



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

APPELLANT: Errol Oztekin
DOCKET NO.: 05-26179.001-C-1
PARCEL NO.: 08-12-102-029-0000

The parties of record before the Property Tax Appeal Board are Errol Oztekin, the appellant(s), by attorney Edward Larkin, of Larkin & Larkin of Park Ridge; and the Cook County Board of Review.

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: \$17,831
IMPR.: \$32,973
TOTAL: \$50,804

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of an 4,469 square foot parcel of land improved with a 93-year old, part one part two-story, mixed use commercial/apartment building containing 7,773 square feet of building area. The appellant argued the fair market value of the subject property is not accurately reflected in the assessed value.

In support of this argument, the appellant, via counsel, submitted a brief asserting that the subject property should be classified as a class 2 mixed use property. Currently, the subject is classified as a class 5 commercial property. The appellant submitted a copy of the Cook County Assessor's Definitions for the Codes for Classification of Real Property for the 2006 assessment year and a copy of the plat of survey to support this position.

The brief also asserts the subject property received a reduction in the 2006 assessment from the board of review. The appellant argues that based on case law, specifically Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84 (1974) and 400 Condominium Association v. Tully, 79 Ill.App.3d 686 (First District, 1979), the subsequent reduction should be applied to the 2005 assessment year as this year is within the same triennial.

Finally, the appellant asserts that the subject improvement was vacant and unoccupied during 2005 and was then demolished in July 2006. The appellant argues that a 5% occupancy factor should be applied to the improvement's 2005 assessment. The appellant submitted the plat of survey and demolition permit to support the position. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$152,227 was disclosed. This reflects a fair market value of \$400,597, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A properties is applied. In support of the subject's assessment, the board of review presented a memo asserting the subject property was purchased on October 26, 2005 for \$520,000. In support of this, the board submitted a copy of a printout from the Cook County Recorder of Deeds showing a warranty deed was issued on October 26, 2005 for \$520,000, a copy of the warranty deed, and a copy of the Illinois Real Estate Transfer Declaration stating the property was advertised for sale or sold using a real estate agency and the sale price for the real estate was \$520,000.

In addition, the board presented four unadjusted sales comparables to support the subject's current assessment. The sales occurred between July 1996 and October 2001 for prices ranging from \$250,000 to \$525,000. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a letter asserting the board did not address the subject's subsequent reductions in assessed value nor did they address the property's classification.

At hearing, the appellant's attorney argued the subject's assessment was reduced in 2006 and requests this amount be applied to the 2005 assessment year. The attorney acknowledges that the property in 2005 was not the same in characteristics as it was in 2006. He admitted the property was purchased in 2005 and the improvement demolished in 2006. He also acknowledged the property was vacant at the time of purchase.

Mr. Larkin argued that although the 2006 classifications were submitted into evidence the subject should be classified as a

mixed-use class 2 property and that this classification existed in 2005 as a 2-11 or 2-12.

The board of review's representative, David Flores, acknowledged that the classification in 2005 for a mixed use property would be a class 2-12. He acknowledged that the board of review describes the property as a commercial/apartment building. He argued the subject sold as vacant and that the sales comparables support the assessment and that the subsequent reduction in the assessed value in 2006 was due to the demolition of the improvement.

After reviewing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject's assessment is warranted.

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.

The first issue before the PTAB is the subject's classification. The PTAB finds sufficient evidence to establish the subject's classification as a class 2, mixed use property. The board of review's evidence describes the subject as a commercial/apartment building. The testimony of the board of review's representative was that a mixed use property would receive a classification of a 2-12. Therefore, the PTAB finds the subject should be classified as a 2-12.

As to the appellant's argument that the subsequent reduction in 2006 should apply to the 2005 assessment year, the PTAB finds this argument unpersuasive. The case law cited by the appellant can be distinguished from the instant appeal. In those cases, there was no change in characteristics of the property that would have affected the market value. In this instant appeal, the subject property, as admitted by the appellant, was demolished in 2006; thereby changing the characteristics of the property which would lead to a change in market value.

The PTAB finds the best evidence of the subject's market value to be the sale of the subject in October 2005 for \$520,000. The subject was advertised for sale and, based on the evidence, the arm's length nature of the sale is not questionable. The PTAB finds the appellant's argument for application of a vacancy

factor unpersuasive as the subject property was vacant at the time of sale. The PTAB gives little weight to the board of review's comparables as the sales are too far removed from the lien date.

Based on this record the Property Tax Appeal Board finds that the subject property had a market value of \$520,000 as of January 1, 2005. Since market value has been determined, the 9.77% 2005 three year median level of assessment for class 2 property as established by the Illinois department of Revenue shall apply and 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: April 23, 2010

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.