



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

APPELLANT: Donald Andriacchi
DOCKET NO.: 07-28778.001-I-1 through 07-28778.002-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
07-28778.001-I-1	17-29-200-030-0000	41,382	547	\$41,929
07-28778.002-I-1	17-29-200-031-0000	95,541	12,584	\$108,125

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two parcels with a total land area of 187,146 square feet. Parcel 17-29-200-031-0000 (PIN 031) is improved with a one-story industrial building with 5,424 square feet of building area. The building is 58 years old. Parcel 17-29-200-030-0000 (PIN 030) is improved with fencing and is leased for truck storage. The property is located in Chicago, West Chicago Township, Cook County.

The appellant contends assessment inequity and overvaluation. With respect to the assessment inequity argument the appellant provided assessment information on three comparables improved with industrial buildings that ranged in size from 3,435 to 6,100 square feet of building area and in age from 74 to 116 years old. Each comparable was located in Chicago, West Chicago Township, and two had the same neighborhood code as the subject. These comparables had improvement assessments that ranged from \$6,567 to \$17,157 or from \$1.91 to \$2.81 per square foot of building area. The subject industrial building has an assessment of \$33,560 or \$6.19 per square foot of building area. Based on these comparables the appellant requested the subject's

improvement assessment be reduced to \$12,584 or \$2.32 per square foot of building area.

In support of the overvaluation argument the appellant's counsel developed an income approach to value purportedly using the subject's actual income. The appellant submitted an affidavit indicating the attached Schedule E's for 2004, 2005 and 2006 were for the subject property located at 955 W. Cermack, Chicago (PIN 031). However, the addresses listed on the Schedule E's for the respective years did not have that address as one of the rental properties. Counsel asserted that the property is leased for \$3,200 per month (\$38,400 annually) but then indicated the gross annual rent for 2004, 2005 and 2006 was \$39,000. Counsel then deducted expenses of \$4,685, \$8,018 and \$4,164 for each of the years, respectively. Counsel calculated the net operating income for each year at \$34,315, \$30,982 and \$34,836, respectively. He then asserted the average net operating income for 2004 through 2006 was \$33,836. 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 \$228,413. Based on this market value estimate the appellant's attorney requested the assessment be reduced to \$83,348.

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 argued in part assessment inequity as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data the Board finds a reduction is warranted on this basis.

The appellant submitted information on three comparables in support of the contention that the subject property was inequitably assessed. The comparables had improvement assessments ranging from \$1.91 to \$2.81 per square foot of building area. The subject has an improvement assessment of \$6.19 per square foot of building area, which is above the range established by the comparables. 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 assessment inequity.

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 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.¹ 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 provide unbiased, objective opinion testimony of value for that client's property.

¹ The Board finds the record was not clear that the income data in the form of the Schedule E's provided by the appellant were for the subject 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 Morris

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.