



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

APPELLANT: Henry J. Jordan
DOCKET NO.: 05-24778.001-R-1
PARCEL NO.: 16-05-206-008-0000

The parties of record before the Property Tax Appeal Board are Henry J. Jordan, the appellant, by attorney Edward Larkin, of Larkin & Larkin in Park Ridge; 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: \$ 10,357
IMPR.: \$ 67,045
TOTAL: \$ 77,402

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 7,114 square feet of land improved with a 77-year old, mixed-used apartment building. The improvement is a three-story building containing 14 apartments as well as three small storefronts comprising a total of 20,000 square feet of building area.

As to the merits of this appeal, the appellant's attorney argued that the fair market value of the subject is not accurately reflected in its assessed value as the basis for this appeal.

The appellant's pleadings include an actual income and expense analysis developed by the appellant's attorney, while employing tax data from IRS forms for tax years 2002 through 2005. The pleadings also include an attached summary income and expense document for the subject's building as well as a copy of the subject's plat of survey. The income and expense analysis using 2004 data reflected a gross income of \$92,050 less expenses totaling \$69,320. The resulting net income was \$22,730. A capitalization rate of 16.21% was applied indicating an estimate of market value of \$140,222, which the attorney asserted should

reflect an assessment of \$36,458.

Further, the appellant asserts that the subject property is misclassified by the assessor's office. The appellant's attorney argued that the subject's current classification of 3-18 should be changed to 2-12. In support of this argument, a copy of the definitions of the Code for Classification of Real Property pursuant to the Cook County Classification Ordinance was submitted. This multi-page document indicated that classification code 2-12 applies to apartment buildings with from two to six units and up to 62 years of age, while classification code 3-18 applies to mixed-use, commercial/residential buildings with apartments and commercial area totaling seven units or more with a square footage area over 20,000 square feet. Based on this evidence, the appellant requested a reduction in the subject's assessment.

At hearing, the appellant's attorney asserted that a Property Tax Appeal Board decision was rendered in the 2007 tax year for the subject property under docket #07-28156 indicating a total assessment of approximately \$68,000. He also indicated that the subject property was not an owner-occupied building.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property. At hearing, the board's representative argued that the 2005 tax year at issue was not in the same triennial reassessment period as the 2007 tax year. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After hearing the testimony and/or arguments as well as 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. *86 Ill.Admin.Code 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. *86 Ill.Admin.Code 1910.65(c)*. Having considered the evidence presented, the Board finds that the appellant has not met the burden of demonstrating that the subject is overvalued and that a reduction is not warranted.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses 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:

It is the value of the "tract or lot of real property" 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 430-431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses were reflective of the market. To demonstrate or estimate the subject's market value using an income approach, 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 Board gives this argument no weight.

As a result of this analysis, the Board finds the appellant has not adequately demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence and a reduction is not warranted on this issue.

Furthermore, the Board finds unpersuasive the appellant's assertion that the subject property is misclassified by the county. The Board finds that the appellant's evidence submission regarding the county's definitions of its own classification ordinance supports the subject's current classification. Therefore, no change is merited.

Lastly, pursuant to Section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the Board finds the subsequent year's decision should not be applied retroactively to the earlier year subject only to equalization.

Section 16-185 of the Property Tax Code (35 ILCS 200/16-185) provides in part:

If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through

9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review.

The record disclosed the Board issued a decision reducing the subject's 2007 assessment. The record further indicates that the subject property is not an owner-occupied dwelling and that the 2005 and 2007 tax years are not within the same general assessment period.

For these reasons, the Board finds that a reduction in the subject's assessment is not warranted to reflect the Board's subsequent year's decision plus the application of an equalization factor, if any.

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: February 18, 2011

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.