



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

APPELLANT: Anthony Lupescu
DOCKET NO.: 07-25279.001-R-1
PARCEL NO.: 18-35-403-015-0000

The parties of record before the Property Tax Appeal Board are Anthony Lupescu, the appellant(s), by attorney Richard J. Caldarazzo, of Mar Cal Law, 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: \$ 4,248
IMPR.: \$ 35,481
TOTAL: \$ 39,729

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 10,620 square feet of land, which is improved with a 33 year old, three-story, masonry, multi-family building. The subject's improvement size is 4,050 square feet of building area, which equates to an improvement assessment of \$8.76 per square foot of building area. The appellant, via counsel, made two arguments: that the market value of the subject property is not accurately reflected in its assessed value; and that there was unequal treatment in the assessment process of the subject's improvement as the basis of this appeal.

In support of the market value argument, the appellant submitted an income and expense analysis and asked for vacancy relief due to the property's 21% vacancy in 2007.

In support of the equity argument, the appellant submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as three-story, masonry, multi-family dwellings. Additionally, the comparables range: in age from 31 to 36 years; in size from 4,050 to 5,925 square feet of living area; and in improvement assessments from \$6.43 to \$7.77 per square foot of living area. The comparables also have various amenities. Based

on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's improvement assessment of \$35,481 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as three-story, masonry, multi-family dwellings. Additionally, the comparables are from 31 to 33 years old, have 4,050 square feet of living area, and have improvement assessments ranging from \$8.76 to \$8.79 per square foot of living area. The comparables also have several amenities. Based on this evidence, the board of review requested confirmation of the subject's improvement assessment.

After reviewing the record, considering the evidence, and hearing the testimony, the Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

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. 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 credible and sufficient evidence and, therefore, the Board gives

this argument no weight and finds that a reduction based on market value is not warranted.

The appellant contends unequal treatment in the subject's improvement assessment as the basis of this 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. Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989)); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing DuPage Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 654-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

The Board finds that Comparable #4 submitted by the appellant, and all of the comparables submitted by the board of review were most similar to the subject in size, style, exterior construction, features, and age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$7.77 to \$8.79 per square foot of living area. The subject's improvement assessment of \$8.76 per square foot of living area is within the range established by the most similar comparables.

The constitutional provision for uniformity of taxation and valuation does not require a mathematical equality. A practical, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d. 395, 401 (1960). Although the comparables submitted by the parties disclosed that properties located in the same area are not assessed at identical levels, all the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Board finds that the subject's assessment as established by the board of review is correct and 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.

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: August 23, 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.