FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Betty Bauer
DOCKET NO.: 06-27003.001-R-1
PARCEL NO.: 14-19-131-044-0000

The parties of record before the Property Tax Appeal Board are Betty Bauer, the appellant, by attorney Joe Lee Huang, 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:	$ 10,775
IMPR.:	$ 30,224
TOTAL:	$ 40,999

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 3,150 square foot parcel of land improved with a 103-year old, three-story, masonry, mixed-use building. The improvement contains 3,077 square feet of building area as well as two full and one half-baths and a partial basement. Moreover, the building includes one commercial unit and two apartments, therein.

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's attorney developed an income analysis. Using actual rental data for one apartment unit and the commercial unit as well as assumed data for the second apartment, occupied by the appellant, the potential gross income was estimated at $26,400 less vacancy and collection loss at 7% resulting in an effective income of $24,552. Expenses were stabilized at 20% and deducted from the effective income resulting in a net income of $19,642.

Capitalizing this amount by 12.3% resulted in an estimated market value of $159,691. In support of this data, the attorney submitted correspondence and copies of the subject's actual income and loss supplemental IRS tax form for tax years 2003 and 2004 as well as profit and loss sheets for the subject reflecting calendar year 2005.

In support of the equity argument, the appellant submitted descriptive and assessment data as well as color photographs for four suggested comparables located within a seven-block radius of the subject. The properties were improved with a two-story or three-story, building of frame, masonry, or frame and masonry exterior construction. They range: in baths from four full baths to four full and two half-baths; in age from 93 to 115 years; in size from 3,364 to 5,600 square feet of living area; and in improvement assessments from $5.25 to $6.99 per square foot. The properties each contain basement area and a multi-car garage, while ranging in units from one commercial and four apartments to one commercial and five apartments, therein. The subject's improvement assessment is $9.82 per square foot of living area. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

At hearing, the appellant's attorney stated that the subject included an owner-occupied apartment unit and a commercial unit that was occupied by the appellant's business. In addition, he stated that the data employed in the income analysis was actual rental data and he assumed it to be market data because that was the rental income at the subject property.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was $40,999. The board of review submitted descriptive and assessment data on three suggested comparables located from one quarter mile's distance to a location in the subject's subarea. The properties are improved with a two-story or three-story, masonry, mixed-use building. The improvements range: in age from 76 to 81 years; in baths from two full and one half-baths to four full and two half-baths; in size from 3,570 to 4,030 square feet of building area; and in improvement assessments from $10.27 to $10.55 per square foot. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board of review's representative stated that the appellant's income analysis was flawed due to the absence of actual income and market data. She testified that board of review's property #1 was located in the subject's subarea, which she indicated meant a location in the same general vicinity as the subject.

After hearing the testimony and/or argument as well as 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 data, the Board finds the appellant has not met this burden.

The Board finds that comparables #1 and #2 submitted by the appellant as well as comparable #1 submitted by the board of review are most similar to the subject in number of stories, number of units, and improvement size and/or age. In analysis, the Board accorded most weight to these comparables. These comparables ranged in improvement assessments from $6.77 to $10.31 per square foot of living area. The subject's improvement assessment at $9.82 per square foot is within the range established by these comparables.

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, 331Ill.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.

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 or unsupported estimates of income unconvincing. 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" 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.

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 22, 2011

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.