



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

APPELLANT: 4555 North Malden, LLC
DOCKET NO.: 07-23674.001-C-1
PARCEL NO.: 14-17-117-001-0000

The parties of record before the Property Tax Appeal Board are 4555 North Malden, LLC, the appellant, by attorney James A. Field, of Field and Goldberg, LLC 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: \$ 74,992
IMPR.: \$ 295,629
TOTAL: \$ 370,621

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 13,635 square foot parcel of land improved with a 91-year old, three-story, commercial building containing 26,946 square feet of building area as well as 39 residential apartments and 4 retail units.

The appellant, via counsel, argued both that the market value of the subject property is not accurately reflected in the property's assessed valuation and that there was unequal treatment in the assessment process of the improvement as the bases of this appeal.

In support of the market value argument, the appellant's brief reflected that the subject was purchased in February, 2007, for a price of \$2,735,000. Thereafter, the brief stated that the appellant began the process of obtaining Class 9 status from the county assessor's office, which was eventually granted in tax year 2008 after rehabilitation was completed. In support of this assertion, the attorney submitted copies of the Class 9 application to the assessor's office and the board of review's 2008 decision. This decision reflects a reduced assessment which is conspicuously stamped "for one year only". Moreover, the

application reflects that Class 9 status can be accorded only after construction or rehabilitation is completed; thereafter, the taxpayer is accorded a ten-year incentive period wherein at least 35% of the dwelling units are required to be leased to tenants at rents which do not exceed rents affordable to low and moderate income persons in exchange for a reduced level of taxes billed or collected for the subject property. In further support, an affidavit was submitted wherein the affiant stated that there has been or will be approximately \$800,000 in rehabilitation costs spent in order to comply with Class 9 incentives. It also stated that as rehabilitation progressed tenants would move in or out with an average of 47% vacancy and an expectation that work would be completed by spring of 2008. Lastly, a copy of the subject's building permit reflects an issuance date on September 11, 2007.

Moreover, the attorney developed an actual income and expense analysis. Copies of rent rolls for several months in 2007 or 2008 were submitted. The appellant's attorney estimated a gross income of \$239,481, operating expenses of \$154,314 and a net income of \$85,167. He then indicated a capitalization rate of 13.16% and applied this rate to estimate a value for the subject of \$647,252.

In support of the equity argument, the appellant submitted two analysis grids reflecting a total of five suggested comparables. The analysis contains assessment data and limited descriptions on these properties identified at Class 9 properties by county assessor printouts. The data in its entirety reflects that the properties are improved with buildings that range in units from 42 to 66. These properties range in market value per unit from \$10,798 to \$23,291 per unit, while the subject contains a market value per unit of \$38,287. The data also indicated that three properties contained improvement assessments ranging from \$1.60 to \$3.81 per square foot of building area, while the subject's improvement assessment is \$10.87 per square foot. The data did not disclose whether a building's units were residential or commercial. Based on this evidence, the appellant requested a reduction in the subject's assessment.

At hearing, the appellant's attorney asserted that the 2008 assessment reduction accorded by the board of review was based upon vacancy relief, but could not locate any data within the pleadings to support this assertion.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment of \$370,621 was disclosed. The total assessment reflects a fair market value of \$1,684,640 or \$62.52 per square foot when using the Cook County Ordinance level of assessment for tax year 2007 of 22% for Cook County class 3 properties, as is the subject, is applied thereto.

In support of the assessment, the board submitted unadjusted sales data on five properties suggested as comparable to the subject all of which are located in Chicago, as is the subject.

The data in its entirety reflects that the properties are improved with multi-story, masonry buildings that are accorded a retail/storefront or retail/residential usage. These properties range in age from 71 to 94 years and in size from 25,800 to 26,695 square feet of building area. They sold from May, 1998, to August, 2006, for prices that ranged from \$41.21 to \$101.33 per square foot of building area.

Moreover, the board of review's cover 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.

At hearing, the board's representative testified that a class 9 designation was accorded to the subject in tax year 2008 and not tax year 2007.

After considering the arguments and reviewing the record, 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. 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 evidence indicates a reduction based on market value is not warranted.

The appellant submitted documentation showing the actual income and expenses of the subject property. The PTAB 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 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.

Further, the Board finds unpersuasive the appellant's vacancy argument. The attorney's brief asserts that the subject's owner undertook steps to obtain a Class 9 incentive designation from the county assessor; however, the Board finds that insufficient data was submitted to explain this process, most especially since a building permit was first issued on September 11, 2007. *Assuming arguenda*, that the data submitted was sufficient, the Board finds that the assessor's office appears to require some type of vacancy during construction or rehabilitation which appears to be accounted for later when a property receives a reduced tax rate during a ten-year period while being accorded the Class 9 designation. Thereby, the Board finds that said vacancy appears to be an anticipated or initial step in this class 9 designation process. However, neither party could provide a detailed explanation of this designation process either in written pleadings or testimony. Moreover, there is no dispute amongst the parties that as of the assessment date at issue, January 1, 2007, that the subject was accorded a class 3 designation and **not** a class 9 designation. Therefore, the Board gives this argument no weight.

Further, the Board finds that the subject's sale in February, 2007, supports the current market value and that a reduction is not warranted.

Appellants 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, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. *Property Tax Appeal Board Rule* 1910.65(b). Mathematical equality in the assessment process

is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the Board concludes that the appellant has not met this burden and that a reduction is not warranted.

The Board finds that the appellant submitted insufficient data on the five suggested comparables inhibiting a proper equity analysis. The data was absent some descriptive data as well as locational data. Moreover, the Board finds that these properties were clearly accorded a Class 9 designation, while the subject was accorded a Class 3 designation by the assessor's office. The data indicated that three properties contained improvement assessments ranging from \$1.60 to \$3.81 per square foot of building area. Therefore, the Board finds that these properties were accorded a diminished assessment by the county assessor in exchange for providing low rental units for low or moderate income tenants whereas this was not a requirement of the subject with a Class 3 designation. Thereby, the Board finds that no reduction is warranted to the subject property.

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

Mark Morris

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: June 21, 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.