



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

APPELLANT: Leonard Vihnanek  
DOCKET NO.: 06-31650.001-C-1  
PARCEL NO.: 17-05-318-057-1009

The parties of record before the Property Tax Appeal Board are Leonard Vihnanek, the appellant, by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines; 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:** \$9,119  
**IMPR:** \$127,681  
**TOTAL:** \$136,800

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a three year-old, commercial condominium unit located on the first floor of a multi-story, masonry constructed, mixed use condominium building. The subject contains 2,600 square feet of building area and is located in Chicago, West Chicago Township, Cook County.

The appellant submitted evidence to the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an economic analysis of the subject property as of January 1, 2005. The analysis was prepared by an associate appraiser and a certified general real estate appraiser with Peterson Appraisal Group, Ltd. in Chicago. In the analysis, the appraisers used only an income approach to estimate the subject's market value at \$235,000. In the income approach, the appraisers used income from the 2004 rent reported by the owner of \$3,000 per month from June through December of that year. The appraisers "assumed that the aforementioned rental rate was being received for the entire year", or \$36,000. They added other income in the form of reimbursements for

insurance, repairs and maintenance of \$1,300, for a potential gross income of \$37,300, less vacancy and collection loss of \$1,119, resulting in an effective gross income (EGI) of \$36,181. The appraisers subtracted expenses of \$4,275, to arrive at a net operating income (NOI) of \$31,906. The appraisers used the band of investment technique to determine a capitalization rate of 8.61%. They then consulted the Korpacz Real Estate Investor Survey for the first quarter of 2005 and the Real Estate Research Corporation report for the first quarter of 2005 to develop a range of capitalization rates from 6.5% to 9.5%. From this range, the appraisers selected a rate for the subject of 7.50%. The appraisers then applied the state equalization factor of 2.4598 to the assessment level of .38, plus a tax rate of .06433 to produce a load factor of .0601, plus the overall capitalization rate of .075, to determine a "loaded" overall capitalization rate of .1351 of 13.51% for the subject. By dividing the NOI of \$31,906 by this rate, the appraisers derived an indicated value for the subject by the income approach of \$235,000, rounded. The appraisers did not perform sales comparison or cost approaches in their economic analysis of the subject. The appellant also submitted a copy of a prior year decision by the Property Tax Appeal Board under docket number 05-24222.001-C-1, in which the subject's assessment was reduced to \$89,300. Based on this evidence the appellant requested the subject's total assessment be reduced to \$89,300.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$136,800 was disclosed. The subject's assessment reflects a market value of approximately \$360,000 or \$138.46 per square feet of building area, using the Cook County Real Property Assessment Classification Ordinance level of assessment for class 5a property of 38%.

In support of the subject's assessment, the board of review submitted a letter and information on 17 sales of comparable condominium properties. The comparables are all located in Chicago and consist of Class B or C properties that have office, office/retail, office/residential or office/loft/creative space. The comparables range in size from 2,600 to 90,000 total building square feet and sold between January 2002 and October 2008 for prices ranging from \$242,553 to \$750,000 or from \$103.81 to \$325.00 per square foot of condominium unit area. According to the property detail sheets for these buildings, individual condominium units range in size from 1,000 to 3,850 square feet of building area. Based on this evidence, the board of review requested the subject's assessment be confirmed.

In rebuttal, the appellant argued the board of review's comparables should be given no weight because the sales were unadjusted.

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 Property Tax

Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant contends overvaluation as the basis of the appeal. When market value is the basis of the appeal, the value 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 (3<sup>rd</sup> Dist. 2002). After analyzing the market evidence submitted, the Board finds the appellant has failed to meet this burden.

The Board finds the appellant submitted an economic analysis of the subject property as of January 1, 2005 performed by two appraisers. The analysis was based on the subject's 2004 income and expenses. The analysis did not include evidence to demonstrate that the subject's income and expenses were representative of similar properties in the subject's neighborhood. The appraisers consulted the Korpacz Real Estate Investor Survey to determine a capitalization rate of 13.51% for the subject. The analysis did not include comparable sales or cost approaches. Based on this economic analysis, the appraisers estimated the subject's market value as of January 1, 2005 to be \$235,000.

The Board finds the board of review submitted information on 17 comparable sales of office condominium properties located in Chicago that sold between January 2002 and October 2008 for prices ranging from \$242,553 to \$750,000 or from \$103.81 to \$325.00 per square foot of building area. The comparables had condominium units ranging in size from 1,000 to 3,850 square feet of building area. The subject's assessment reflects a market value of approximately \$360,000 or \$138.46 per square feet of building area, using the Cook County Real Property Assessment Classification Ordinance level of assessment for class 5a property.

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 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 appraisers 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.

The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App3d 207 (1979), the court held that significant weight should not be placed on the cost or income approaches when market data is available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989), the court held that of the three primary methods of valuing property for real estate tax purposes, ***the preferred method is the sales comparison approach***. Since the record in this appeal contains credible market sales, the Board placed most weight on this evidence. For the reasons articulated above, the Property Tax Appeal Board finds the best evidence of the subject's market value is the comparable sales of similar office condominium properties submitted by the board of review.

In conclusion, the Board finds the appellant has failed to prove overvaluation by a preponderance of the evidence and the subject's assessment as determined by the board of review is correct and no 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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

*J. R.*

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: February 24, 2012

*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.