FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Mohammed Masud
DOCKET NO.: 06-26514.001-C-1
PARCEL NO.: 14-18-322-003-0000

The parties of record before the Property Tax Appeal Board are Mohammed Masud, the appellant, by attorney Terrence Kennedy Jr., of Law Offices of Terrence Kennedy Jr. in 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:

LAND:	$ 34,437
IMPR.:	$ 72,754
TOTAL:	$ 107,191

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 3,125 square feet of land that is improved with an 47-year old, one-story, masonry, commercial building used as an owner-occupied, storefront restaurant. The appellant, via counsel, argued that the subject's market value was not accurately reflected in its assessment.

In support of the market value argument, the appellant submitted an appraisal summary report undertaken by Robert A. Napoli of Allied Appraisal Company in Chicago, Illinois. The report states that Napoli is a licensed State of Illinois Certified Real Estate Appraiser. The appraisal indicated that the subject had an estimated market value of $151,000 as of January 1, 2006. The appraisal report indicated that pursuant to a prior agreement with the appraiser's client, the appraiser utilized only the income approach to value to estimate the market value for the subject property. The appraisal states that an inspection of the subject was conducted on March 23, 2007, while the date of this report was March 24, 2007. The subject's highest and best use as improved is its current use, while its highest and best use as vacant was for an assemblage with adjoining parcels because of its long narrow shape and small land area. As to the three

traditional approaches to value, the appraisal indicated that the cost approach and the sales comparison approach were inapplicable to the subject property without further elaboration.

Under the income approach to value, the appraiser analyzed the rents of four suggested comparable commercial buildings, which were identified as eight commercial leases for either retail, office, or restaurant space. They ranged in leased area from 900 to 3,600 square feet and in rental rates from $13.30 to $18.63 per square foot on a gross basis. After making adjustments, the appraiser estimated a unit rental for the subject at $16.00 per square foot. Therefore, gross income was estimated at $34,400, while a 5% vacancy and collection loss was deducted resulting in an effective gross income of $32,680. Expenses were estimated at 25% resulting in a net income of $24,510. A loaded capitalization rate of 16.21% was utilized to estimate a value under the income approach of $151,000, rounded.

Thus, the appraiser concluded that the subject's appraised value was $151,000 as of January 1, 2006. Based on this evidence, the appellant requested a reduction in the subject's assessment.

At hearing, the appellant's attorney asserted that the subject's assessment had doubled from the prior tax year and that the income approach to value is valid to show income production of a property.

The Cook County Board of Review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $107,191 was disclosed. This assessment yields a market value of $282,082 when the Cook County Classification Ordinance level of assessment for commercial property of 38% is applied.

In support of the subject's assessment, the board of review submitted printouts of raw sales data relating to six properties identified as either retail storefront or retail restaurant locations. They improvements are one-story, masonry, commercial buildings that ranged in size from 2,200 to 2,860 square feet of building area. They sold from August, 1998, through January, 2005, for prices that ranged from $136.96 to $256.25 per square foot. The printouts indicated that sales #1, #2, #4 and #5 did not include representation by real estate brokers for the parties to each sale, while sale #6 was a leased fee purchase. Based on this evidence, the board of review requested confirmation of the subject's assessment.

As to the appellant's case, the board of review's representative argued that the subject property is an owner-occupied commercial enterprise and as such, the income approach to value is less than applicable. Moreover, he asserted that the appellant failed to provide the appraiser to testify regarding the submitted appraisal.

In rebuttal, the appellant re-affirmed the evidence previously submitted while asserting that the county assessor's office will look at income data in determining a property's assessment.

After hearing the arguments and considering the evidence, the Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter 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. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code. § 1910.65(c). Having considered the evidence presented, the Board finds that a reduction is not warranted.

The Board gives little weight to the appellant's appraisal. This appraisal did not include any market sales or justify why sales were not included within the analysis. The court has held that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law." Cook Cnty. Bd. of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3d 472 at 484 (1st Dist. 2008). The Illinois Appellate Court recently revisited this issue in Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" case). In Sears, the court stated that, while the use of only one valuation method in an appraisal is not inadequate as a matter of law, the evidence must support such a practice and the appraiser must explain why the excluded valuation methods were not used in the appraisal for the Board to use such an appraisal. Id. at ¶ 29.

In this case, the appraisal provided no plausible reasons for excluding these valuation methods, and the evidence does not show that their exclusion is standard practice when appraising property that is similar to the subject, most especially because the board of review located sale comparables for the subject property. Moreover, the appellant's appraiser was not called to provide testimony regarding the exclusion of such market sales. Therefore, the Board finds that reliance on the appellant's appraisal would be deficient as a matter of law, and, thus, no reduction is warranted based on the appellant's market value argument.

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.

Chairman

Member

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: April 19, 2013

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.