



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

APPELLANT: Louis Marino
DOCKET NO.: 05-25748.001-R-1 through 05-25748.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Louis Marino, the appellant(s), by attorney Lisa A. Marino, of Marino & Assoc., PC in Chicago; 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
05-25748.001-R-1	12-24-423-016-0000	9,542	38,670	\$48,212
05-25748.002-R-1	12-24-423-017-0000	9,542	40,040	\$49,582

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two parcels of land totaling 12,400 square feet and improved with 52-year old, two-story, masonry, mixed-use building. The appellant, via counsel, argued both the market value of the subject property is not accurately reflected in the property's assessed valuation and that there was unequal treatment in the assessment process of the improvement as the bases of this appeal.

The appellant asserts that the subject property is one building that contains 16,010 square feet of living area with four commercial units and eight residential units. The board of review asserts that there is a building on each parcel; one building contains 8,000 square feet of living area and the other contains 8,010. The appellant further asserts the building was converted into condominiums at the beginning of 2005 and that only three residential and two commercial units were sold in 2005.

In support of the market value argument, the appellant asserts the subject was 58% vacant in 2005. The appellant included a copy of an affidavit to support this.

In support of the equity argument, the appellant submitted assessment data and descriptions on a total of three properties suggested as comparable to the subject and located within two blocks of the subject. The data in its entirety reflects that the properties are improved with a two-story, masonry, mixed-use buildings. The properties range: in age from 35 to 45 years; in size from 7,417 to 12,300 square feet of building area; and in improvement assessments from \$3.34 to \$4.85 per square foot of building area. The appellant argues the subject's total improvement assessment of \$78,710 or \$4.92 per square foot of living area using the combined square footage is above these comparables. Based on this evidence, the appellant requested a reduction in the subject's assessment.

At hearing, the appellant's attorney argued that suggested comparable #1 is the most similar to the subject. She again reiterated the argument that the subject was 58% vacant in 2005. The appellant argues that the subject is one building located on two property identification numbers (PIN) with the first floor all commercial and the second floor all residential. The appellant's attorney asserted that she is familiar with the building because she works in one of the commercial units and that there are two stairwells for the second floor and each stairwell accesses all the residential units regardless of what PIN they are located on. The appellant submitted into evidence *Appellant's Hearing Exhibit #1*, printouts from the assessor's website for the appellant's suggested comparables.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's improvement assessment for both parcels was \$78,710. The board of review asserts that each parcel is assessed separately for an improvement assessment on the first parcel of \$38,670, or \$4.83 per square feet of living area and an improvement assessment on the second parcel of \$40,040 or \$5.00 per square foot of living area. The total assessment of \$97,794 for both parcels reflects a fair market value of \$1,000,962 when the Illinois Department of Revenue's 2005 three year median level of assessment of 9.77% for Cook County Class 2 properties is applied.

In support of the subject's assessment, the board of review presented descriptions and assessment information on four properties suggested as comparable and located within the subject's neighborhood. The properties are described as two-story, masonry, mixed-use buildings. The properties range: in age from 42 to 55 years; in size from 5,500 to 5,940 square feet of living area; and in improvement assessment from \$6.75 to \$9.39 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the board of review's representative, Lena Henderson, argued that the board of review looked at each building separately. She argued that the subject, if assessed as a whole, is misclassified and should be assessed as a class 3-18, mixed use commercial/residential building with apartments, based on the Cook County Ordinance that defines all real property.

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.

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 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 based on market value is not warranted.

The appellant submitted documentation showing the vacancy of the subject property. The PTAB gives the appellant's argument little weight. 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 that 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. Id. at 431.

Actual expenses and income based on vacancy can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant did not demonstrate through an expert in real estate valuation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, 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 reflective of the market and the property's capacity for earning income. The appellant did not

provide such evidence and, therefore, the PTAB gives this argument no weight and finds that a reduction based on market value is not warranted.

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 not met this burden and that a reduction is not warranted.

The PTAB finds that the evidence shows the subject property, although located on two parcels, is one building; all eight residential units are accessible by the same set of stairwells and there are no physical characteristics distinguishing the improvement as two separate buildings. At hearing, the board of review acknowledged that the subject is one building. The PTAB also finds the board of review's argument that if the subject is assessed as one building, the property should be assessed as a class 3 property under the Cook County Ordinance based on the characteristics. In looking at the characteristics of the suggested comparables submitted by the parties, the PTAB finds that none of these properties have similar numbers of commercial or residential units that would have those properties fall into a class 3 category which is a different level of assessment in Cook County. Therefore, the PTAB finds the appellant failed to meet the burden of proving by clear and convincing evidence that the subject property was over assessed 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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Member

Shawn R. Lerbis

Member

Member

Mark Morris

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: September 23, 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.