



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

APPELLANT: JJJ & M Ltd.  
DOCKET NO.: 07-28500.001-C-1  
PARCEL NO.: 03-29-344-001-0000

The parties of record before the Property Tax Appeal Board are JJJ & M Ltd., the appellant(s), by attorney John J. Placek in Arlington Heights, 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: \$ 41,382  
IMPR: \$ 34,616  
TOTAL: \$ 75,998**

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of an 8,712 square foot parcel of land, which is improved with a 4,356 square foot, masonry, office building containing five office suites. The subject includes a partial unfinished basement.

The appellant, via counsel, marked the "Assessment equity" box on the Property Tax Appeal Board's (the "Board") Commercial Appeal form, and typed " / Income Analysis and Equity" next to the marked line. The appellant also check the "Contention of law" box. Ostensibly, these are the bases for the appellant's appeal. However, the appellant provided only two equity comparables for the Board to review. In turn, the Board sent the appellant's counsel a notice stating that the appeal was incomplete because the Board requires three equity comparables to be submitted. In response, the appellant stated that the appeal is "not based upon comparables but rather economic conditions and cash flow[.]" The appellant also did not submit an additional third comparable for the Boards consideration. Thus, it appears the appeal is based on the subject's market value and a contention of law, and not upon inequitable treatment in the assessment process.

In support of the market value argument and the contention of law, the appellant submitted various affidavits, letters, photographs, tax returns, projected tax returns, newspaper

clippings, magazine articles, a rent roll, a plat of survey, previous property tax bills, and several correspondences mailed to the appellant from the Cook County Board of Review commissioners inviting the appellant's counsel to their fundraising events.

According to the appellant's 2007 federal income tax return, the appellant received \$70,028 in total income in 2007. The rent roll submitted by the appellant states that the appellant received \$5,970 per month in rent, or \$71,640 per year. The appellant asserted, in the pleadings, that the \$1,612 difference between the rent roll and the total income on the 2007 tax return was due to a credit given to two of the tenants. The appellant did not provide any evidence of market rents in the area or what the subject's potential gross income would be based on the market. Additionally, a capitalization rate or gross rent multiplier was not calculated.

In support of the contention of law, the appellant asserted that the property tax system in Illinois is "broken and needs to be fixed." The appellant argued that the ad valorem property tax system in Illinois denies property owners due process and also constitutes an illegal taking. In support of the due process argument, the appellant argued that taxpayers are denied the right to notice and a hearing with the opportunity to be heard by the assessor during the assessment process. The appellant then lays out a framework for a new assessment procedure to cure these alleged ills. The appellant then states that "[t]he Illinois Property Tax Appeal Board and the Courts [sic] must do what our legislature and governor have failed our taxpayers."

In support of the unconstitutional taking argument, the appellant argued that the reassessment of property every three years creates a "chilling effect" that prevents the property owner from marketing and selling the property until a final assessment is determined. In essence, the appellant argues, the assessment creates a cloud of uncertainty regarding a property's tax liability that deters potential buyers from purchasing the property. 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 \$132,424 was disclosed. This assessment yields a market value of \$348,484 when the 38% assessment level for class 5-17 and class 5-90 properties under the Cook County Classification of Real Property 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 four retail storefront or office 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 buildings that range in age from 24 to 57 years old, and in size from 3,180 to 5,965 square feet of building area. The properties sold from March 2003 to June 2009 in an unadjusted range from \$670,000 to \$1,075,000, or from \$161.84 to \$312.89 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant reaffirmed the evidence previously submitted, gave reasons for why the board of review's evidence is not relevant, and submitted the 2008 federal income tax return for the appellant.

After reviewing the record and considering the evidence, 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.

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. Additionally, a gross rent multiplier or capitalization rate was not developed. 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 plausible 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 four 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.

Second, the Board gives no weight to the appellant's legal arguments. With respect to the due process aspect of the legal argument, the Board finds that, under Illinois law, ample notice is given to every taxpayer regarding their assessment, and their right to have a hearing and be heard. In Cook County, an assessment notice is mailed to property owners describing the proposed assessment for their property for the applicable tax year. Included in the notice are instructions on how to appeal the proposed assessment to the assessor. The assessment is also required to be printed in a newspaper of general circulation in the area. 35 ILCS 200/12-20. Taxpayers are also given an opportunity to appeal to the Cook County Board of Review, and this Board, both of which offer the taxpayer an opportunity to present relevant evidence and have a hearing on the merits of the assessment. Therefore, the appellant's due process argument is without merit.

Finally, the Board gives the appellant's unconstitutional taking legal argument no weight. The appellant provided no persuasive evidence, no case law, no statutory law, and no administrative rules to support this claim. The appellant did not even cite the applicable Constitutional provisions.

In the pleadings, the appellant has unilaterally charged this Board with doing "what our legislature and governor have failed our taxpayers." This is not the Board's mandate, and is not why it was created (by statute) over forty years ago. The Board does not correct perceived errors by the legislative branch or the governor. The Board's authority is limited to correcting errors in property tax assessments as determined by the 102 county boards of review in Illinois. 86 Ill. Admin. Code. § 1910.10(a)-(f). The Board does not create laws regarding property taxes. That task is left to the elected members of the General Assembly. As part of the executive branch, the Board's responsibility is to enforce the laws passed by the General Assembly and the Joint Commission on Administrative Rules. Therefore, the Board finds that it is without the necessary jurisdiction to do what the appellant requests, 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

*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: December 21, 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.