



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

APPELLANT: Waldemar Biernacki
DOCKET NO.: 07-20457.001-C-1
PARCEL NO.: 23-24-110-018-0000

The parties of record before the Property Tax Appeal Board are Waldemar Biernacki, the appellant(s), by attorney John P. Fitzgerald, of John P. Fitzgerald, Ltd. 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: \$ 33,950
IMPR.: \$ 118,050
TOTAL: \$ 152,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 14,295 square feet of land that is improved with a one-story, 28 year old, masonry, commercial retail building with 6,000 square feet of building area divided into three retail units. The appellant, via counsel, argued that the subject's market value was not accurately reflected in its assessment.

In support of the market value argument, the appellant submitted an appraisal undertaken by Rufino Arroyo and Gary T. Peterson of Peterson Appraisal Group, Ltd. The report states that Mr. Arroyo and Mr. Peterson are both licensed State of Illinois Certified General Real Estate Appraisers. The appraisers stated that the subject had an estimated market value of \$400,000 as of January 1, 2005. The appraisal report utilized the sales comparison approach to value to estimate the market value for the subject property. The appraisal states that both appraisers personally inspected the subject, and that the subject's highest and best use as improved is its current use.

Under the sales comparison approach, the appraisers analyzed the sales of five suggested comparables, which are described as masonry, multi-tenant, retail buildings that range in age from 17 to 76 years old, and in size from 6,000 to 11,700 square feet of

building area. These sales comparables sold from May 2002 to March 2004 for prices ranging from \$376,500 to \$660,000, or from \$56.41 to \$66.73 per square foot of building area, including land. The appraisers adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraisers estimated a value for the subject under the sales comparison approach of \$400,000.

The appraisers gave the sales comparison approach primary consideration in valuing the subject. Thus, the appraisers concluded that the subject's appraised value was \$400,000 as of January 1, 2005. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$179,225 was disclosed. The subject's final assessment yields a fair market value of \$471,645 when the 38% assessment level for class 5-17 property under the Cook County Classification of Real Property Ordinance is applied. In support of the subject's assessment, the board of review submitted a property characteristic printout for the subject, and raw sales data for five retail commercial properties located within two and one-half miles of the subject. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the assessor's office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further stated that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The suggested comparables contained buildings that range in age from 23 to 35 years old, and in size from 4,000 to 7,300 square feet of building area. However, the age for Comparable #2 was not disclosed. The properties sold from February 2002 to December 2003 in an unadjusted range from \$367,500 to \$750,000, or from \$61.25 to \$187.50 per square foot of building area, land included. The printouts also indicate that the parties in Comparables #1 and #3 used the same real estate broker, and that no real estate brokers were used in Comparable Sale #4. Additionally, the CoStar printouts state that Comparable Sale #3 was not offered for sale on the open market, but that, instead, the buyer approached the seller directly.

The board of review also submitted evidence that the subject sold in January 2003. In support of this assertion, the board of review submitted a printout from the Cook County Recorder of Deeds' website, stating that the subject sold in January 2003 for \$457,500, and was conveyed via a trustee's deed. The board of review also submitted the trustee's deed, which lists the

appellant as the transferee. The trustee's deed contains \$457.50 worth of State of Illinois Real Estate Transfer Tax Stamps.

Also, the board of review asserts that the subject improvement is only part of a larger improvement, which is spread over two Property Index Numbers. In other words, there is a 10,980 square foot retail commercial building, and only 6,000 square feet, or 55%, is the subject. The remaining 45% of the improvement is on a separate PIN, and is not under appeal. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney, Mary Fitzgerald, reaffirmed the evidence previously submitted. The Cook County Board of Review Analyst, Lena Henderson, argued that the comparables used by the appraisers in the sales comparison approach are too remote in time to be considered for this 2007 appeal. In the alternative, Ms. Henderson argued that, should the Property Tax Appeal Board (the "Board") consider the comparable sales, the Board should also consider the sale of the subject in January 2003 as evidence of the subject's market value. Ms. Henderson then reaffirmed the evidence previously submitted. Ms. Fitzgerald argued that the sale of the subject included business value, and that the appraisers documented this fact on page six of the appraisal report.

After reviewing the record and considering the evidence, the 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. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code. § 1910.65(c). Having considered the evidence presented, the Board finds that a reduction is warranted.

In determining the fair market value of the subject property, the Board finds the best evidence to be the appraisal submitted by the appellant. The appraisers utilized the sales comparison approach to value in determining the subject's market value. The Board finds this appraisal persuasive because the appraisers have experience in appraising, personally inspected the subject, and used similar properties in the sales comparison approach while providing adjustments that were necessary. The Board gives little weight to the board of review's comparables as the

information provided was unadjusted raw sales data, and was admittedly not intended to be an estimate of value. Moreover, the Board gave no weight to the evidence showing the subject was sold in January 2003. The appraisers discussed the sale in the appraisal, and concluded that the sale included business value, which is not taxable for real estate tax purposes. Thus, an accurate market value for the subject, absent any business value, cannot be calculated.

Therefore, the Board finds the subject had a market value of \$400,000 for tax year 2007. Since market value has been determined, the Cook County Real Property Classification Ordinance as in effect for tax year 2007 shall apply. The subject is classified as a class 5-17 property. Therefore, the applicable assessment is 38% of the subject's fair market value, which equates to \$152,000. The subject's current total assessed value is higher than this value, and, therefore, the Board finds 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.

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: January 31, 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.