FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Thorbjorn Haverman
DOCKET NO.: 06-27673.001-R-1
PARCEL NO.: 16-24-220-033-1007

The parties of record before the Property Tax Appeal Board are Thorbjorn Haverman, the appellant(s), by attorney Mitchell L. Klein, of Schiller Klein PC in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***a reduction*** 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:	$1,617
IMPR.:	$29,755
TOTAL:	$31,372

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a condominium unit within a 9 unit building located in West Chicago Township, Cook County.

The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in its assessed value. In support of this overvaluation argument the appellant submitted a copy of the closing statement indicating the subject sold on April 18, 2006 for $310,000.

The appellant is also arguing that a portion of the subject property is improperly assessed as a class 5a, commercial building by the Cook County Assessor's Office. In support of this, the appellant submitted an affidavit indicating the subject is a live/work residential condominium and that the appellant resides in the subject property along with the business. Based on this evidence the appellant requested the subject's assessment be reduced to reflect the subject's purchase price.

At hearing, the appellant's attorney called the first witness, Christopher Wayne. Mr. Wayne testified that he purchased a unit in the subject's condominium building in December of 2005 and also has an appeal with the PTAB.

The appellant, Thor Haverman, was the next witness. Mr. Haverman testified he owns a unit in the condominium building. Mr. Haverman testified he purchased his unit in April 2006 for $310,000. He further testified he lives in the unit he purchased.

In response to questions from the hearing officer, Mr. Wayne testified he purchased the property for the intent to live in the unit and have a business on the first floor. He testified he rented a commercial unit on the first floor for his business, a motorcycle repair shop. He testified his residence is on the third floor and there was no business conducted within his third floor unit.

Mr. Wayne described the condominium building as having nine units, six residential and three commercial units. He testified that the six residential units are in the three-story portion of the building and the three commercial units are in a separate, one-story portion of the building that butts up to the residential portion. It indicated the building has a sideways "L" shape. Mr. Wayne drew a diagram of the condominium building which was marked as Appellant's Exhibit #1 and accepted into evidence.

He testified that the commercial shop he rented was in the commercial part of the building and he rented this unit from a separate owner, the developer. He also testified that each commercial unit is owned by a different person and there is no common ownership with these units and the residential unit owners. Mr. Wayne testified that there is an entrance for the residential portion of the building in the front. He did indicate that one of the commercial units does share a back entrance hallway with the south residential units.

Mr. Haverman testified that his unit is on the second floor of the north wing of the building and that he does not have a business in the condominium building. He testified that he does not work in his residential unit.

Both witnesses testified that they have personal knowledge as to the other units within the condominium building. They testified they have been in those units and that there are no businesses within those units. Mr. Wayne testified the only businesses are located on the first floor within the commercial portion of the building. Mr. Wayne did state that the owner of one unit was a writer and worked from his home, but that no owner of the residential unit has a business were customers came into the residential portion of the building.

Under cross examination, Mr. Wayne clarified that he leased a commercial space from an owner of one of the commercial units.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $74,400 was disclosed. This assessment reflects a market value of $465,484 using the Illinois Department of Revenue's 2006 three year median level of assessment for class 2 property of 10.12% for 50% of the assessment and the Cook County Ordinance level of 38% for class 5a property for 50% of the assessment. In support of the subject's assessment, the board of review also submitted a memo from Thomas A. Jaconetty, Cook County Board of Review First Assistant Commissioner. The memorandum states: that the assessment level is based on use; that the use of the condominium is for residential and commercial purposes as per two separate field visits; sales within the condominium complex support a higher assessment; the subject receives a split assessment of 50% residential and 50% commercial; and fairness, equity and uniformity require a consolidation of this appeal with others within this subject's complex.

The board also submitted a memo showing sales of units within the subject's condominium building, their sale date, percentage of ownership, square footage, price per square foot and an indicated market value of the building. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board of review's representative argued that the issue of classification is a non-issue because the properties should be assessed as commercial properties. In response to questions, the board of review testified that Mr. Wayne lives and works within the subject's condominium building.

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. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

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 PTAB concludes that the evidence indicates a reduction is warranted.

The PTAB finds the best evidence of market value is the sale of the subject in April 2006 for $310,000. The board of review's evidence also supported this sale; there was no evidence submitted questioning the arm's length nature of the sale.

As to the subject's classification as a part residential and part commercial unit, the PTAB finds the appellant has submitted sufficient evidence to show the subject unit is fully residential. Although there are commercial units within the condominium building, the PTAB finds that the subject is not one of these units and should be assessed 100% as a 2-99, residential condominium. The PTAB further finds that a commercial assessment should not apply to the subject unit.

Based on this record the Property Tax Appeal Board finds that the subject property had a market value of $310,000 for the 2006 assessment year. Since market value has been determined, the 2006 three year median level of assessment for class 2 property as established by the Illinois department of Revenue of 10.12% shall apply fully to the subject unit and a reduction is 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

Acting 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: November 18, 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.