



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

APPELLANT: Robert Goodman  
DOCKET NO.: 06-23851.001-R-1  
PARCEL NO.: 14-19-218-009-0000

The parties of record before the Property Tax Appeal Board are Robert Goodman, the appellant, 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 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:** \$ 15,664  
**IMPR.:** \$ 69,611  
**TOTAL:** \$ 85,275

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is improved with a two-story, mixed-use and multi-family dwelling of masonry construction. The building is 103 years old, and it has 6,975 square feet of building area with one commercial unit, five apartment units, a full unfinished basement, and central air conditioning. The building is located in Chicago, Lake View Township, Cook County. The property is classified as a class 2-12 residential property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends both assessment inequity and overvaluation as the bases of the appeal. In support of the assessment inequity argument, the appellant submitted information on four comparable properties described as masonry buildings that range in age from 81 to 105 years old. The appellant did not disclose the number of stories for each structure but did indicate that each comparable has the same classification code as the subject. The comparable buildings range in size from 5,160 to 7,200 square feet of living area. Three slab comparables have partial unfinished basements, and one has a slab foundation. One comparable has a two-car garage. The comparables have improvement assessments ranging from \$44,382 to \$64,185 or from \$8.41 to \$9.98 per square foot of building area. The subject's improvement assessment is \$91,011 or \$13.05 per square foot of building area. In the

brief, the appellant's attorney argued that the average improvement assessment for the comparables was \$9.19 per square foot of building area, which should be applied to the subject's improvement resulting in an improvement assessment of \$64,100, and a total assessment of \$79,764.

In support of the overvaluation argument, the appellant's attorney argued that the subject property should have a market value of \$388,445. The appellant's attorney presented the subject's income and expenses for 2005 and 2006. According to the appellant's attorney, the subject had gross income of \$75,004 and \$87,025, respectively and allowable expenses of \$21,177 and \$42,853, respectively. Counsel determined the subject's stabilized net operating income was \$49,000. The attorney used a 12.6144% capitalization rate, which includes an effective tax rate of 2.6144%, to arrive at an indicated market value of \$388,445. In the brief, the appellant's attorney stated that, "In determining the base capitalization rate, we considered the Subject's age, location, condition, risk of collection loss/vacancy loss and likelihood of a breakdown in a major mechanical system or structural component." (Appellant's brief, pp. 3-4.) Based on this estimate of value the attorney requested the subject's assessment be reduced to \$62,151 after applying the 16% level of assessment for class 2 property as provided by the Cook County Real Property Assessment Classification Ordinance.

Furthermore, the appellant completed a portion of Section IV of the Residential Appeal form indicating the subject property was purchased in January 2005 for a price of \$970,000. In the brief the appellant's counsel also asserted the subject was purchased for a price of \$970,000 in January 2005. To document the sale, the appellant submitted an unsigned copy of a seller's recapitulation, disclosing the subject property was purchased in January 2005 for a price of \$1,070,000, which included \$100,000 for personal property. The appellant's counsel argued the subject had a market value of \$970,000 and the assessment should be calculated using a 10% assessment ratio applied to the purchase price. Based on this record, the appellant requested the subject's assessment be reduced to \$97,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$106,675 was disclosed. The subject's assessment reflects a market value of approximately \$1,054,100 or \$151.13 per square foot of building area, land included, when applying the 2006 three year median level of assessment for Cook County class 2 property of 10.12%. (See 86 Ill.Admin.Code 1910.59(c)(2)). The subject has an improvement assessment of \$91,011 or \$13.05 per square foot of building area.

To demonstrate the subject property is being correctly assessed, the board of review presented descriptions and assessment information on four comparable properties consisting of two-story masonry dwellings that range in age from 19 to 90 years old. The comparables had the same classification code as the subject, and

the buildings range in size from 3,100 to 4,390 square feet of building area. Each comparable has an unfinished basement, either full or partial. Two comparables have central air conditioning, and one has a one and one-half car garage. These properties have improvement assessments ranging from \$43,016 to \$56,354 or from \$12.84 to \$14.62 per square foot of building area.

The board of review disclosed that the subject sold in January 2005 for \$1,070,000 (warranty deed #50183319) or for \$153.40 per square foot of building area, land included. The board of review also disclosed that the comparable numbered one sold in February 2003 for \$735,000 or \$167.43 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 this appeal. The Board further finds a reduction in the subject's assessment is warranted.

The appellant argued in part assessment inequity as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data the Board finds the appellant demonstrated unequal treatment by clear and convincing evidence.

Both parties presented assessment data on a total of eight equity comparables. Although the comparables submitted by the board of review were very similar to the subject in location, design, and exterior construction, they were from 37% to 56% smaller in size. The comparables numbered one and two were also substantially newer than the subject. As a result, the comparables submitted by the board of review received reduced weight in the Board's analysis. The Board finds that the appellant's comparables were similar to the subject in almost all respects, except none had central air conditioning like the subject. The appellant's comparables had improvement assessments ranging from \$8.41 to \$9.98 per square foot of building area. The subject's improvement assessment of \$13.05 per square foot of living area falls above this range. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is not equitable and a reduction in the subject's assessment based on assessment inequity is warranted.

The appellant also argued overvaluation as an alternative basis of the appeal. 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).

The Board further finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

The appellant's counsel formulated an overvaluation argument using the subject's actual income and expenses from 2004 through 2006. 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 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" 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 documentation or an expert appraisal witness 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 problematical the fact that appellant's counsel 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. (See 86 Ill.Admin.Code 1910.70(f)).

The purchase price of the subject property is at issue in this appeal. The board of review claimed that the subject property

sold for \$1,070,000 in January 2005 and produced a listing of recent sales in the subject's neighborhood. This listing indicates the subject sold for \$1,070,000 (warranty deed #501833199). The appellant claims that the subject property's sale price of \$1,070,000 included \$100,000 for personal property. However, the subject's assessment as the result of a reduction granted based on assessment inequity reflects a market value below either estimate of the purchase price when applying the 2006 three-year medial level of assessments for class 2 property of 10.12% as determined by the Illinois Department of Revenue (86 Ill.Admin.Code 1910.59(c)(2)). Thus, no further reduction is 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 M. Louie*

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 22, 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.