



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

APPELLANT: Irving Dainas
DOCKET NO.: 07-25652.001-C-1
PARCEL NO.: 13-02-215-044-0000

The parties of record before the Property Tax Appeal Board are Irving Dainas, the appellant, by attorney Robert M. Sarnoff, of Sarnoff & Baccash 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: \$ 29,925
IMPR.: \$ 145,649
TOTAL: \$ 175,574

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story, masonry-constructed commercial building that contains 6,322 square feet of building area. It was built on a slab in 1952. The building is currently divided into two units, with one used as a restaurant and the other used as a paint retailer. It is located on a 7,500 square foot site. The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant submitted an appraisal undertaken by Mark Ruchti and James A. Matthews of James A. Matthews Inc. The report indicates both appraisers are certified general real estate appraisers. The report indicates that Ruchti personally inspected the subject property then the appraisers indicated the subject has an estimated market value of \$400,000 as of January 1, 2007. The appraisal report utilized only the sales comparison approach to value to estimate the market value for the subject property. The appraisal does not state whether the subject property is owner-occupied or leased.

The appraisal finds the subject's highest and best use is its current use.

Under the sales comparison approach, the appraisers analyzed the sales of five one-story, commercial buildings located in either Niles or Chicago. The properties contain between 6,000 and 12,134 square feet of building area and range in age from 34 to 91 years old. The comparables sold from June 2003 to April 2005 for prices ranging from \$335,000 to \$765,000, or from \$50.93 to \$63.05 per square foot of building area, including land. The appraisal stated that all of the sales "appeared to be" arm's length transactions, then the appraisers adjusted each of the comparables for time and land-to-building ratio. The appraisal indicated that sales #1, #2 and #5 were adjusted upward for larger building size, however, sale #5 contains less square footage than the subject property. Sales #3 and #4 were not adjusted for building size and are substantially larger than the subject property. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$63.00 per square foot of building area, including land, or \$400,000, rounded. The appraisers then added in the Addenda that "no warranty can be given as to the accuracy of information provided by others."

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$175,574. This assessment reflects a market value of \$462,037 using the level of assessment of 38% for Class 5a property as contained in the Cook County Real Property Assessment Classification Ordinance. The board also submitted the property record card for the subject, a black and white aerial photograph of the subject, and raw sales information on a total of six comparables located in Chicago, within a five mile radius of the subject. The properties range in size from 5,650 to 6,500 square feet and sold between March 2003 and April 2008 for prices ranging from \$340,000 to \$1,730,000, or from \$60.18 to \$288.33 per square foot of building area, including land. No adjustments were made for location, size, age or amenities. In addition, the board of review submitted a map showing the location of the sales comparables in relation to the subject property. As a result of its analysis, the board requested confirmation of the subject's assessment.

After considering the evidence 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. 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.

In determining the fair market value of the subject property, the Board gives no weight to the appellant's appraisal. The Board finds the appellant's appraisers incorrectly adjusted sale #5 upward for its building size. Additionally, this sale occurred in 2003 which the Board finds too distant in time to value the subject property as of January 1, 2007. Sale #2 is located in Niles while this sale, as well as Sale #1, are much larger in size than the subject property. The appraiser did not make any adjustment for location for this sale, nor were Sales #3 or #4 adjusted for building size when they are at least one-third larger than the subject property. Moreover, there was no appraiser testimony to bolster the position indicated by the appraisal. The Board finds that because of this analysis and the use of inappropriate market data, the estimate of value for the subject property is unreliable. As a final point, the Board gives little weight to the board of review's comparables as the information provided was raw sales data with no adjustments made.

Accordingly, in determining the fair market value of the subject property, the Board finds that the appellant failed to submit sufficient evidence to show the subject was overvalued. Therefore, the Board finds that the appellant has not met its burden by a preponderance of the evidence and that the subject does not warrant a reduction based upon the market data submitted into evidence.

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: 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.