



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

APPELLANT: Mark Madigan
DOCKET NO.: 07-23970.001-R-1 through 07-23970.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Mark Madigan, the appellant, by attorney James E. Doherty, of Thomas M. Tully & Associates 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-23970.001-R-1	05-17-413-010-0000	17,520	56,112	\$73,632
07-23970.002-R-1	05-17-413-032-0000	11,160	0	\$11,160

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a 94-year old, one-story, frame, single-family dwelling. It contains 2,004 square feet of living area and is situated on two parcels containing a total of 6,400 square feet. Features include two full baths, four bedrooms, a partial, unfinished basement, and an attached two and one-half car garage.

The appellant, via counsel, appeared before the Property Tax Appeal Board and submitted evidence claiming unequal treatment in the assessment process and that the subject's market value is not accurately reflected in its assessment as the bases of this appeal.

The appellant's petition suggests that the subject's improvement assessment is incorrect due to vacancy. The appellant argued that based upon the vacancy of the subject property during the 2007 tax year, a 20% occupancy factor should be applied to the subject's improvement assessment.

In support of this claim, the appellant submitted: a written brief; a copy of a general affidavit as well as a copy of a vacancy-occupancy affidavit, both signed by the owner of the property; an Exclusive Right to Sell Agreement, indicating the subject property is actively being marketed for sale at a listing price of \$1,095,000; and color photographs of the interior and exterior of the subject property as evidence of the vacancy. The appellant's affidavits disclosed that the subject property was 100% vacant from January 1, 2007 through December 31, 2007. Based upon this evidence, the appellant requested a reduction in the subject's improvement assessment.

In support of the equity argument, the appellant submitted descriptive and assessment data for five suggested comparables. The properties are improved with a one or one and one-half story, frame or masonry, single-family dwelling. They range: in age from 54 to 91 years; in size from 1,816 to 2,460 square feet of living area; and in improvement assessment from \$21.33 to \$28.30 per square foot of living area, after correcting the appellant's calculations. The subject's improvement assessment is \$37.00 per square foot of living area. Amenities for the suggested comparable properties include one to two and one half-baths, a full or partial, finished or unfinished basement for four properties, central air conditioning for three properties, one fireplace, and a one or two-car garage. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review-Notes on Appeal" wherein the subject's improvement assessment of \$74,148 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment data, as well as a black and white photograph, for one suggested comparable property located within the subject's neighborhood. This property sold in December 2004 for \$1,290,000, or \$483.69 per square foot, including land. The property is improved with a one and one-half story, frame and masonry, single-family dwelling. It is 53 years old, contains 2,667 square feet, and its improvement assessment is \$41.43 per square foot of living area. Amenities for the property include three and one half-baths, four bedrooms, one fireplace, and a two-car garage. Based upon this evidence, the board requested confirmation of the subject's assessment.

In written rebuttal, the appellant's attorney indicated that the subject property sold in December 2008 for \$850,000. A recorded Warranty Deed was attached as evidence with no further details provided surrounding the circumstances of the sale.

At hearing, the appellant's attorney re-affirmed the evidence previously submitted while the board of review's representative rested on the evidence previously submitted.

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. 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 arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Adm.Code §1910.65(c). Having considered the evidence, the Board finds the appellant has not satisfied this burden.

As to the appellant's market value argument, counsel submitted a brief contending the subject is incorrectly assessed based on vacancy. The Board finds no evidence in the record that the subject's assessment is incorrect when vacancy is considered. The mere assertion that vacancies in a property exist does not constitute proof that the assessment is incorrect or that the fair market value of a property is negatively impacted. In fact, even though the subject was vacant, it was listed for sale for \$1,095,000 according to the appellant's listing agreement. As such, there was no showing that the subject's market value was negatively impacted by its vacancy during 2007.

As a result of this analysis, the Property Tax Appeal Board finds that the appellant has failed to adequately demonstrate that the subject's improvement was overvalued as of January 1, 2007 and a reduction in the subject's improvement assessment is not warranted on this basis.

The appellant also 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 assessment data, the Board finds the appellant has met this burden.

The parties submitted a total of six comparable properties for the Board's consideration. The Board finds that the appellant's comparables are most similar to the subject in location, age, and/or size. In analysis, the Board accorded the most weight to these comparables. These comparables ranged in improvement assessment from \$21.33 to \$28.30 per square foot of living area. The subject's improvement assessment at \$37.00 per square foot is above the range established by these comparables.

After considering adjustments and the differences in these comparables when compared to the subject, the Board finds the subject's improvement assessment is not equitable 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

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.