



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

APPELLANT: 2244 North Wayne, LLC
DOCKET NO.: 06-29369.001-R-1
PARCEL NO.: 14-32-110-020-0000

The parties of record before the Property Tax Appeal Board are 2244 North Wayne, LLC, the appellant, by attorney David C. Dunkin, of Arnstein & Lehr 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: \$ 24,641
IMPR.: \$ 85,074
TOTAL: \$ 109,715

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 2,976 square foot parcel of land improved with a one-year old, two-story, masonry, single-family dwelling containing 3,528 square feet of living area as well as four full baths, two fireplaces, a full basement, and a two-car garage.

The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation due to vacancy as the basis of this appeal.

In support of the argument, the appellant's brief asserted that the subject property suffered from 100% vacancy during tax year 2006. In support of this assertion, the appellant submitted a copy of the subject's neighborhood map; a photograph of the subject; and an affidavit. The affidavit stated that the affiant, an owner and developer of the subject property, asserted that the subject was not substantially completed or available for occupancy during tax year 2006 for its intended use. Based on this evidence, the appellant requested a reduction in the subject's valuation and assessment.

At hearing, the appellant's attorney stated that he had no personal knowledge as to the following: when did demolition commence; whether there were any building or occupancy permits issued for the subject; when the tear-down began on the subject property; when new construction actually commenced on the subject property; and what type of structure, if any, was on the property as of the assessment date, January 1, 2006. Moreover, there was no documentation related to these questions that were submitted into evidence.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment of \$109,715 was disclosed. The total assessment reflects a fair market value of \$1,084,140 or \$307.30 per square foot when using the Illinois Department of Revenue three-year median level of assessment for tax year 2006 of 10.12% for Cook County class 2 properties, as is the subject, is applied thereto.

In support of the assessment, the board submitted descriptive and assessment data on three suggested comparables located within the subject's neighborhood. The properties are improved with a two-story or three-story, masonry, single-family dwelling. They range: in age from 1 to 7 years; in improvement size from 2,898 to 3,738 square feet of living area; and in improvement assessments from \$47.47 to \$67.91 per square foot. In comparison, the subject's improvement assessment is \$24.11 per square foot of living area. In addition, these properties include amenities such as four full and one half-baths, a full basement, one or two fireplaces, and a two-car garage. The data also notes that these properties sold from April, 2003, through July, 2006, for prices that ranged from \$1,675,000 to \$2,998,000 or from \$577.98 to \$802.03 per square foot. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board's representative testified that the county's procedure regarding a vacancy proration request is to look at date that the occupancy permit is issued and/or when a home addition is habitable. She stated that the county would weigh many factors in determining habitability and whether any occupancy proration is appropriate to a property.

As to the subject property, she stated that the property characteristic printouts for the subject reflect: that a demolition permit was issued on October 4, 2004 to wreck the improvement; that on August 8, 2005 a site visit of the subject reflected a building under construction; and that the assessor's office accorded the subject a 'partial vacancy' proration of 50.8% to the subject in tax year 2006.

After considering the arguments and/or testimony 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.

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 (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 appellant submitted limited documentation asserting that the subject suffered from a vacancy for its intended use. The Board gives the appellant's argument little weight. 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. Id. at 431.

Although the appellant's attorney argued that a vacancy diminished the subject's value, the appellant did not demonstrate via market data that a vacancy, if any, would diminish the property's value. Moreover, the Board finds that there was neither tangible evidence nor testimony regarding the subject property and its condition on the assessment date at issue. In contrast, the board of review submitted sale data on three comparables reflecting a range from \$577.98 to \$802.03 per square foot of living area, while the subject's market value is \$307.30 per square foot. Therefore, the Board finds unpersuasive the appellant's vacancy argument.

Assuming arguenda, that the appellant's submitted data was sufficient, the Board finds that the assessor's office appears to have accorded a 'partial vacancy' proration to the subject property's assessment for the un rebutted data reflects that a building was under construction on/or about August 8, 2005. Further, the board of review submitted three equity comparables reflecting an improvement assessment range from \$47.47 to \$76.91 per square foot of living area, while the subject's improvement

assessment of \$24.11 per square foot is well below this established range reflecting a vacancy proration of the property's assessment. Thereby, the Board finds that said vacancy appears to have been addressed by the assessor's office. Therefore, the Board gives this argument no weight.

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.

Donald R. Cuit

Chairman

Frank J. Huff

Member

Mark Morris

Member

JR

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 19, 2013

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.