's evidence persuasive in showing that both properties suffered from identical situations in that both were purchased by the appellant for redevelopment and both were vacant and awaiting demolition. However, one parcel received an improvement reduction based on these circumstances while the other, the subject property, did not. Therefore, the PTAB finds the appellant has met the burden of showing the subject was inequitably assessed and a reduction in the subject's improvement 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn R. Lerski

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 22, 2010

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.