

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Marko Zoretic
DOCKET NO.: 06-28542.001-C-1
PARCEL NO.: 20-22-308-001-0000

The parties of record before the Property Tax Appeal Board are Marko Zoretic, the appellant, by attorney Arnold G. Siegel, Chicago, and the Cook County Board of Review.

The subject property consists of an 18,524 square foot parcel improved with a 79 year old, three-story masonry constructed 42 unit apartment building containing 33,675 square feet of building area. The subject is located in Hyde Park Township, Cook County.

The appellant, through counsel, appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal. In support of this argument, the appellant offered a spreadsheet detailing three suggested comparable properties located in the same general area as the subject. Assessment printout sheets for the comparables were also submitted. The grid analysis revealed that the three properties consist of two or three story style apartment buildings ranging from 79 to 95 years old containing from 15 to 25 apartments. The comparables have land to building ratios ranging from .38:1 to .67:1; range in building size from 14,868 to 40,176 square feet of building area; and in land size from 8,040 to 15,376 square feet. The comparables have improvement assessments ranging from \$4.01 to \$6.46 per square foot of building area. The appellant also argued that the subject's fair market value should not exceed \$739,931 based on an income approach to value prepared by counsel. In support of this the appellant submitted copies of Federal Income Tax Form Schedule E - Supplemental Income and Loss for the years 2004 through 2006; rent roll for the year 2006; a vacancy affidavit presented at the board of review level; and various repair and attorney bills. A copy of the subject's 2006 board of review final decision was also included. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$241,550 was

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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:	\$	13,337
IMPR.:	\$	228,213
TOTAL:	\$	241,550

Subject only to the State multiplier as applicable.

disclosed. Of the total assessment, the subject's the improvement assessment is \$228,213, or \$6.78 per square foot of building area. The subject's final assessment reflects a fair market value of \$1,006,458, or \$29.89 per square foot of building area including land, when the 2006 Cook County Real Property Assessment Classification Ordinance level of assessments of 24% for Class 3-15 properties is applied. In support, the board of review offered a memorandum indicating the sales of properties in the subject's area suggest an unadjusted range of from \$11,316 to \$42,857 per living unit. The board's memorandum also disclosed the subject sold in 2004 for a price of \$1,950,000, or \$57.90 per square foot of building area including land. In support of its assessment, the board of review submitted Cook County Assessor's Office sales sheets for eight comparables. The comparable properties are two or three story apartment buildings built from 1913 to 1929. The comparables range in size from 19,950 to 45,000 square feet of building area and containing from 30 to 47 apartments. These sales occurred from July 2002 to June 2007 for prices ranging from \$430,000 to \$1,850,000 or from \$16.17 to \$59.15 per square foot of building area including land. Based on the foregoing, 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 it has jurisdiction over the parties and the subject matter of this appeal.

Appellants 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, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational and jurisdictional similarities of the suggested comparables to the subject property. Section 1910.65(b) *The Official Rules of the Property Tax Appeal Board* (86 Ill. Adm. Code §1910.65(b)). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence and testimony presented, the Board concludes that the appellant has failed to meet this burden.

The Property Tax Appeal Board places primary weight on the appellant's descriptive data regarding the equity comparables. The Board finds that two of the comparables are substantially inferior in size; one is superior in size; two are inferior in age; and all three have considerably fewer apartments when compared to the subject. These properties have assessments ranging from \$4.01 to \$6.46 per square foot of living area. After considering adjustments and the differences in appellant's suggested comparables when compared to the subject property, with particular emphasis on the inferior number of living units

contained in the comparables, the Board finds the subject's slightly higher per square foot improvement assessment is supported by the properties contained in the record.

Having considered the evidence and testimony presented, the Board concludes that the appellant has failed to demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction and no reduction is warranted.

Turning to the appellant's claim the subject is overvalued, 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, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (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. Section 1910.65 *The Official Rules of the Property Tax Appeal Board* (86 Ill.Ad.Code §1910.65(c)). Having considered the evidence and heard the testimony, the Board concludes that the appellant has failed to meet this burden.

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 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 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.

As a result of this analysis, the Property Tax Appeal board finds that the appellant failed to prove the subject overvalued and no reduction is warranted. Further, the Board finds that the subject's 2004 sale tends to support the subject's assessment.

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.



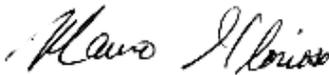
Chairman



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: July 28, 2009



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.