FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: David Suarez
DOCKET NO.: 07-26338.001-R-1
PARCEL NO.: 13-15-302-007-0000

The parties of record before the Property Tax Appeal Board are David Suarez, the appellant(s), by attorney Lisa A. Marino, of Marino & Assoc., PC 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:	$8,343
IMPR.:	$43,383
TOTAL:	$51,726

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 3,209 square foot parcel of land improved with an 89-year old, two-story, masonry, mixed-use building containing 4,096 square feet of living area, three and one-half baths and a partial, unfinished basement. The appellant argued both unequal treatment in the assessment process that the market value of the subject property is not accurately reflected in the property's assessed valuation as the bases of this appeal.

In support of the equity argument, the appellant, via counsel, submitted information on a total of four properties suggested as comparable and located within eight blocks of the subject. The properties are described as two-story, frame or masonry, mixed-use buildings with three and one-half or four and one-half baths and a partial, unfinished basement. The properties range: in age from 76 to 110 years; in size from 4,819 to 6,662 square feet of living area; and in improvement assessments from $3.37 to $6.71 per square foot of living area.

In support of the market value argument, the appellant submitted copies of income tax statements for the subject property for 2003 through 2006. In addition, the appellant submitted copies of the 2007 leases for the subject property, a 2007 rent roll, and expenses for 2007. 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 improvement assessment of $43,383 or $10.59 per square foot of living area was disclosed. In support of the subject's assessment, the board of review presented descriptions and assessment information on a total of four properties suggested as comparable and located within the subject's subarea neighborhood. The properties are described as two-story, masonry, mixed-use buildings with three or four and one-half baths and a partial or full, unfinished basement. The properties range: in age from 76 to 108 years; in size from 3,750 to 5,025 square feet of living area and in improvement assessment from $11.46 to $18.88 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney reiterated the position that the subject is inequitably assessed and argued that appellant's comparable #1 was the most similar to the subject. She asserted that there are not many comparables with the similar square footage as the subject and argued the board of review's suggested comparables were much smaller than the subject.

The board of review's representative argued that while the board's suggested comparables were smaller, the appellant's comparables were larger.

After reviewing the record and considering the testimony, 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.

The appellant 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 not met this burden.

The parties submitted a total of eight properties suggested as comparable to the subject. The PTAB finds the appellant's comparable #4 and the board of review's comparables #1, #2, and #3 the most similar to the subject in design, construction, size, and age. Due to their similarities to the subject, these comparables received the most weight in the PTAB's analysis. The properties are masonry, two-story, mixed-use dwellings located

within the subject's subarea of the neighborhood. The properties range: in age from 76 to 108 years; in size from 3,750 to 4,820 square feet of living area; and in improvement assessment from $6.71 to $18.88 per square foot of living area. In comparison, the subject's improvement assessment of $10.59 per square foot of living area is within the range of these comparables. The remaining comparables were given less weight due to disparities in size and/or construction. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is supported and a reduction in the subject's assessment is not warranted.

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, 331Ill.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 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 presented, the PTAB concludes that the evidence indicates a reduction is not warranted.

The appellant submitted documentation showing the income of the subject property. The PTAB 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 based on vacancy 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 such evidence and, therefore, the PTAB gives this argument no weight and finds that 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.

Chairman

Member

Member

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: December 23, 2010

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.