

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Peter Ceh
DOCKET NO.: 05-24131.001-R-1
PARCEL NO.: 14-31-129-025-0000

The parties of record before the Property Tax Appeal Board (PTAB) are Peter Ceh, the appellant, by attorney Thomas M. Battista of Rock, Fusco & Associates, LLC of Chicago and the Cook County Board of Review (board).

The subject property consists of a 113-year-old, two-story, three-unit apartment building of frame construction containing 1,960 square feet of living area and located in Lakeview Township, Cook County. The apartment property includes two bathrooms, a full basement and a one-car garage.

The appellant's counsel appeared before the PTAB and submitted evidence claiming that the fair market value of the subject is not accurately reflected in its assessed value as the basis for this appeal.

The appellant argued that the subject's recent sale best reflected the subject's market value. In support of this argument, the appellant indicated through a settlement statement that the class 2-11 subject was purchased on January 13, 2005 for \$365,000. The appellant argued that this improvement was wrecked on April 18, 2005 and as evidence, submitted a permit to wreck and a sworn affidavit of the building's demolition. The appellant also requested occupancy factors be applied to the property due to the removal of the old class 2-11 and the ongoing construction of a 2006 class 2-78 single family building. Based upon this evidence, the appellant requested a reduction in the subject's total assessment to reflect the reduced market value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final total assessment of \$36,499 and improvement assessment of \$31,592, or \$12.66 per square foot of living area of a 113 year old class 2-11 building, was

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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: \$ 4,907
IMPR. \$31,592
TOTAL: \$36,499

Subject only to the State multiplier as applicable.

PTAB/TMcG.

disclosed. In support of the subject's assessment, the board of review offered four suggested class 2-78 single family comparable properties located within three blocks of the subject. The comparables consist of two-story, buildings of masonry construction. The comparables are one or seven years old and have full finished basements. They have two or three bathrooms, air conditioning, fireplaces and three have two-car garages. The comparable properties range in size from 2,019 to 2,400 square feet of living area with improvement assessments ranging from \$34,349 to \$65,316 or from \$14.37 to \$28.25 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

The board's evidence was silent as to the appellant's market value argument. As a result of its analysis, the board requested confirmation of the subject's assessments.

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.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. *Property Tax Appeal Board Rule 1910.63(e)*. 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. *Property Tax Appeal Board Rule 1910.65(c)*.

The PTAB finds the board has assessed the 113 year old, class 2-11 building at \$36,499 based on the 2005 sale. Also, 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 due to vacancy 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

The appellant did not demonstrate that the subject's lost income was reflective of the market. To demonstrate or estimate the subject's market value using vacancy factors, 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 no weight.

The Property Tax Appeal Board finds the appellant has failed to demonstrate by a preponderance of the evidence that the subject property is overvalued. Therefore, the Property Tax Appeal Board finds that no reduction in the subject's assessment is warranted.

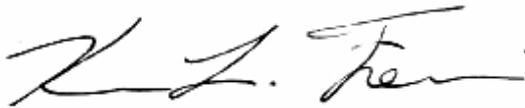
The PTAB finds the board's equity evidence carries little or no weight because it relates to the 2006 class 2-78 new construction improvement.

As a result of this analysis, the PTAB finds the appellant did not adequately demonstrate that the subject apartment building was inequitably assessed or over valued by clear and convincing evidence and 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.



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: May 30, 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.