



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

APPELLANT: Palm Realty Company
DOCKET NO.: 07-28365.001-C-1
PARCEL NO.: 16-10-425-025-0000

The parties of record before the Property Tax Appeal Board are Palm Realty Company, the appellant(s), by attorney Terrence Kennedy Jr., of Law Offices of Terrence Kennedy Jr. 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:

LAND: \$9,143
IMPR: \$32,000
TOTAL: \$41,143

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property has 4,375 square feet of land, which is improved with an 81 year old, one and part two-story, masonry, commercial building with 4,000 square feet of building area, and a land-to-building ratio of 1.09:1. As of the date of this appeal, the subject was being used as a store. The appellant contends that the subject is overvalued, and that there was unequal treatment in the assessment process as the bases for this appeal.

In support of the overvaluation argument, the appellant, via counsel, asserted that, based on the subject's actual income for tax years 2004 through 2006, a reduction is warranted. The appellant presented a chart showing that over that three year period, the subject's average gross income was \$33,600 annually, with average expenses of \$3,157, or 9.40% of the subject's gross income. The appellant then stabilized the expenses at 25% due to the subject's age, location, and condition. Next, the appellant asserted that an appropriate loaded capitalization rate for the subject was 16.46%. The appellant then took the subject's 2006 gross income of \$33,600, and subtracted 25% for a net income of \$25,200. The net income was then divided by the loaded capitalization rate to arrive at a market value of \$153,098.

In support of the equity argument, the appellant submitted descriptive and assessment information, as well as property record cards, for four properties suggested as comparable to the subject. These properties are described as one-story, masonry, commercial buildings that are from 16 to 84 years old, and contain from 2,332 to 4,375 square feet of living area. The comparables' land-to-building ratios range from 1.00:1 to 4.38:1. These suggested comparables have improvement assessments ranging from \$7.95 to \$15.56 per square foot of living area. The subject's improvement assessment is \$21.75 per square foot of living area. Based on this evidence, 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 \$96,131 was disclosed. The subject's final assessment yields a fair market value of \$252,976 when the 38% assessment level for class 5-17 property under the Cook County Real Property Assessment Classification Ordinance is applied. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for seven storefront buildings located within two and one-half miles 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 contained storefront buildings that range in age from 51 to 140 years old, and in size from 2,013 to 4,421 square feet of building area. The properties sold from February 2002 to February 2009 in an unadjusted range from \$155,000 to \$850,000, or from \$55.92 to \$422.26 per square foot of building area, land included. The printouts also indicate that no real estate brokers were used in Comparables #2,, #3, #5, and #7. Additionally, five of the properties were 100% leased at the time of the sale. Comparable #1 was only on the market for one day, while Comparable #7 was not advertised for sale on the open market.

The board of review also submitted a trustee's deed wherein the subject was conveyed to the appellant. The deed is dated August 12, 2002, and contains \$170.00 worth of State of Illinois Real Estate Transfer Tax Stamps. This document was filed with the Cook County Recorder of Deeds on September 12, 2002. 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 (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). Having considered the evidence presented, the Board finds that a reduction is not warranted based on overvaluation.

The Board gives no weight to the appellant's self-developed income approach analysis. This analysis did not include any market rents or justify why market rents were not included within the analysis. Moreover, a sales comparison approach was not developed. The court has held that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law." Cook Cnty. Bd. of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3d 472 at 484 (1st Dist. 2008). The Illinois Appellate Court recently revisited this issue in Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" case). In Sears, the court stated that, while the use of only one valuation method is not inadequate as a matter of law, the evidence must support such a practice and the analyst must explain why the excluded valuation methods were not used in the analysis for the Board to use such an analysis. Id. at ¶ 29. In this case, the appellant did not include the cost approach to value and sales comparison approach to value in the market value analysis. The appellant provided no reason for excluding these valuation methods, and the evidence does not show that their exclusion is standard practice when valuing property that is similar to the subject. In fact, the board of review presented seven suggested comparables, proving that there is a market for the subject, and the sales comparison approach could have been developed. Therefore, the Board finds that reliance on the appellant's self-developed income approach would be deficient as a matter of law, and, thus, no reduction is warranted based on the appellant's market value argument.

The appellant also 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, 645-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has met this burden.

The Board finds that Comparables #1, #2, and #4 submitted by the appellant were most similar to the subject in location, size, style, exterior construction, features, and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$7.95 to \$15.56 per square foot of living area. The subject's improvement assessment of \$21.75 per square foot of living area is above the range established by the most similar comparables. Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement assessment is not equitable, and a reduction in the subject's assessment is 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

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.