



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

APPELLANT: Hyacinth Pierre-Antoine
DOCKET NO.: 07-21925.001-C-1
PARCEL NO.: 20-20-119-035-0000

The parties of record before the Property Tax Appeal Board are Hyacinth Pierre-Antoine, the appellant(s), by attorney Allen A. Lefkovitz, of Allen A. Lefkovitz & Assoc. P.C. 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: \$ 8,456
IMPR.: \$ 91,992
TOTAL: \$ 100,448

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property has 10,250 square feet of land, which is improved with a 79 year old, three-story, masonry, apartment building with 22,614 square feet of building area and 22 units. The appellant contends that the subject is overvalued as the basis for this appeal.

In support of the overvaluation argument, the appellant, via counsel, asserted that, based on the subject's actual income for tax years 2003 through 2006, a reduction is warranted. The appellant presented a chart showing the subject's income and expenses over that four year period. To arrive at a market value for the subject, the appellant used the subject's 2006 net income of \$66,633, and then applied a loaded capitalization rate of 17.59%. This calculation results in a market value for the subject of \$378,710, rounded. To support the data used in the analysis, the appellant also submitted the subject's federal income tax returns for tax years 2003 through 2006, the profit and loss statements for the subject for 2005 and 2006, and a rent roll from January 2006 plus another from December 2006. 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 \$100,448 was disclosed. The subject's final assessment yields a fair market value of \$456,582 when the 22% assessment level for class 3-15 property under the Cook County Real Property Assessment Classification Ordinance is applied. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for nine apartment buildings 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 three-story apartment buildings that range in age from 72 to 97 years old, in size from 15,000 to 23,394 square feet of living area, and in apartment units from 18 to 24. The properties sold from April 2001 to May 2007 in an unadjusted range from \$200,000 to \$1,275,000, or from \$9.09 to \$76.11 per square foot of living area, land included. The printouts also indicate that no real estate brokers were used in Comparables #2, #5, and #8, and that the parties in Comparables #4, #6, and #7 used the same real estate broker. Comparable #4 was vacant at the time of sale, and reportedly needs to be rehabbed prior to being occupied. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant argued that several of the board of review's comparables are not comparable to the subject because they are too far away from the subject, or vary significantly in improvement size. The appellant also argued that, based on the subject's assessor designated market value and the market values of the board of review's comparables, the subject is overvalued based on a market value per square foot basis.

At hearing, the appellant's attorney, Allen A. Lefkovitz, reaffirmed the evidence previously submitted. The Property Tax Appeal Board (the "Board"), then asked Mr. Lefkovitz how this evidence differs from that in Cook Cnty. Bd. of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3d 472 (1st Dist. 2008) (the "Omni" case), where the Appellate Court stated that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law." Id. at 484. Mr. Lefkovitz argued that the subject is a different type of property than the property in Omni, and that those that

purchase property similar to the subject widely accept the income approach as the most reliable in determining a market value.

The Cook County Board of Review Analyst, Michael Terebo, stated that the income approach is the best way to determine a market value for an income producing property, such as the subject. Mr. Terebo, however, argued that the appellant's loaded capitalization rate of 17.59% is too high. Mr. Terebo then reaffirmed the evidence previously submitted. The Board asked Mr. Terebo how he can justify looking only to the income approach in light of the court's holding in Omni. Mr. Terebo responded that he was not familiar with the Omni case, and could not answer the question.

In rebuttal, Mr. Lefkovitz asked that the Board compare the subject's assessment with the assessments of the board of review's comparables. Mr. Lefkovitz argued that he was not changing his argument to an equity argument, but was instead using the board of review's comparables' assessments as a check on the income approach originally submitted. He argued that, if the income approach is accepted by the Board, the subject's improvement assessment per square foot would fall within the range of the board of review's comparables' improvement assessments per square foot.

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 not warranted.

The appellant submitted documentation showing the income of the subject property. The Board gives the appellant's argument little weight. In Springfield Marine Bank v. Prop. Tax Appeal Bd., 44 Ill. 2d 428 (1970), the Illinois Supreme 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.

As the Court stated, actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate through an expert 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, 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

Moreover, a sales comparison approach was not developed. As stated above, the court has held that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law." Omni at 484. The Illinois Appellate Court recently revisited this issue in Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" case). In Sears, the court stated that, while the use of only one valuation method is not inadequate as a matter of law, the evidence must support such a practice and the analyst must explain why the excluded valuation methods were not used in the analysis for the Board to use such an analysis. Id. at ¶ 29. In this case, the appellant did not include the cost approach to value and sales comparison approach to value in the market value analysis. The appellant provided no reason for excluding these valuation methods, and the evidence does not show that their exclusion is standard practice when valuing property that is similar to the subject. In fact, the board of review presented nine suggested comparables, proving that there is a market for the subject, and the sales comparison approach could have been developed. Therefore, the Board finds that reliance on the appellant's self-developed income approach would be deficient as a matter of law, and, thus, 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.

Ronald 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 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.