



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

APPELLANT: Donald Andriacchi
DOCKET NO.: 07-28775.001-I-1 through 07-28775.006-I-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Donald Andriacchi, the appellant, by attorney Steven B. Pearlman of Steven B. Pearlman & Associates, 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
07-28775.001-I-1	17-21-325-041-0000	4,488	0	\$4,488
07-28775.002-I-1	17-21-325-042-0000	4,737	0	\$4,737
07-28775.003-I-1	17-21-325-043-0000	4,488	0	\$4,488
07-28775.004-I-1	17-21-325-044-0000	4,488	0	\$4,488
07-28775.005-I-1	17-21-325-053-0000	4,488	0	\$4,488
07-28775.006-I-1	17-21-325-056-0000	35,910	3,401	\$39,311

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 30,875 square foot site improved with a one-story brick building with 5,527 square feet of building area. The building is approximately 60 years old. The subject is classified as an industrial property under the Cook County Real Property Assessment Classification Ordinance and is located in Chicago, West Chicago Township, Cook County.

The appellant submitted evidence before the Property Tax Appeal Board contending overvaluation. In support of this argument the appellant provided information on five comparables sales improved with industrial buildings that ranged in size from 15,982 to 38,672 square feet of building area. Four of the buildings were described as ranging in age from 19 to 111 years old while the age of one comparable was not disclosed. The sales occurred from March 2006 to October 2007 for prices ranging from \$590,000 to \$1,201,750 or from \$16.03 to \$36.72 per square foot of building

area, including land. Based on these sales the appellant requested the subject's assessment be reduced to \$62,000 to reflect a market value of \$172,221 or \$31.16 per square foot of building area, including land.

In further support of the overvaluation argument the appellant's counsel developed an income approach to value purportedly using the subject's actual income from 2005 through 2007. The appellant submitted an affidavit indicating the attached Schedule E's for 2005 and 2006 and a 2007 Income Statement were for the subject property. These statements indicated an annual gross rent each year of \$30,000. Counsel then deducted expenses of \$7,536, \$7,162 and \$6,205 for each of the years, respectively. Counsel calculated the net operating income for each year at \$22,464, \$22,838 and \$23,795, respectively. He then asserted the average net operating income for 2005 through 2007 was \$23,032. Counsel then capitalized the average net operating income with by a capitalization rate of 14.613% composed of an overall capitalization range of 9.5% and an effective tax rate of 5.113% to arrive at a market value of \$157,613. Based on this market value estimate the appellant's attorney requested the assessment be reduced to \$56,962.

The appellant submitted a copy of the final decision issued by the board or review where the subject's total assessment of \$83,033 was disclosed. The subject's assessment reflects a market value of \$230,647 or \$41.73 per square foot of building area, including land, when applying the 36% level of assessments for class 5B industrial property under the Cook County Real Property Assessment Classification Ordinance.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted information on five comparable sales in support of the contention that the subject property was overvalued. The comparables were industrial buildings that were larger than the subject building. These properties sold from March 2006 to October 2007 for prices ranging from \$590,000 to \$1,201,750 or from \$16.03 to \$36.72 per square foot of building area. The subject's assessment reflects a market value of

\$230,647 or \$41.73 per square foot of building area, including land, which is above the range established by the comparables on a square foot basis. The board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's argument as required by Section 1910.40(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a)). The Board has examined the information submitted by the appellant and finds that it supports a reduction in the assessed valuation of the subject property based on overvaluation.

The Board further finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses unconvincing and not supported by credible evidence in the record. 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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate through any evidence that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, 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. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds problematic the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also

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provide unbiased, objective opinion testimony of value for that client's property.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn R. Lerbis

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 20, 2011

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.