



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

APPELLANT: Marilyn Educate
DOCKET NO.: 05-26738.001-C-1 through 05-26738.003-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Marilyn Educate, 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 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 |
|------------------|--------------------|--------|---------|-----------|
| 05-26738.001-C-1 | 05-34-104-025-0000 | 44,097 | 84,095 | \$128,192 |
| 05-26738.002-C-1 | 05-34-104-026-0000 | 10,260 | 31,999 | \$42,259 |
| 05-26738.003-C-1 | 05-34-104-027-0000 | 49,632 | 207,995 | \$257,627 |

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 24,021 square foot parcel improved with a part one and part two-story building containing 16,987 square feet of building area. Containing ten commercial units and one apartment, the original building is 111 years old with an 88-year-old addition. The subject property is located in New Trier Township, Cook County.

The appellant, through counsel, appeared before the Property Tax Appeal Board claiming that the subject property was improperly assessed. The evidence was timely filed by the appellant pursuant to the Official Rules of the Property Tax Appeal Board.

The appellant submitted evidence before the Property Tax Appeal Board claiming that the subject's assessed value is inaccurate due to the misclassification of the improvement. At hearing, the

appellant's attorney indicated that the subject is classified as a class 5 property. However, he argued that the subject is a mixed-use building containing both retail and residential use and therefore, should be classified as a major class 3 property. The appellant's attorney argued that if the building square footage exceeds 20,000 square feet or if the number of units exceeds six (6) the Assessor's Office is to classify the subject as a class 3 property. The appellant argued that in the present case, the subject has more than six (6) units and should be classified as a class 3 property with a corresponding level of assessment of 26%.

The appellant also argued overvaluation in that the income generated by the subject does not warrant its high level of taxation, and therefore its excessive assessment. In support of the request for relief due to the subject's diminished income, the appellant's attorney prepared and submitted an "income approach", using the subject's actual income and expenses. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

In contrast, 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.

After hearing 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 appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved 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))

Regarding the appellant's overvaluation contention, 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 is not supported by the 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" clearly 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 Property Tax Appeal Board gives this argument no weight.

Next, the appellant argued that the subject is a mixed-use building containing both retail and residential use and therefore, should be classified as a major class 3 property. The appellant argued that if the building square footage exceeds 20,000 square feet or if the number of units exceeds six (6) the Assessor's Office is to classify the subject as a class 3 property. The Board finds the appellant's argument is without merit. Based on the Cook County Ordinance Level which permits classification of property, Cook County has developed the Definitions for the Codes for Classification of Real Property with specific starting dates of June 17, 2003 and August 30, 2006, which states that a class 3-18 property is a "Mixed use commercial/residential building with apartments and commercial area totaling seven units or more with a square foot area of over 20,000 square feet. The Board finds that the subject does not correspond to this description. Therefore, the Board finds the appellant's 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 was overvalued by a preponderance of the evidence 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

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

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: February 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.