

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Alicia Negrete
DOCKET NO.: 05-21866.001-C-1
PARCEL NO.: 19-06-307-028

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are Alicia Negrete, the appellant, by Attorney Michael Gertner in Chicago and the Cook County Board of Review by Attorney William O'Shields with the board of review.

The subject property consists of a 12,672 square foot land parcel improved with a 16-year old, one-story, masonry and metal-panel constructed, commercial building used as a restaurant and car wash facility. The improvement contains 4,950 square feet of gross building area.

At hearing, the appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant submitted an appraisal of the subject property with an effective date of January 1, 2005. The appraisers, one of which holds the MAI designation, were not called upon as witnesses at hearing. They employed the sales comparison approach to value to arrive at market value. The appraisers undertook a personal inspection of the subject property on December 13, 2005. Based upon this inspection, they opined that the subject was of below average utility due to the absence of basement area and limited parking area. Therefore, the subject would be considered a special use property with limited uses, which may result in an extended marketing time. The appraisal indicated that the highest and best use of the subject, as improved, would to be its current use.

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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:	\$	39,836
IMPR.:	\$	91,264
TOTAL:	\$	131,100

Subject only to the State multiplier as applicable.

PTAB/KPP

As to the subject's history, the appraisal noted that the subject had sold on September 15, 2003 for \$540,000. Further, the appraisal indicated that at the time of this sale, the buyer was also the tenant; therefore, the appraisers opined that this transaction represented an above market transaction and was discounted in the appraisal report. With regards to this sale, the appraisal also noted that there was not a separate allocation of the real estate and the business equipment. Moreover, the subject's history reflected a prior transfer of ownership that occurred on February 7, 2002 for the amount of \$250,000, leading to further speculation by the appraisers regarding the arm's length nature of the 2003 sale price. Therefore, the appraisers noted that little weight was accorded the 2003 sale of the subject.

In the sales comparison approach to value, the appraisal reflected six suggested sales comparables. These properties were located within the subject's neighborhood. Three are improved with a one-story, masonry building utilized as a restaurant, while an additional three properties are improved with a one-story building used as car wash. These properties sold from January, 2002, through November, 2003, for prices that ranged from \$52.08 to \$73.60 per square foot of building area. They ranged in age from 7 to 39 years and in size from 2,250 to 6,000 square feet of building area. After making adjustments to these sales, the appraisal opined a value for the subject of \$345,000.

At hearing, the appellant's attorney stated that the subject's sale in 2003 included the business, personal property and real estate and that the buyer was the current tenant at the time of purchase. Based upon this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$156,949. The subject's assessment reflects a market value of \$413,024 or \$83.44 per square foot using the level of assessment of 38% for Class 5A property as contained in the Cook County Real Property Assessment Classification Ordinance. The board also submitted an analysis of raw sales data on a total of four suggested comparables that reflect an unadjusted range from \$78.72 to \$195.93 per square foot. No adjustments were made for locations, size, age or amenities. The data indicated that the copyrighted report contained research licensed to the Cook County Assessor's office without further explanation. Suggested comparable #2 was actually the subject property wherein the printouts identify the buyer to be the owner/user in the 2003 sale. The printouts indicate gross living area at 4,756 square feet in contrast to the assessor's data indicating 4,950 square feet. These printouts also reflect the sales history for the subject property as follows: September, 2003 sale at \$540,000; December, 2001 sale at \$250,000; and an August, 1999 sale at \$400,000.

At hearing, the board's representative rested on the written evidence submissions, while testifying his personal belief that the subject sold in 2005 for \$540,000 without further documentation. Further, he stated that he had no personal knowledge as to what sources were utilized in forming the assessor's analysis. As a result of its analysis, the board requested confirmation of the subject's assessment.

In rebuttal, the appellant's attorney asserted that rebuttal documentation had been submitted reflecting the extensive personal property and equipment included in the subject's 2003 sale; however, no such documentation had been submitted to the PTAB.

After considering the testimony and reviewing the record, the Property Tax Appeal Board 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, 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 warranted.

In determining the fair market value of the subject property, the PTAB reviewed all the sales comparables submitted by the parties. The PTAB analyzed these sales and made applicable adjustments were necessary. Further, the evidence regarding a sale of the subject property indicated that this 2003 sale price included business value and personal property without an allocation for real estate. The board of review proffered no evidence to indicate that the sale was an arm's length transaction only relating to the subject's real estate. Furthermore, the subject's sale history indicated that the subject's 2003 sale price of \$113.54 per square foot was nearly double the 2001 sale price of \$53.57 per square foot using the assessor's size of 4,950 square feet of gross building area. In totality, the PTAB finds that the evidence strongly suggests that subject's buyer/tenant purchased more than the mere real estate in 2003. In addition, the board's analysis offered contrasting data as to the subject's size; thereby, detracting from its credibility.

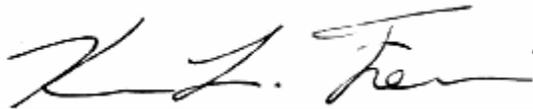
Therefore, the PTAB finds that the subject property contained a market value of \$345,000 for the 2005 assessment year. Since the market value of the subject has been established, the Cook County Real Property Classification Ordinance level of assessments for Cook County Class 5A property of 38% will apply. In applying

this level of assessment to the subject, the total assessed value is \$131,100, while the subject's current total assessed value is above this amount at \$156,949. Therefore, the PTAB finds that a reduction 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: August 29, 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.