



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

APPELLANT: James Guest
DOCKET NO.: 07-28575.001-C-1 through 07-28575.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are James Guest, the appellant(s), by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines; 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:

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|------------------|--------------------|--------|---------|-----------|
| 07-28575.001-C-1 | 03-32-108-001-0000 | 31,112 | 49,315 | \$80,427 |
| 07-28575.002-C-1 | 03-32-108-002-0000 | 31,350 | 73,972 | \$105,322 |

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 13,237 square feet of land, which is improved with a 52 year old, one-story, masonry, commercial building with 6,063 square feet of building area. At the time of this appeal, the subject was being used as a strip mall center. The subject's final assessment of \$185,749 yields a market value of \$488,813 when the 38% assessment level for class 5-17 property under the Cook County Classification of Real Property Ordinance is applied. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted an appraisal for the subject property with an effective date of January 1, 2007. The appraiser estimated a fair market value for the subject of \$420,000 based on the cost, income, and sales comparison approaches to value. The appraiser also conducted an inspection of the subject. The appraisal also states that the subject was sold in November 2005 for \$825,000, but that it was "understood" that the buyer paid a premium for the subject because the buyer had a "special interest in the subject building, was unaware of the extent of functional obsolescence and physical deterioration and a transference of business value was included in the transaction." In support of this

proposition, the appellant also submitted an appraisal, naming the appellant as the affiant. In the affidavit, the appellant stated that: 1) he had been a tenant in the subject for 10 years prior to purchasing it; 2) that he desired to stay at the location to retain his employees and existing business relationships; and 3) that he believes he overpaid for the subject. The appellant also included an attorney-developed income and expense report for the subject. 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 \$185,749 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 six commercial buildings located within two 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 commercial building with varying uses that range in age from 1 to 52 years old, and in size from 5,400 to 7,021 square feet of building area. The properties sold from February 2003 to February 2007 in an unadjusted range from \$640,000 to \$1,395,000, or from \$106.67 to \$232.50 per square foot of building area, land included. The board of review also submitted a trustee's deed which conveyed the subject to the appellant in November 2005. The trustee's deed contained \$825.00 worth of State of Illinois Real Estate Transfer Tax Stamps. 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 the sales submitted were not adjusted for market conditions.

At hearing, the appellant's attorney, Panagiota Fortsas, reaffirmed the evidence previously submitted through testimony from John Stephen O'Dwyer, MAI, MRICS of JSO Valuation Group, LLC, who completed the appellant's appraisal. Ms. Fortsas also asked Mr. O'Dwyer about the sale of the subject in November 2005. In particular, Ms. Fortsas asked whether Mr. O'Dwyer knew what portion of the sales price was attributed to real estate, and what portion was attributable to tangible or intangible personal property. Mr. O'Dwyer stated that he did not know the answer to that question, but that such a breakdown would be relevant to the subject's fair market value. The Property Tax Appeal Board (the

"Board"), then asked Ms. Fortsas about the sale of the subject in November 2005. Ms. Fortsas stated that she did not have any information on that sale, except for the information contained in the appraisal. The Board then asked that Ms. Fortsas supply the PTAX-203 Form describing the sale of the subject to the Board within one month. The Cook County Board of Review Analyst, Colin Brady, rested on the evidence previously submitted. Ms. Fortsas then cross-examined Mr. Brady about several of the comparables submitted by the board of review.

The Board timely received the PTAX-203 Form from the appellant, which showed that the subject was purchased in November 2005 for \$825,000. This form states that the sale was not between related parties. Line 12a of the PTAX-203 Form states that no personal property was included in the transaction.

After reviewing the record, considering the evidence, and hearing the testimony, 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 finds that the evidence indicates a reduction is not warranted.

In determining the fair market value of the subject property, and in accordance with the Korzen case, the Board finds the best evidence to be the sale of the subject in November 2005 for \$825,000. The sale is within 14 months of the 2007 lien date, and the PTAX-203 Form supports the arm's-length nature of the transaction because the buyer and seller are not related. Additionally, there is no persuasive evidence in the record to show that the sale price included anything other than the real estate purchased. While the appellant's affidavit mentions that the sale price included more than real estate, it does not describe the breakdown between the price paid for real estate and the price paid for personal property. According to the appellant's own appraiser, such a breakdown would be relevant in determining the subject's fair market value. The Board agrees

with the appraiser, and finds that, without this information, the Board is unable to accurately determine the personal property that was included in the sale of the subject in November 2005, if any. Thus, the only evidence which directly addresses such a breakdown is found on the PTAX-203 Form at lines 11 and 12a, where the appellant stated that the amount of personal property included in the sale was \$0.00. The Board notes that the appellant signed the PTAX-203 Form, and that he did so under penalty of perjury if he willfully included false information on the Form.

Moreover, the appraisal states that the appellant was unaware of the functional obsolescence and physical deterioration of the subject, and, thus, paid more than he should have for the subject. Yet, in the same breath, the appraisal states that the appellant was a tenant in the subject for the ten years prior to the sale. The Board is not persuaded by this argument. The appellant could not have been a tenant and operated a business in the subject for ten years without noticing the condition of the subject; and, of course, there is always the legal maxim of *caveat emptor*, or "let the buyer beware." 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 \$825,000 for the 2007 assessment year. Since the market value of this parcel has been established, the 38% assessment level for class 5-17 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 \$313,500, 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.

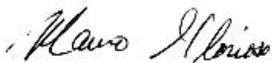


Chairman



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: May 24, 2013



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.