



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

APPELLANT: A, B & C Lupescu
DOCKET NO.: 06-27501.001-R-1 through 06-27501.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are A, B & C Lupescu, the appellant, by attorney Lisa A. Marino of Marino & Assoc., PC 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
06-27501.001-R-1	24-18-421-023-0000	4,088	16,809	\$20,897
06-27501.002-R-1	24-18-421-067-0000	2,185	16,809	\$18,994

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two parcels that are improved with a two-story multi-family building of masonry construction containing 4,550 square feet of building area. The building is 39 years old, and it has six apartment units and a full basement finished with an apartment. The subject has a classification code of 2-11 under the Cook County Real Property Assessment Classification Ordinance, and it is located in Worth, Worth Township, Cook County.

The appellant contends both assessment inequity and overvaluation as the bases of the appeal. When appellant's counsel completed section III of the residential appeal form, she indicated that the subject property sold in August 2005 for \$550,000. In support of the assessment inequity argument, the appellant submitted information on three comparable properties described as two-story masonry or frame and masonry multi-family buildings. The comparables have the same assigned classification code as the subject, and two are located in the same block as the subject. The buildings range in age from 38 to 44 years old and in size from 4,612 to 5,760 square feet of building area. Two comparables have a partial unfinished basement, and one has a crawl-space foundation. Each comparables has a garage, and one has a fireplace. The appellant did not disclose the number of

apartment units in each building. The comparables have improvement assessments ranging from \$6.42 to \$6.55 per square foot of building area. The subject's improvement assessment is \$33,618 or \$7.39 per square foot of building area. In her brief, the appellant's counsel argued the average improvement assessment for the comparables was \$6.50 per square foot, which should be applied to the subject's improvement resulting in a revised improvement assessment of \$29,575 and a total revised assessment of \$35,848.

The appellant's attorney also argued the subject's income and expenses indicates the subject should have a market value of \$113,160. In support of this argument, the appellant's attorney presented the subject's income and expenses for 2005 and 2006.¹ According to the appellant's attorney, the subject had gross income of \$17,726 and \$37,740 and allowable expenses of \$9,674 and \$19,097. Counsel determined the subject's stabilized net operating income was \$15,865. The attorney used a 14.02% capitalization rate, which included an effective tax rate of 4.02%, to arrive at an indicated market value of \$113,160. In the brief, the appellant's attorney stated that, "In determining the base capitalization rate, we considered the Subject's age, location, condition, risk of collection loss/vacancy loss and likelihood of a breakdown in a major mechanical system or structural component." (Appellant's brief, p. 4.) Based on this estimate of value the attorney requested the subject's assessment be reduced to \$18,106 after applying the 16% level of assessment for class 2 property as provided by the Cook County Real Property Assessment Classification Ordinance.

The appellant's attorney also argued the subject's actual vacancy rate for 2006 was 21%. Counsel applied the 75% occupancy factor to the subject's 2006 improvement assessment. According to the appellant's attorney, the revised improvement assessment should be \$26,558 resulting in a total assessment of \$32,831. Counsel argued that since the subject was being assessed at 16% of total market value, the revised total assessment would indicate a market value of \$205,194.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$41,794 was disclosed. The subject's assessment reflects a market value of approximately \$412,984 or \$90.77 per square foot of building area, land included, when applying the 2006 three year median level of assessment for Cook County class 2 property of 10.12%. (See 86 Ill.Admin.Code 1910.59(c)(2)).

To demonstrate the subject is correctly assessed, the board of review presented descriptions and assessment information on three comparable properties consisting of two-story masonry multi-family buildings. The comparables have the same assigned neighborhood and classification codes as the subject, and two are located in the same block as the subject property. The

¹ The figures for 2005 were prorated to reflect a full 12-month period.

comparables range in age from 33 to 44 years old and in size from 3,971 to 4,550 of building area. Two buildings have a full unfinished basement, and one building has a full basement finished with an apartment. One comparable has a two-car garage. These properties have improvement assessments of either \$7.32 or \$7.76 per square foot of living area. The subject property has an improvement assessment of \$33,618 or \$7.38 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.²

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 in part assessment inequity 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. After an analysis of the assessment data the Board finds the appellant did not demonstrate unequal treatment by clear and convincing evidence.

The record contains descriptions and assessment information on six comparables submitted by the parties. The Board finds the appellant's comparable #1 was much larger than the subject and received reduced weight in the Board's analysis. The appellant's comparables #2 and #3 and the comparables submitted by the board of review were most similar to the subject in size. They were also very similar to the subject in age and design. These comparables had improvement assessments of \$6.54 to \$7.76 per square foot of building area. The subject has an improvement assessment of \$7.38 per square foot of building area, which falls within the range established by the most similar comparables. Based on this record the Board finds a reduction in the subject's assessment based on assessment inequity is not justified.

The appellant also argued overvaluation as an alternative basis of the 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). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

² As part of its evidence, the board of review also disclosed the sale of the subject property in August 2005, but the board of review only included price information for one of the subject's two parcels.

The Board finds the subject's total assessment of \$41,794 reflects a market value of approximately \$412,984 or \$90.77 per square foot of building area, land included, when applying the 2006 three year median level of assessment for Cook County class 2 property of 10.12%. (See 86 Ill.Admin.Code 1910.59(c)(2)).

The appellant's counsel formulated two overvaluation arguments. One relied on the subject's actual income and expenses for 2005 and 2006, and the other applied the subject's actual vacancy rate for 2006 to the subject's 2006 improvement assessment. The Board finds these arguments unconvincing and not supported by the 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 documentation or an expert appraisal witness 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 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 argument no weight.

The Board further finds problematical the fact that appellant's counsel 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. (See 86 Ill.Admin.Code 1910.70(f)).

The Board finds the best evidence of market value in the record is the sale of the subject property in August 2005 for a price of \$550,000. The subject has a total assessment of \$41,794 which reflects a market value of \$412,984 when applying the 2006 three year median level of assessment for Cook County class 2 property of 10.12%. (See 86 Ill.Admin.Code 1910.59(c)(2)). The subject's assessment reflects a market value below the sale price. Based on this record, the Board finds a reduction to the subject's assessment based on overvaluation 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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.