



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

APPELLANT: Frank Ingram
DOCKET NO.: 07-25683.001-R-1
PARCEL NO.: 16-10-331-033-0000

The parties of record before the Property Tax Appeal Board are Frank Ingram, the appellant, by attorney Donald L. Schramm of Rieff Schramm Kanter & Guttman 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: \$5,600
IMPR.: \$18,400
TOTAL: \$24,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a 96-year-old, two-story mixed-use commercial/residential building of masonry construction containing 3,000 square feet of building area. The structure features a store on the first floor and three apartments. Features include a partial unfinished basement and a 1.5-car garage. The property is a class 2-12 mixed use commercial/residential building of two to six units under the Cook County Real Property Assessment Classification Ordinance. The subject is located in Chicago, West Chicago Township, Cook County.

The appellant's appeal as set forth in Section 2d of the Residential Appeal petition is based on "comparable sales" and "contention of law." The only support submitted was a one-page brief of counsel arguing application of a vacancy factor to the subject property. No comparable sales data was presented.

In the brief legal counsel argued the subject's estimated market value of \$150,000 based on its assessment was excessive as it failed to account for the subject's 87% vacancy factor. In

support of the vacancy rate of 83%, counsel attached a copy of a "Vacancy - Occupancy Affidavit" executed by appellant Frank Ingram and reporting a "weighted vacancy of commercial space" of 87%. No data on the affidavit addressed the occupancy of the apartment units in the subject property. In an additional non-sworn statement, the appellant wrote:

For the 2007 year, the majority of the building was vacant. Around October 2007, I leased out 1500 square feet of the building. I posted for rent or lease signs in the windows but so far have been unable to rent out the vacant apartments and am losing a sizable portion of income.

In the brief counsel asserts that "the entire building is 83% vacant, unoccupied and generated no income whatsoever" and based on this assertion the appellant contends that an occupancy factor of 17% should be applied to the subject's improvement assessment of \$18,400 yielding a reduced improvement assessment of \$3,128.

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

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$24,000 was disclosed. The board of review presented descriptions and assessment information on four comparable properties consisting of two-story masonry mixed-use buildings that range in age from 79 to 103 years old. The buildings range in size from 2,568 to 2,950 square feet of building area. The structures have either 3 or 4 apartment units. Features include full or partial unfinished basements and one comparable has a 1.5-car garage. These properties have improvement assessments ranging from \$16,011 to \$19,912 or from \$5.93 to \$7.75 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject's assessment is not warranted.

In essence the appellant has argued that the subject property's market value is not accurately reflected in its assessed valuation. When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. See National City Bank of Michigan/Illinois v. Property Tax Appeal Board 331 Ill.App.3d 1038 (3rd Dist. 2002) and 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 and

testimony presented, the Board concludes that the appellant has not satisfied this burden and that a reduction is not warranted.

The appellant made a vacancy argument in the form of a brief written by counsel with supporting documentation. The brief indicated the subject's assessment reflects a market value of \$150,000. The brief relied solely upon a vacancy affidavit. Counsel indicated the subject's improvement assessment of \$18,400 should be reduced by a vacancy factor of 17% for a final improvement assessment of \$3,128 based upon a purported vacancy of 83% supported by the owner's vacancy affidavit addressing only the commercial area of the subject property. No data in the affidavit addressed the apartment units in terms of vacancy and/or occupancy. As the subject building contains 3,000 square feet of building area, the Board finds the averred vacancy is not credible in the absence of any discussion of the rental of the apartment units.

Furthermore, the Board finds the appellant agreed with the assessment of the subject property as reflected in the assessment and requested a reduction due to vacancy. The Board also finds the appellant submitted no evidence of market value or vacancy rates for similar type properties. Without this evidence the Board finds it is impossible to know if the vacancy rate is a result of location, economics, poor management, above market asking rents or any of a number of other relevant factors that were not disclosed. The Board finds there is no evidence in the record to indicate the market value reflected in the assessment is not indicative of the subject's value in 2007 when vacancy is considered. The Board further finds no substantive explanation for the vacancy rate of 83% was given in light of the building size and the owner's affidavit addressing only the commercial area of 1,500 square feet.

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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

In summary, the appellant's attorney simply argued the subject's vacancy rate, applying the purported vacancy rate to the improvement assessment should justify a significant assessment reduction. The Board finds this evidence is insufficient to support a reduction.

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: April 20, 2012

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.