



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

APPELLANT: Waclaw Tolczyk
DOCKET NO.: 06-24596.001-C-1
PARCEL NO.: 15-04-105-041-0000

The parties of record before the Property Tax Appeal Board are Waclaw Tolczyk, the appellant; 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: \$ 9,843
IMPR.: \$43,332
TOTAL: \$53,175

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 7,812 square foot land parcel improved with three, adjoining, mixed-use buildings. The buildings consist of five residential apartments and three commercial stores, therein. They contain 7,722 square feet of building area and were built in 1937. Two buildings are two-story structures, while one building is one-story in design.

The appellant raised the following arguments: first, that the market value of the subject property is not accurately reflected in the property's assessed valuation; and second, that there was unequal treatment in the assessment process as the bases of this appeal.

In support of the market value argument, the appellant submitted correspondence and a copy of the subject's actual income and loss supplemental IRS tax form for tax year 2006. The appellant testified that there is a high vacancy problem within the subject's depressed area, which causes difficulty in obtaining and retaining tenants.

In support of the equity argument, the appellant submitted copies of limited descriptive data and photographs for three suggested comparables located within a one-mile radius of the subject. The three properties were improved with one, two-story, masonry, multi-family dwelling. They ranged in units from 2 to 17 apartments. The analysis was absent data on improvement age, size, and assessment. The photographs for two properties depicted mixed-use buildings. The gross rental income for the properties ranged from \$35,400 to \$181,692 with real estate taxes ranging from \$7,739 to \$34,975. The appellant also included copies of multiple listing service sheets for the suggested comparables. As to his comparables, the appellant stated that properties #1 and #3 are located in Melrose Park with property #2 sited in Northlake, while the subject is located in Stone Park.

As to the subject, the appellant testified that in 2005 a car drove into the subject's building causing damage to the subject. In addition, he stated that the first floor of his building contained commercial units in the front of the building with three units in the back of the building. Further, he indicated that the apartment units were extremely small in size. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$53,175. The board of review submitted a memorandum, photographs of the subject property, the subject's property record card, and five suggested sale comparables. The board of review's memorandum asserted that the subject's total assessment of \$53,175 reflected a market value of \$221,563 or \$28.69 per square foot by applying the Cook County Ordinance Level of Assessments for class 3 property of 24% for tax year 2006. Further, the board submitted unadjusted, raw sales data on five properties. These sale properties indicated an unadjusted value range from \$28.24 to \$82.24 per square foot. Beyond this submission, the board of review failed to proffer equity evidence in support of the subject's current assessment.

At hearing, the board of review's representative testified that the appellant's properties #1 and #3 are located in a different township and/or taxing district than is the subject property. He also noted that the assessor in tax year 2006 accorded an 84.5% occupancy factor to the subject property, yielding a reduction in assessment for the subject's building. He stated that such relief is based upon income or the lack thereof generated by the building. This methodology is reflected on the copy of the subject's property record card submitted into evidence by the board of review. As a result of its analysis, the board requested confirmation of the subject's assessment.

In rebuttal, the appellant stated that the board of review's sale properties lack comparability due to the decreased market values in the real estate market.

After considering the testimony and reviewing 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 unequal treatment in the subject's improvement assessment 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 assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The Board finds that the comparables submitted by the appellant are lacking in pertinent data including improvement age, size and assessments, which inhibits a comparability analysis. Therefore, the Board finds the appellant's request for a reduction in the subject's improvement assessment is unpersuasive.

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 Board concludes that the evidence indicates a reduction is not warranted.

In determining the fair market value of the subject property, the appellant failed to provide market data for the subject or the comparable properties.

Further, 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:

it is the value of the "tract or lot of real property" 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,

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 Board gives this argument no weight.

As a result of this analysis, the Board finds the appellant has not adequately demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence and a reduction 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

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.