



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

APPELLANT: Maria R. Lema
DOCKET NO.: 07-22432.001-C-1
PARCEL NO.: 13-14-423-037-0000

The parties of record before the Property Tax Appeal Board are Maria R. Lema, the appellant, by attorney Arnold G. Siegel, of Siegel & Callahan, 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 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: \$ 12,468
IMPR.: \$ 58,018
TOTAL: \$ 70,486

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 3,125 square feet of land improved with a one-story, masonry, commercial building used as a store front retail location.

The appellant raised several arguments: first, that the subject's age and size are incorrect; second, that there was unequal treatment in the assessment process of the subject's improvement; and lastly, that the market value of the subject property was not accurately reflected in its assessed value as the bases of this appeal.

As to the subject's age and size, the appellant's pleadings identify the subject as a 50-year old building with 3,125 square feet of area. In contrast, the board of review's pleadings include detailed property record cards where the subject is identified as a 52-year old building with 2,875 square feet.

In support of the equity argument, the appellant submitted descriptive and assessment data for three suggested comparables located within a four block radius of the subject. They are improved with a one-story, masonry, commercial building used as a

store front. They range: in age from 56 to 95 years; in improvement size from 1,386 to 4,200 square feet of building area; in improvements assessments from \$10.14 to \$20.19 per square foot; and in land size from 2,918 to 3,474 square feet. In comparison, the subject's improvement assessment is \$27.05 per square foot of building area.

In support of the market value argument, the appellant argued that the subject suffered from a partial vacancy during tax year 2007. Three different affidavits from three different owners reflect the aforementioned, with one affiant stating that she purchased the subject property while aware of the subject's vacancy issue and indicating that the subject's purchase was motivated by expansion of the adjacent business into the subject's building. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$90,249. This assessment yields a market value of \$237,496 or \$82.61 per square feet when applying the Cook County Ordinance level of assessment for commercial property of 38%.

As to the subject, the board of review's memorandum stated that the subject was purchased in February, 2004, for a price of \$250,000 or \$86.96 per square foot while submitting a copy of the warranty deed reflecting the aforementioned sale data.

In support of the subject's market value, raw sales data was submitted for five properties identified as retail/storefront locations. The data from the CoStar Comps service sheets reflect that the research was licensed to the assessor's office, but failed to indicate that there was any verification of the information or sources of data. The properties sold from January, 2001, to September, 2003, in an unadjusted range from \$78.67 to \$129.63 per square foot of building area. The properties contained one-story, masonry buildings that ranged in age from 40 to 102 years and in building size from 2,200 to 4,576 square feet.

Moreover, the board of review's memorandum stated that the data was not intended to be an appraisal or an estimate of value and should not be construed as such. The memorandum indicated that the information provided therein had been collected from various sources that were assumed to be factual and reliable; however, it further indicated that the writer hereto had not verified the information or sources and did not warrant its accuracy. As a result of its analysis, the board requested confirmation of the subject's assessment.

After considering the arguments 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. After the parties' evidence was submitted, the parties both waived the right to a hearing.

As to the first issue, the Board finds that the best evidence of the subject's age and size was submitted by the board of review in the form of property record cards. Therefore, the Board finds that the subject property is a 52-year old building with 2,875 square feet of building area.

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 appellant has not met this burden and that a reduction is not warranted as to this issue.

The Board finds the appellant's argument that the subject's assessment is excessive due to a partial vacancy is unconvincing. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

It is the value of the "tract or lot of real property" 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, which 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 428 at 430-431.

The appellant did not demonstrate that the subject's vacancy diminished its market value, while failing to submit any probative evidence reflective of the market in respect to this issue. In contrast, the Board notes that the only market data submitted was the sale properties by the board of review which established an unadjusted range from \$78.67 to \$129.63 per square foot. The subject's assessment reflects a market value of \$82.61 which is at the low end of this established range. Therefore, the Board gives this argument no weight.

Lastly, the appellant contends unequal treatment in the subject's improvement assessment as the basis of the appeal. 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). After an analysis of the data, the Board finds that the appellant has met this burden.

Upon due consideration of the evidence submitted by the parties, the Board finds that the appellant's three comparables are similar to the subject in style, improvement age, size, and/or amenities. In analysis, the Board accorded most weight to these comparables, which range in improvement assessments from \$10.14 to \$20.19 per square foot of building area. The subject's improvement assessment at \$27.05 per square foot based upon 2,875 square feet is above the range established by these comparables.

Therefore, the Board finds that the appellant has demonstrated that the subject is inequitably assessed and that 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.

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: 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.