PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Carl LaVespa
DOCKET NO.: 05-24513.001-R-1
PARCEL NO.: 16-11-406-008-0000

The parties of record before the Property Tax Appeal Board are Carl LaVespa, the appellant, by attorney Terrence Kennedy, Jr. with the Law Offices of Terrence Kennedy, Jr. in Chicago, and the Cook County Board of Review.

The subject property consists of an 89-year-old, three-story multi-family dwelling of masonry construction containing 3,858 square feet of living area with three full bathrooms, a full-unfinished basement and a three-car detached garage.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board arguing that the subject is over-assessed relative to its market value based on its recent acquisition costs. In support of this argument, the appellant's attorney submitted a one-page brief disclosing the appellant purchased the subject property in two separate transactions for a total purchase price of $85,000 and subject to a city lien for heating costs in the amount of $21,500. The appellant's evidence indicated that the appellant paid an additional $17,120 in acquisition costs, which included delinquent taxes, delinquent water bills, and a survey outside of closing. Copies of the subject's closing statement, quitclaim deed, and Claim for Receiver's Lien were provided. The appellant's evidence disclosed that the appellant acquired a 50% ownership interest in the subject property in the first transaction executed on July 18, 2003, from four different parties who had jointly owned a 50% interest in the property, for a total amount of $20,000. The appellant's evidence further disclosed that the appellant purchased the remaining 50% interest in the property for $65,000 in the second transaction executed on July 18, 2003. The appellant argued that adding the city lien of $21,500 and the $17,120 in acquisition costs outside of closing to the total purchase price of $85,000, results in a total acquisition cost of $123,620 for the subject. Based on this evidence, the appellant

(Continued on Next Page)

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:	$ 2,000
IMPR.:	$ 17,182
TOTAL:	$ 19,182

Subject only to the State multiplier as applicable.

PTAB/rfd6909

requested the subject's assessment be reduced to 10% of the total acquisition costs of $123,620 or $12,362.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of $19,182. The subject's improvement assessment is $17,182 or $4.45 per square foot of living area. In support of the assessment the board submitted property characteristic printouts and descriptive data on three properties suggested as comparable to the subject. The three suggested comparables are improved with three-story, multi-family dwellings of frame or masonry construction with the same neighborhood code as the subject. The improvements range in size from 3,885 to 3,978 square feet of living area and range in age from 81 to 108 years. The comparables contain three or five full bathrooms and a full-unfinished basement or a full-finished basement apartment. Two comparables contain a two-car detached garage. The improvement assessments range from $4.67 to $5.20 per square foot of living area. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

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 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Adm.Code §1910.65(c). Having considered the evidence, the Board finds the appellant has not satisfied this burden.

As to the market value argument, the Board finds the appellant's attorney submitted a one-page brief disclosing the appellant purchased the subject property in two separate transactions for a total purchase price of $85,000 and subject to a city lien for heating costs in the amount of $21,500. The appellant's evidence indicated that the appellant paid an additional $17,120 in acquisition costs, which included delinquent taxes, delinquent water bills, and a survey outside of closing. The appellant argued that adding the city lien of $21,500 and the $17,120 in acquisition costs outside of closing to the total purchase price of $85,000, results in a total acquisition cost and fair market value of $123,620 for the subject.

The Board finds the appellant's argument to be unpersuasive in that the subject's sale and accompanying acquisition costs are not arm's length in nature. Market value is the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. In addition, consummation of the sale should take place under conditions, whereby, buyer and seller are typically motivated and not under

duress, both parties well informed or advised, and acting in what they consider their best interests, with a reasonable amount of time allowed for exposure in the open market. The Board finds that the sellers were affected by undue stimulus and consequently, the sale and accompanying acquisition costs are not arm's length in nature or a reliable indicator of market value. Therefore, the Board finds this evidence is insufficient to support a change in the subject's assessment.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the subject's improvement was overvalued and a reduction in the subject's assessment 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: June 19, 2009

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.