FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Midland Realty Group
DOCKET NO.: 06-26591.001-C-1
PARCEL NO.: 13-30-102-001-0000

The parties of record before the Property Tax Appeal Board are Midland Realty Group, the appellant(s), by attorney Brian P. Liston, of Law Offices of Liston & Tsantilis, P.C. 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:	$30,403
IMPR.:	$178,444
TOTAL:	$208,847

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story commercial building that contains 7,532 square feet of building area. The subject is air conditioned, has a concrete floor and a masonry exterior construction. The building is approximately 48 years old and is located on a 7,620 square foot site and is located in Chicago, Jefferson Township, Cook County. The property is classified as a class 5-17 one-story commercial building under the Cook County Real Property Assessment Classification Ordinance and is to be assessed at 38% of market value.

The appellant filed the appeal and checked assessment equity as the basis of the appeal. In support of this argument the appellant provided information on three comparables improved with one-story class 5-17 commercial buildings that ranged in size from 6,520 to 10,250 square feet of building area. The buildings range in age from 50 to 61 years old. The comparables had the same neighborhood code as the subject and were located along the same street as the subject approximately 1.61 to 1.87 miles from the subject. These properties had improvement assessments ranging from $125,748 to $130,479 or from $12.73 to $19.29 per square foot of building area.

The appellant also submitted copies of the 2005 and 2006 IRS Form 8825 Rental Real Estate Income and Expenses of a Partnership or an S Corporation depicting the gross rents for the subject property. Using this data the appellant developed an income approach to value estimating the subject had a market value of $318,188. The appellant also submitted a copy of a Commercial/Industrial Vacancy-Occupancy Affidavit indicating the subject was 50% vacant in 2006.

Based on this evidence the appellant requested the subject's assessment be reduced to $146,772.

The board of review submitted its "Board of Review Notes on Appeal" wherein the final assessment of the subject totaling $208,847 was disclosed. The subject's assessment reflects a market value of $549,597 or $72.97 per square foot of building area, including land, using the 38% level of assessment for class 5-17 commercial property under the Cook County Real Property Assessment Classification Ordinance. The subject has an improvement assessment of $178,444 or $23.69 per square foot of building area.

In support of the assessment the board of review submitted a memorandum and information from the Cook County Recorder of Deeds disclosing the subject property was purchased in February 2002 for a price of $850,000 or $112.85 per square foot of building area, land included. In further support of the assessment the board of review submitted copies of the subject's property record card and information on 5 sales. The comparables sales were improved with one-story commercial retail buildings that ranged in size from 5,280 to 10,000 square feet of building area. Four of the comparables were multi-tenant buildings. Four of the comparables were constructed from 1950 to 2004 while the age of comparable #5 was not disclosed. The sales occurred from October 2001 to June 2005 for prices ranging from $390,000 to $1,625,000 or from $56.00 to $236.19 per square foot of building area, including land. 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 the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant argued assessment inequity with respect to the 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 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.

The Uniformity Clause of the Illinois Constitution provides that: "Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law." Ill.Const.1970, art. IX, §4(a). Taxation must be uniform in the basis of assessment as well as the rate of taxation. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 401 (1960). Taxation must be in proportion to the value of the property being taxed. Apex Motor Fuel, 20 Ill. 2d at 401; Kankakee County Board of Review, 131 Ill.2d at 20 (fair cash value is the cornerstone of uniform assessment.) It is unconstitutional for one kind of property within a taxing district to be taxed at a certain proportion of its market value while the same kind of property in the same taxing district is taxed at a substantially higher or lower proportion of its market value. Kankakee County Board of Review, 131 Ill.2d at 20; Apex Motor Fuel, 20 Ill. 2d at 401; Walsh v. Property Tax Appeal Board, 181 Ill.2d 228, 234 (1998). After an analysis of the assessment data the Board finds a reduction is not warranted.

In this appeal the appellant provided information on three comparables; however, two of the comparables were older than the subject and all differed from the subject improvement in size ranging from 13.4% smaller to 36.1% larger. Additionally, the appellant did not demonstrate these comparable had similar income earning capacities as the subject nor did the appellant provide any evidence that the comparables were assessed at a substantially lower proportion of market value than the subject.

The Board finds this evidence does not clearly and convincingly demonstrate the subject building was being inequitably assessed.

The appellant also seemed to be developing an income approach to value using the subject's actual income and expenses that were largely impacted by the subject's actual vacancy. The Board finds this 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 type of expert opinion or documentation 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 seems to have 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 purported argument no weight.

The Board further finds problematic the fact that appellant's counsel seems to have 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.

The Board further finds the evidence established the subject sold in February 2002 for a price of $850,000 or $112.85 per square foot of building area, land included. The subject's assessment totaling $208,847 reflects a market value of $549,597 or $72.97 per square foot of building area, including land, using the 38% level of assessment for class 5-17 commercial property under the Cook County Real Property Assessment Classification Ordinance, which is less than the purchase price. The Board finds this evidence indicates the subject's assessment is not excessive in relation to the property's market value.

Based on this record the Board finds a reduction in the subject's assessment is not 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.

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: February 24, 2012

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.