



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

APPELLANT: Groebe Management
DOCKET NO.: 06-21221.001-C-1
PARCEL NO.: 23-24-406-020-0000

The parties of record before the Property Tax Appeal Board are Groebe Management, the appellant, by attorney William I. Sandrick of the Sandrick Law Firm LLC, South Holland, Illinois; 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: \$91,658
IMPR: \$255,537
TOTAL: \$347,195

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a two-story commercial building with 13,448 square feet of building area. The building was constructed in 1973. The property has a 32,161 square foot site resulting in a land to building ratio of 2.39:1. The property is located in Palos Heights, Palos Township, Cook County. The property is classified as a class 5-92 commercial property under the Cook County Real Property Assessment Classification Ordinance (hereinafter "the Ordinance") and is to be assessed at 38% of market value.

The appellant marked on the appeal form recent appraisal as the basis of the appeal. Appellant's counsel subsequently submitted a narrative explaining the subject property was purchased as part of a multi-building purchase in October 2003 for a price of \$3,000,000 but there was no allocation of the price among the buildings. The appellant's counsel asserted the best indication of value for the subject property is the use of the income approach. The attorney submitted copies of the subject's income and expense statements from 2004 through 2006. In his narrative the appellant's attorney explained the subject's 2006 gross income, including reimbursements, was \$217,730 or \$20.50 per square foot on a gross basis. Expenses of \$80,768 or 37% of

gross income were deducted to arrive at a net income of \$136,962. Counsel contends that the expenses for the subject were greater per square foot than most others as the subject had been vacant requiring significant repair to place it in a marketable condition. Counsel then stated a basic capitalization rate of 11% was selected and a tax load of 7.46% was added to arrive at an overall capitalization rate of 18.46%. Capitalizing the net income of \$136,962 using a capitalization rate of 18.46% resulted in a market value estimate of \$741,939. Using a 38% percent level of assessment counsel requested the subject's assessment be reduced to \$281,936.

Counsel also asserted an adjacent property identified by parcel number (PIN) 23-24-406-019 improved with an identical two-story office building with 13,448 square feet of building area was valued at \$845,479 or \$63.00 per square foot of building area. He further asserted this building had gross income in 2006 or \$147,612.

Included with the appellant's submission was an "Internal Memo" from Terrence E. Markby, MAI, SRA, to William I. Sandrick asserting that he had reviewed rental data from various commercial properties within a 5 mile radius that had unit rentals ranging from \$8.00 to \$20.25 per square foot with an average of \$14.60 per square foot. The memo states the comparable rentals suggest the rents at the subject are at the upper end of the market. There was no data or documents describing the purported comparables reviewed by Markby.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$347,195 was disclosed. The subject's assessment reflects a market value of \$913,671 or \$67.94 per square foot of building area, including land, when applying the Ordinance level of assessment of 38%. Included with the board of review's evidence was a memo from Ralph F. DiFebo, Jr. to Tom Jaconetty asserting in part that the Recorder of Deeds Office had recorded a Trustee's Deed executed on 09/21/2003 for \$2,950,000 for the subject and two additional PINs. The memo stated the assessor's office had valued the other two PINs at \$1,495,860 which would result in an estimated sales price for the subject of \$1,454,139 or \$108.13 per square foot of building area, including land.

In further support of the assessment the board of review provided information on eight sales of office buildings. The comparables were located in Palos Hills, Palos Heights and Palos Park. The properties were improved with seven two-story and one three-story buildings that ranged in size from 7,500 to 13,000 square feet of building area and were constructed from 1966 to 2000. The sales occurred from January 2001 to May 2008 for prices ranging from \$621,000 to \$1,300,000 or from \$69.44 to \$170.63 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

The appellant's counsel submitted rebuttal comments on the comparable sales presented by the board of review.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

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); 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant asserted on the appeal form at the time the appeal was filed that the basis of the appeal was a "recent appraisal." However, the appellant submitted no appraisal but an income approach prepared by the appellant's counsel or employee's of the appellant's counsel's law firm using the subject's income and expenses to arrive at a value estimate of \$741,939. 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 market data 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" 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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate through any data in the record or an independent appraiser that the subject's actual income and expenses are 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 reflective of the market and the property's capacity for earning 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 did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds problematic the fact that appellant's counsel appeared to have developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion testimony of value for that client's property.

The Board finds the board of review submitted comparable sales that supported the subject's assessment. The Board finds comparable sales #1, #2, #5, #6 and #7 are to be given most weight due to age and sale date. These properties sold from January 2003 to April 2005 for prices ranging from \$621,000 to \$900,000 or from \$69.44 to \$94.74 per square foot of building area, including land. The subject's assessment reflects a market value of \$913,671 or \$67.94 per square foot of building area, including land, when applying the Ordinance level of assessment of 38%, which is below the range established by the best comparable sales in this record on a square foot basis. Based on this record the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and a reduction in the subject's assessment is not justified.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: July 19, 2013

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.