



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

APPELLANT: 7400-7412 W. Harrison St. LLC
DOCKET NO.: 07-26364.001-C-1 through 07-26364.006-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are 7400-7412 W. Harrison St. LLC, 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 a reduction 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-26364.001-C-1	15-13-403-001-0000	3,848	369	\$ 4,217
07-26364.002-C-1	15-13-403-002-0000	3,510	336	\$ 3,846
07-26364.003-C-1	15-13-403-003-0000	3,510	336	\$ 3,846
07-26364.004-C-1	15-13-403-004-0000	3,640	28,521	\$ 32,161
07-26364.005-C-1	15-13-403-005-0000	3,510	28,521	\$ 32,031
07-26364.006-C-1	15-13-403-041-0000	8,702	58,298	\$ 67,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject consists of six parcels. Three of the parcels, identified by Permanent Index Numbers ("PINs") 15-13-403-001, -002, and -003, are land with minor improvements and are used for parking. Two of the parcels, identified by PINs 15-13-403-004 and -005, contain an 88 year old, mixed-use, 6,338 square foot building. The building is prorated with 50% on PIN -004 and 50% on PIN -005. The final PIN -041 is improved with a one and part two story, 57 year old store front building. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the subject's improvement, that the subject building has the incorrect assessor classification, and that the subject is entitled to an occupancy factor, as the bases of appeal.

In support of the equity argument, the appellant submitted descriptive information for three properties suggested as comparable to the subject PINs -004. The comparables are described as mixed-use buildings. They range from 83 to 95 years old and range in building size from 2,600 to 8,004 square feet. Their assessments range from \$8.47 to \$10.40 per square foot of building area. In support of the argument that the subject is incorrectly classified, the appellant submitted a plat of survey, a photo, and a brief. In support of the argument that the subject is entitled to vacancy relief, the appellant submitted two vacancy affidavits that state the subject PINs -004 and -005 were 41.47% vacant during 2007. 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 final assessment of \$172,679 was disclosed. The board of review submitted one memorandum with regard to PINs -001 through -005 and submitted a second memorandum with regard to PIN -041.

In support of the subject PIN -041's assessment, the board of review submitted a property record card for the subject, and raw sales data for six suggested comparables located within two miles of the subject. These comparables range in sale price per square foot from \$52.62 to 352.72 per square foot of building area. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County 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 states 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.

In regard to the assessment of the class 5-90 commercial land with minor improvements PINs, the board of review indicated that these PINs should have been classified as class 2-90 residential land with minor improvements PINs and that their assessments were corrected in 2008. In regard to the two parcels that are improved with the class 2-12 building (PINs -004 and -005), the board of review submitted evidence that the assessor corrected the classification of these PINs to 2-12 mixed-use property in

2008. In addition, the board of review submitted printouts for four suggested comparable properties. The comparables are mixed-use buildings that range in size from 4,845 to 8,004 square feet of building area. These comparables have assessments that range from \$8.49 to \$9.22 per square foot of building area. Based on this evidence, the board of review requested a modification of the assessment of the PINs.

In addition, the board of review submitted evidence that PINs - 001 through -005 sold in June 2007 for \$700,000.

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.

As to the equity argument, 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 met this burden.

The Board finds that the comparables #1, #2, and #3 submitted by the board of review are the most similar to the subject mixed-use class 2-12 building (PINs -004 and -005). The comparables are the most similar in size, style, exterior construction, and age. These comparables have improvement assessments that range from \$8.86 to \$9.22 per square foot of building area. As such, the Board finds that the appellant has met the burden of clear and convincing evidence. Therefore, the Board finds the subject's improvement assessment of PINs -004 and -005

assessment is not equitable and a reduction in the subject's assessment is warranted.

As to the argument that the subject PINs -001, -002, -003, -004, and -005 have the incorrect class, the Board finds both parties submitted evidence that these parcels are not class 5 commercial parcels. The board of review submitted evidence that these parcels were reclassified as residential parcels in 2008. The Board finds that "a substantial reduction in the subsequent year's assessment is indicative of the validity of the prior year's assessment". Hoyne Savings & Loan Assoc. v. Hare, 60 Ill.2d 84, 90, 322 N.E.2d 833, 836 (1974); 400 Condominium Assoc. v. Tully, 79 Ill.App.3d 686, 690, 398 N.E.2d 951, 954 (1st Dist. 1979). Therefore, the Board finds that based upon the county's 2008 assessment reduction, it is appropriate to reduce the assessment of these parcels. Thereby, the Board finds that a reduction in the assessment of subject PINs -001 through -005 is warranted.

As to the appellant's argument that the subject is entitled to vacancy relief, the appellant submitted documentation showing 41.67% vacancy of PINs -004 and -005. 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.

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 Board gives this argument no weight and finds that a reduction based on market value 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: March 21, 2014



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.