



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

APPELLANT: Timothy Zaehler
DOCKET NO.: 07-21468.001-C-1
PARCEL NO.: 08-24-303-025-0000

The parties of record before the Property Tax Appeal Board are Timothy Zaehler, the appellant, by attorney Louis Capozzoli in Des Plaines, 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: \$ 75,355
IMPR.: \$ 85,690
TOTAL: \$ 161,045

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story, masonry, retail/garage building constructed in 1998. It is situated on a 23,330 square foot site and located in Des Plaines, Elk Grove Township, Cook County. It is classified under the Cook County Real Property Assessment Classification Ordinance as Class 5-17 with a level of assessment of 38% as designated for Class 5a commercial property.

The appellant raised two arguments: first, that the subject's market value is not accurately reflected in its assessment; and second, that there is unequal treatment in the assessment process as the bases of this appeal.

In support of the market value argument, the appellant, via counsel, submitted a chart listing nine unadjusted, raw sale comparables for masonry, commercial or industrial buildings, supported with either a typewritten sale data sheet with a black and white photograph or a printout from the Multiple Listing Service. They are located in Mount Prospect, Elk Grove Village, Wheeling or Niles. The sale comparables range in age from 19 to

55 years and in size from 4,400 to 13,224 square feet of building area. These properties sold from February 2004 to December 2006 for prices that range from \$393,050 to \$675,000 or from \$39.70 to \$107.95 per square foot of building area, including land. The appellant did not make any adjustments to the suggested sale comparables relating to age, design, location, improvement size or amenities.

In further support of the overvaluation argument, the appellant submitted a written brief indicating the subject's income and expenses. A stabilized net operating income of \$62,435 was capitalized at 17.13% to arrive at a market value for the subject of \$364,478. These calculations were supported by: the owner's 2004-2006 Schedule Es; a rent roll for the subject; and five rental comparables ranging in rental rates from \$12.00 per square foot gross to \$20.00 per square foot net.

In support of the equity argument, the appellant submitted a grid sheet detailing descriptive and assessment data for the same nine comparable properties that were submitted as sale comparables. The comparables have improvement assessments ranging from \$75,348 to \$134,329 or from \$7.52 to \$26.27 per square foot of building area. The subject's improvement assessment is \$39.51 per square foot of building area. Based on the evidence presented, the appellant requested a reduction in the subject's assessment.

At hearing, Robert Capozzoli testified that he currently holds an active Illinois broker's license and he personally compiled the rental and sale comparables, as well as prepared the income and expense analysis for the subject property.

The board of review submitted its "Board of Review-Notes on Appeal" disclosing the subject's final assessment of \$203,774 which reflects a market value of \$536,247, or \$165.00 per square foot including land, utilizing the Cook County Real Property Assessment Classification Ordinance level of assessment of 38% for Class 5a property. In support of this assessment, the board of review submitted four sales of retail/storefront properties located within the subject's market area, all within a four and one-half mile radius of the subject property. They range in building size from 1,150 to 4,931 square feet, after correcting the board's calculations, and were supported by the assessor's property record cards. The sales occurred between June 1995 and May 2008 for prices ranging from \$248,500 to \$330,000 or from \$58.22 to \$216.09 per square foot, including land. No analysis or adjustment of the sale data was provided by the board. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant's attorney submitted assessment data for the board of review's sale comparables. The comparables have improvement assessments ranging from \$11,029 to \$111,199 or from \$9.59 to \$25.03 per square foot of building area. The attorney argued that based on the board of review's

own comparables, the subject's assessed value is inappropriately high.

After hearing the testimony and considering 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. 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 market value evidence presented, the Board concludes that this evidence indicates a reduction is not warranted on this basis.

The Board accorded diminished weight to the parties' unadjusted, raw sales data relating to a total of 13 sale properties. Nevertheless, these sales reflected market data in an unadjusted range from \$39.70 to \$216.09 per square foot. In comparison, the subject's current market value of \$165.00 per square foot is within the unadjusted range established by the parties' market data. After making adjustments to the sale comparables, the Board finds that subject's market value is within this range of values.

As additional support that the subject is overvalued, the appellant submitted documentation showing the income and expenses relating to the subject property. 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.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant did not demonstrate through a licensed appraiser in real estate valuation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, one must establish, through the use of market data verified by an expert, 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 appellant did not provide such evidence. Little weight was given to the appellant's witness' testimony and work product as he failed to provide any credentials showing he is qualified to appraise property as his written biography only included a list of appraisal classes and his real estate broker designation. He also failed to include any information as to how any adjustments were made in the comparables to arrive at a value for the subject.

As a result of this analysis, the Board finds the appellant has not adequately demonstrated that the subject was overvalued by a preponderance of the evidence and that a reduction is not warranted.

The appellant's second argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers 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 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Having considered the evidence presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

The appellant initially presented assessment data on a total of nine equity comparables and, on rebuttal, for the board's four comparables, for a total of 13 equity comparables. The Board finds comparables #1 and #2 submitted by the appellant as well as comparables #3 and #4 submitted by the board are most similar to the subject in usage, improvement size and location. The properties are improved with a one-story, masonry, commercial building located in the subject market area. The properties range in building area from 4,400 to 5,113 square feet and in improvement assessment from \$18.82 to \$26.27 per square foot of building area. In comparison, the subject's improvement assessment of \$39.51 per square foot of building area is above the range of these comparables.

After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the

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subject's per square foot improvement assessment is not supported and a reduction in the subject's assessment 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

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: March 22, 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.