



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

APPELLANT: Robert Stuckel
DOCKET NO.: 07-25880.001-I-1
PARCEL NO.: 08-22-402-087-0000

The parties of record before the Property Tax Appeal Board are Robert Stuckel, the appellant(s), by attorney Edward Larkin, of Larkin & Larkin in Park Ridge; 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: \$ 31,114
IMPR.: \$ 228,955
TOTAL: \$ 260,069

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 19,556 square foot parcel of land, that is improved with a 32-year old, masonry, industrial building. The subject's total assessment was \$260,069, which equates to a fair market value of \$722,414 when the 36% assessment level for class 5-93 property under the 2007 Cook County Classification of Real Property Ordinance is applied. The appellant claimed that the subject's market value is not accurately reflected in its assessment as the basis of this appeal.

In support of the market value argument, the appellant submitted a settlement statement showing that the subject sold in October 2005 for \$750,000. Attached to the settlement statement is a lease agreement between the appellant/purchaser/lessor and the seller/lessee. These documents establish a sale-leaseback agreement. The appellant argued that his tenant has constructively evicted him from the subject, and that such an eviction warrants a reduction in the subject's market value. Moreover, the appellant submitted a cursory income analysis using the subject's current rental rate of \$60,019, an expense rate of 20%, and a loaded capitalization rate of 17.40%, which yields a fair market value for the subject of \$275,948. Based upon this

analysis, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$258,875 was disclosed. In support of the subject's assessment, the board of review submitted a property characteristic printout for the subject, and raw sales data for five industrial properties located within one-half mile of the subject. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the assessor's office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further stated that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The suggested comparables are one-story or two-story, masonry, industrial buildings that range in age from 20 to 34 years old, and in size from 12,800 to 15,840 square feet of building area. The properties sold from January 2002 to June 2007 in an unadjusted range from \$825,000 to \$1,080,000, or from \$52.08 to \$72.00 per square foot of building area, including land. The board of review also submitted a trustee's deed, which showed that the subject sold in October 2005 for \$750,000. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant argued that the board of review's evidence should be given no weight because it did not address the appellant's arguments.

After reviewing the record and considering the evidence, the Property Tax Appeal Board (the "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). "[A] contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, (citations) but would

be practically conclusive on the issue of whether an assessment was at full value." People ex rel. Korzen v. Belt Ry. Co. of Chi., 37 Ill. 2d 158, 161 (1967). Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is not warranted.

The appellant submitted documentation showing the income of the subject property, and also argued that the tenant has constructively evicted the appellant from the subject. The Board gives the appellant's arguments little weight. In Springfield Marine Bank v. Prop. Tax Appeal Bd., 44 Ill.2d 428 (1970), the Illinois Supreme 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.

In this case, one of the "many factors" preventing the appellant from realizing the true income producing capacity of the subject may, in fact, be the tenant. However, the appellant provided no evidence to demonstrate what detrimental effect the tenant has had on the subject's earning capacity.

Moreover, as the Court stated, actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant 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.

Absent any evidence showing the detrimental effect the tenant has had on the subject's earning capacity or evidence demonstrating that the subject's actual income and expenses are reflective of the market, the Board's only evidence of market value is the sale of the subject in October 2005 for \$750,000. The sale is within

15 months of the 2007 lien date, and the settlement statement supports the arm's-length nature of the transaction because real estate broker fees were paid. The Board also gives little weight to the board of review's evidence as it was raw sales data that did not make any adjustments for age, exterior construction, improvement size, improvement type, location, or market conditions.

Therefore, the Board finds the subject had a market value of \$750,000 for the 2007 assessment year. Since the market value of this parcel has been established, the 36% assessment level for class 5-93 property under the Cook County Classification of Real Property Ordinance as in effect for tax year 2007 shall apply. In applying this level of assessment to the subject, the total assessed value is \$270,000, while the subject's current total assessed value is below this amount. Therefore, the Board finds that the subject is not overvalued, and a reduction is not 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

[Signature]

Member

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Member

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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: May 24, 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.