



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

APPELLANT: A. Wilmers, Trustee
DOCKET NO.: 06-24691.001-C-1
PARCEL NO.: 15-05-104-010-0000

The parties of record before the Property Tax Appeal Board are A. Wilmers, Trustee, 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: \$ 101,950
IMPR.: \$ 8,048
TOTAL: \$ 109,998

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 97,560 square foot site located in Proviso Township, Cook County. The subject parcel is improved with a go-kart track and batting range utilized as a recreational facility for seven months out of the year.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board claiming the subject's market value is not accurately reflected in its assessment. As to the market value argument, the appellant's attorney prepared and submitted an "income approach", utilizing the subject's actual income and expenses for tax year 2003. Based on this evidence, the appellant requested a reduction in the subject's assessment.

In addition, the appellant provided a report of subsurface soil investigation (Exhibit E), dated August 28, 1986 arguing the report reveals the subject site has layers of lime ranging from 3.1' to 7.5' feet, there is very hard silty clay with granular material just above the lime and that the addition of any substantial improvement would require numerous pylons with

additional expenses. Therefore, based on the substandard soil condition, the appellant requested a reduction in the subject's land assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final combined assessment of \$109,998 was disclosed. In support, the board of review offered a memorandum indicating the subject's final assessment reflects a market value of \$289,468, utilizing the Cook County Real Property Assessment Classification Ordinance level of assessment of 38% for Class 5a property. The subject's unit land price is \$2.75 per square foot. The memorandum also indicated that the sales of four commercial zoned parcels in the subject's area suggest an unadjusted range of from \$3.25 to \$4.00 per square foot, thus supporting the current assessment. No analysis or adjustment of the sales data was provided by the board. Based on the evidence presented, 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.

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)) Having reviewed the record and considering the evidence, the Board finds the appellant has not met this burden and no reduction is warranted.

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 Property Tax Appeal Board gives this argument no weight.

Next, the appellant argued that the subject parcel suffers from a substandard soil condition and provided a report of subsurface soil investigation (Exhibit E), dated August 28, 1986. The Board finds this argument unpersuasive in that the appellant failed to show how the subject's market value was negatively impacted by the substandard soil condition.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the subject property was overvalued by a preponderance of the 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

Shawn P. Loras

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: May 20, 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.