



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

APPELLANT: Commercial Crossings, LLC
DOCKET NO.: 06-23699.001-C-1
PARCEL NO.: 12-28-206-031-0000

The parties of record before the Property Tax Appeal Board are Commercial Crossings, LLC, 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: \$38,613
IMPR.: \$202,912
TOTAL: \$241,525

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of three commercial retail units located on the first floor of a one-year old, six-story building situated on a 74,717 square foot parcel of land. The commercial units are identified by both the appellant and the county as "Retail #1, #2 and #3." The retail units are subdivided into smaller units. The upper five floors of the subject building are residential condominium units and are not included in the subject PIN, nor are they part of this appeal. The appellant argued that the subject's land assessment should be removed from the commercial assessment as the land is already assessed to the condominium association and the owners of the residential units located on the floors above the subject PIN. In addition, the appellant argued that the subject's improvement assessment should be reduced based on vacancy.

In support of this argument, the appellant submitted a legal brief. In addition the appellant, via counsel, submitted photos, two vacancy affidavits regarding two residential condominium units, a lease; a plat of survey; and a condominium declaration.

The appellant also submitted a copy of the board of review's 2006 decision. The decision indicates a one year only reduction that reflects a 20% occupancy factor was granted based on, "vacancy, demolition, fire or natural disaster". Based on this evidence, the appellant requested a reduction in the subject's assessment.

The appellant contends that the subject improvement contains 21,750 square feet. The board of review contends the subject improvement contains 29,174 square feet.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$241,525. The board of review submitted sales comparables, an aerial photograph, and the subject's property record cards. The property record cards include field check reports with schematic drawings and square footage of the subject units. The board of review's evidence indicates that a 20% occupancy factor was applied to the subject's 2006 improvement assessment. At full value the subject's assessment reflects a market value of \$2,771,524 or \$95 per square foot when the Cook County Real Property Assessment Classification Ordinance for class 5a property of 38% is applied.

In addition, the board of review presented submitted a memorandum that indicates its sales evidence is assumed to be factual, accurate and reliable, but that the writer has not verified the information or sources and does not warrant its accuracy. The board of review presented information regarding the sales of seven suggested comparable properties located within a six mile radius from the subject. The properties consist of retail buildings that range in size from 22,000 to 39,101 square feet of building area. The comparables sold from July 2001 to May 2008 for prices that ranged from \$2,180,000 to \$8,600,000 or from \$70.03 to \$254.44 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 submitted a written rebuttal postmarked December 29, 2008. In a letter to the appellant's attorney postmarked November 26, 2008, the appellant was granted a 30-day period from the postmark date to submit rebuttal evidence pursuant to Section 1910.66 of The Official Rules of The Property Tax Appeal Board.

PTAB rule 1910.25(a) states, "The time within which any act under these rules is to be done shall be computed by excluding the first day and including the last. Saturdays, Sundays, and legal holidays for the State of Illinois shall be included in computing the time except when such time expires on a Saturday, Sunday or legal holiday for the State of Illinois, such period shall be extended to include the following business day."

PTAB rule 1910.25(b) states, in pertinent part, "Petitions, evidence, motions, and all other written correspondence sent by United States mail to the Property Tax Appeal Board shall be considered filed as of the postmark date."

Pursuant to the abovementioned PTAB rules, the last possible postmark date for a timely rebuttal would have been, December 26, 2008. The appellant submitted a rebuttal letter postmarked December 29, 2008. Therefore, the appellant's rebuttal is untimely and is accorded no weight.

After considering the arguments as well as reviewing the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

Having considered the evidence presented, the Board finds that the appellant has not met this burden and that a reduction is not warranted.

As to the subject's size, the PTAB finds the best evidence of the subject's size was submitted by the board of review. The board of review submitted property record cards and schematic drawings of each of the subject units. Any easements were indicated on the schematic drawings and their total square footage specifically excluded from the county's computation. In addition, the PTAB finds the county's schematic drawings are consistent with the plat of survey submitted by the appellant. Therefore, the PTAB finds the subject units contain 29,174 square feet.

In the case of Long Grove Manor v. Property Tax Appeal Board, 301 Ill.App.3d 654, the court held that an assessor may value any partially completed improvement to the extent that it adds value to the property. In addition, pursuant to 35 ILCS 200/9-160, after notification of a full or partial occupancy permit, the chief county assessment officer shall include in the assessment of the property for the current year the proportionate value of new or added improvements on that property from the date the occupancy permit was issued **or** from the date the new or added improvement was inhabitable or fit for occupancy or for intended or customary use until December 31 of that year. Additionally, 35 ILCS 200/9-180 states that the owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued **or** from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year.

Both 35 ILCS 200/9-160 and 35 ILCS 200/9-180 state that a proportional assessment may be made from the date the occupancy permit was issued **or** from the date the new or added improvement was inhabitable or fit for occupancy or for intended or customary use until December 31 of that year. In the case at hand, the board of review submitted documentation that indicated the subject property's improvement was accorded a 20% occupancy factor, or proportional assessment. The appellant failed to

submit any evidence for the 2006 year that indicated the proportionate value of the subject's improvement was less than 20%. In addition, the PTAB grants no weight to the appellant's vacancy affidavits as they referenced two residential commercial units that were not part 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 no reduction is warranted.

The appellant submitted a brief that argued the subject's land assessment should be removed or be assessed at \$1. According to the brief, the appellant has no interest in the underlying land. The appellant submitted a copy of the subject's condominium declaration. Article 3 (page 7) of the declaration is titled, "Easements In Favor of the Retail Property." This portion of the condominium declaration delineates the various easements the occupants of the retail property enjoy including, but not limited to, parking, ingress and egress. Therefore, the PTAB finds the appellant's argument unpersuasive.

The appellant did not submit any comparable properties or market value evidence to demonstrate the subject's land assessment is inequitably assessed. The PTAB gives little weight to the board of review's comparables as the information provided was unadjusted raw sales data.

Therefore, the PTAB finds that the appellant has not met his burden of proving by a preponderance of the evidence that the subject's assessment as established by the board of review is incorrect. The Property Tax Appeal Board finds no 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.

Donald R. Cuit

Chairman

[Signature]

Member

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Member

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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: March 22, 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.