



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

APPELLANT: Catherine Court Condominium Industrial
DOCKET NO.: 06-24230.001-I-2 through 06-24230.024-I-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Catherine Court Condominium Industrial, the appellant(s), by attorney Allen A. Lefkovitz, attorney Leonard D. Sapphire-Bernstein and attorney Jeffrey G. Hertz with the law firm of Allen A. Lefkovitz & Assoc. P.C. of Chicago; 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
06-24230.001-I-2	03-10-201-075-1001	6,615	34,011	\$40,626
06-24230.002-I-2	03-10-201-075-1002	3,992	20,523	\$24,515
06-24230.003-I-2	03-10-201-075-1003	5,959	30,637	\$36,596
06-24230.004-I-2	03-10-201-075-1004	5,951	30,593	\$36,544
06-24230.005-I-2	03-10-201-075-1005	6,087	31,297	\$37,384
06-24230.006-I-2	03-10-201-075-1006	4,505	23,162	\$27,667
06-24230.007-I-2	03-10-201-075-1007	4,444	22,847	\$27,291
06-24230.008-I-2	03-10-201-075-1008	4,444	22,847	\$27,291
06-24230.009-I-2	03-10-201-075-1009	4,444	22,847	\$27,291
06-24230.010-I-2	03-10-201-075-1010	5,362	27,565	\$32,927
06-24230.011-I-2	03-10-201-075-1011	487	2,506	\$2,993
06-24230.012-I-2	03-10-201-075-1012	4,472	22,995	\$27,467
06-24230.013-I-2	03-10-201-075-1013	5,303	27,264	\$32,567
06-24230.014-I-2	03-10-201-075-1014	5,303	27,264	\$32,567
06-24230.015-I-2	03-10-201-075-1015	5,303	27,264	\$32,567
06-24230.016-I-2	03-10-201-075-1016	5,303	27,565	\$32,868
06-24230.017-I-2	03-10-201-075-1017	5,303	27,264	\$32,567
06-24230.018-I-2	03-10-201-075-1018	5,303	27,264	\$32,567
06-24230.019-I-2	03-10-201-075-1019	5,303	27,264	\$32,567
06-24230.020-I-2	03-10-201-075-1020	5,303	27,264	\$32,567

06-24230.021-I-2	03-10-201-075-1021	5,781	29,720	\$35,501
06-24230.022-I-2	03-10-201-075-1022	5,781	29,720	\$35,501
06-24230.023-I-2	03-10-201-075-1023	5,657	29,086	\$34,743
06-24230.024-I-2	03-10-201-075-1024	5,783	29,733	\$35,516

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 123,436 square foot parcel improved with a one-story, 36,276 square foot, 24-unit, industrial condominium building built in 1986 with a land to building ratio of 3.40 to 1. The condominiums range in size from 1,150 to 2,219 square feet with an average area of 1,543 square feet per unit. The property is located in Wheeling Township, Cook County.

The appellant's attorney, Allen A. Lefkovitz, appeared before the Property Tax Appeal Board and raised two arguments: first, that the fair market value of the subject is not accurately reflected in its assessed value; and second, that there was unequal treatment in the assessment process of the improvement. In support of the market value argument, the appellant's attorney prepared and submitted an income approach to value based on the subject's actual income and expenses. The appellant submitted five leases of units within the subject building and relied on the most recent lease to arrive at a market rent of \$10.00 per square foot of building area for the subject. Thus, the potential gross income was estimated to be \$367,760. Next, expenses totaling \$55,164 were deducted resulting in a net operating income of \$312,596 for the subject. The appellant's attorney then utilized an overall capitalization rate of 17.76% to arrive at a value estimate for the subject property of \$1,759,949 or \$47.86 per square foot, including land.

Next, Mr. Lefkovitz submitted income and expense data, assessment information and descriptive data on six comparable properties located within the subject's area. The six industrial condominiums consist of individual units and condominium buildings that range in building size from 3,000 to 60,700 square feet, range in land size from 8,901 to 181,645 square feet, were built between 1974 and 1989 and have land to building ratios ranging from 2.64 to 1 to 4.60 to 1. No sales data was provided for the six properties. The appellant also provided assessment data for the six suggested comparables and have improvement assessments ranging from \$10.23 to \$20.09 per square foot of building area. The subject's improvement assessment is \$17.32 per square foot of building area.

The appellant's evidence disclosed that the appellant's comparable one is located next door to the subject and has a market value of \$1,827,444 or \$48.75 per square foot, including land. The subject has a market value of \$2,084,406 or \$57.46 per square foot, including land.

The appellant's evidence also disclosed that the appellant's four comparables located on Wolf Road and Seton Avenue have building unit prices ranging from \$28.43 to \$44.99 per square foot with overall values ranging from \$37.67 to \$54.63 per square foot, including land. The appellant's attorney arrived at a building unit price of \$32.00 per square foot to estimate a market value of \$1,160,832 for the subject. Adding back the subject's land value of \$339,411, based on the subject's land assessment, resulted in a value estimate for the subject property of \$1,500,250.

At hearing, Mr. Lefkovitz argued that the board of review adopted the income approach to value on the four suggested comparables provided by the appellant and located on either Wolf Road or Seton Avenue. Counsel argued that the actual income and expenses of these properties were considered in the board's final determination and resulted in reductions. Mr. Lefkovitz argued that the subject property was entitled to the same methodology as applied by the board of review to these four properties and therefore entitled to relief. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of \$750,386, which reflects a market value of \$2,084,406, or \$56.27 per square foot of building area, utilizing the Cook County Real Property Assessment Classification Ordinance level of assessment of 36% for Class 5ba property, such as the subject. In support of its assessment, the board of review submitted seven service sheets as well as a memorandum from the Assessor's office. According to the service reports, the seven suggested comparables consist of one-story, masonry or concrete block, industrial condominium units located in the subject's area and built between 1966 and 1986. The sales occurred between March 2001 and June 2007 for prices ranging from \$103,000 to \$440,000, or from unadjusted prices ranging from \$56.59 to \$125.11 per square foot of building area, including land. Ranging in size from 1,500 to 4,000 square feet, the buildings are situated on parcels ranging in size from 60,000 to 142,000 square feet. No analysis or adjustment of the sales data was provided by the board. The memorandum submitted into evidence disclosed that "the information provided in the memo has been collected from sources including; the Assessor, CoStar, PTAB case file records and they are assumed to be factual, accurate and reliable. The writer has not verified the information or sources and does not warrant its accuracy."

In addition, the board of review submitted nine units within the subject building which sold from September 2001 to June 2007 for prices ranging from \$93,000 to \$224,000. The board's evidence disclosed that dividing the unit sale price by its percentage of ownership reflected market values ranging from \$2,644,009 to \$4,608,295 for the subject building.

Assistant State's Attorney, Joel D. Buikema, argued that although the appellant provided an income approach as well as a comparable or uniformity approach to value, the appellant failed to provide the sales comparison approach which is considered by law as the best evidence of market value. He argued that the appellant failed to provide any sales data, whereas, the board of review submitted nine sales within the subject building which occurred between 2001 and 2007 indicating the subject is not over assessed. In addition, Mr. Buikema argued that if the sales that occurred between 2001 and 2004 were only considered, the subject is not overvalued. The record disclosed that seven additional sales within the subject's area were also provided.

In response to the appellant's contention that the board of review adopted the income approach to value on the four properties located on either Wolf Road or Seton Avenue and granted reductions, Mr. Buikema argued that although the board of review's notes suggest that actual income and expenses were considered, there is no disclosure as to how much weight was accorded the data, what other factors were considered, what other criteria was used and no testimony provided. In addition, he asserted a likely disparity in evidence for Mr. Lefkowitz revealed that appraisals were provided on behalf of the three Seton properties to the board of review. Based on this documentation, the board of review requested confirmation of the subject's assessment.

In rebuttal, Mr. Lefkowitz argued that uniformity of assessment applies to both the actual assessment and the level of assessment and that uniformity should exist in terms of dollar amount per square foot and in terms of methodology. He argued that the seven sales provided by the board of review have assessment ratios ranging from 10.91% to 33.23% and much lower than the 36% statutory level of assessment. He provided a copy of the Ordinance Amendment for the Cook County Classification System for Assessment which was approved and adopted the 17th day of September 2008 disclosing the level of assessment for industrial property was reduced to 25% effective for the 2009 tax year.

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.

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 estimate of value for that client's property.

Next, the appellant's attorney submitted descriptive information and assessment data on six properties located within the subject's area. The six industrial condominiums consist of single units and condominium buildings that range in building size from 3,000 to 60,700 square feet, range in land size from 8,901 to 181,645 square feet, were built between 1974 and 1989 and have land to building ratios ranging from 2.64 to 1 to 4.60 to 1. The appellant argued overvaluation, however, no sales data was provided and therefore, the Board accords this argument no weight.

The appellant also argued unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations 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 has not overcome this burden.

Regarding the appellant's equity argument, the six industrial condominiums provided by the appellant and consisting of both individual units as well as condominium buildings have improvement assessments ranging from \$10.23 to \$20.09 per square foot of building area. The subject's per square foot improvement assessment of \$17.32 falls within the range established by these properties. After considering adjustments and the differences in the appellant's comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted.

Finally, the appellant's attorney argued that the board of review adopted the income approach to value on the four suggested comparables provided by the appellant and located on either Wolf Road or Seton Avenue. He argued that the actual income and expenses of these properties were considered in the board's final determination which resulted in reductions. Counsel argued that the subject was entitled to the same methodology as applied by the board of review to these four properties and therefore entitled to relief. The Board finds the appellant's argument misguided. The Board further finds that although the board's notes suggest actual income and expenses were considered, there is no disclosure as to how much weight was accorded the data, what other factors were considered, other criteria utilized and no testimony provided. In addition, the appellant's attorney revealed that appraisals were provided for the three Seton properties to the board of review. Therefore, the Board accords the appellant's argument no weight.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the

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subject was overvalued or inequitably assessed 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.