



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

APPELLANT: Lennar Urban/Library Tower, L.L.C.
DOCKET NO.: 07-28886.001-C-2 through 07-28886.006-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Lennar Urban/Library Tower, L.L.C., the appellant, by attorney James P. Regan, of Fisk Kart Katz and Regan, Ltd. in Chicago; and the Cook County Board of Review by Cook County Assistant State's Attorney William Blyth.

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
07-28886.001-C-2	17-16-247-038-0000	163,400	205	\$ 163,605
07-28886.002-C-2	17-16-247-039-0000	153,596	65	\$ 153,661
07-28886.003-C-2	17-16-247-040-0000	47,300	0	\$ 47,300
07-28886.004-C-2	17-16-247-041-0000	47,300	0	\$ 47,300
07-28886.005-C-2	17-16-247-042-0000	94,600	0	\$ 94,600
07-28886.006-C-2	17-16-247-065-0000	47,850	51	\$ 47,901

Subject only to the State multiplier as applicable.

ANALYSIS

The subject consists of six parcels that contain a total of 21,150 square feet of land. Two of the parcels identified by Permanent Index Numbers ("Pins") 17-16-247-038-0000 and 17-16-247-039-0000 are classified by the Cook County Assessor as class 5-90 commercial minor improvements. Both of these parcels have 10% occupancy factors applied to them. The remaining parcels are all assessor class 1-00 vacant land parcels. The vacant land parcels range in size from 1,450 to 5,000 square feet of land. All of the subject parcels, except one, are assessed at land unit price of \$86.00 per square foot. PIN 17-16-247-065-0000 is assessed at a land unit price of \$150 per square foot.

The subject site was purchased in May 2006 for \$8,081,000. Shortly after the purchase date, construction began on a 187 unit mixed-use condominium building with retail space on the first floor and residential units on the upper floors. The subject's total assessment at 100% occupancy reflects a total market value of \$1,918,805 after applying the 38% assessment level for commercial properties and the 22% assessment level for vacant land properties under the 2007 Cook County Classification of Real Property Ordinance.

The appellant's Property Tax Appeal Board form indicates that the basis of the appellant's argument is a contention of law. The appellant's supporting documentation raises several issues. The first argument is that the fair market value of the subject property was not accurately reflected in its assessed value as the assessor has classified the subject property as commercial and vacant land with assessment ratios of 38% and 22%, respectively when all of the subject parcels should be assessed as residential property with an assessment ratios of 16%. The second argument is that there was unequal treatment in the assessment process of subject land PIN 17-16-247-065-0000. The appellant also indicated that the board of review did not reduce two of the subject parcel's assessments in accordance with the notes written in the board of review file.

In support of the market value argument and class change argument, the appellant submitted evidence showing that the subject sold in May 2006 for \$8,081,000. This evidence included several closing statements. Additionally, the appellant submitted several black and white photos that show the building under construction. Lastly, the appellant submitted copies of The Chicago Zoning Commission's reports on the subject development. The reports indicate approval of the site for 6,715 square feet of retail space, residential condominiums, and 3,546 square feet of land to be used as open space. Based on this evidence, the appellant requested a reduction in the subject's assessment.

In support of the contention that subject land PIN 17-16-247-065-0000 is not equitably assessed, the appellant's attorney submitted the other five subject parcels as suggested comparables. In addition, the appellant submitted a Sidwell map showing the location of the subject PINs. The Sidwell map shows that PIN 17-16-247-065-0000 is located on Harrison Street while the remaining PINs are located around the corner on State Street. PIN 17-16-247-065-0000 contains 1,450 square feet of land and has a land unit price of \$150. The other vacant land

subject PINs range in land size from 2,500 to 5,000 square feet and have a land unit price of \$86 per square foot. In addition, the two improved subject parcels have a land unit price of \$86 per square foot.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$554,367 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject and raw sales data for 14 land parcels 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 Cook County 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 states 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 comparables sold between October 2004 and March 2009 for \$485,000 to \$43,800,000 or from \$873,874 to \$27,375,000 per acre. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, neither party presented witnesses. The appellant's attorney argued that the subject should be classified as residential property and have an assessment ratio of 16% of market value because the subject property was designated by the city...strictly for multi-family residential usage." (Transcript p. 7). The appellant's attorney later stated that there is retail space on the first floor of the subject. (Transcript p. 19) Additionally, the appellant's attorney stated that he has "not disputed the value placed on the market value upon which a classification was incorrectly made." (Transcript p. 15) He further stated that that investment value is different from market value and that the value to the appellant "was not in the land itself, but the fact that they already possessed approval by the city to construct a 187 unit building." (Transcript p. 13) Lastly, the appellant's attorney reiterated his argument that PIN 17-16-247-065-0000 is not equitably assessed and in support of this argument stated that the other subject parcels are assessed lower than PIN 17-16-247-065-0000.

The assistant state's attorney, William Blyth, argued that the appellant's attorney did not meet the burden of proving by clear

and convincing evidence that subject PIN 17-16-247-065-0000 is over assessed. Mr. Blyth also stated that there was no witness present to testify regarding the residential use of the subject, nor was there a witness provided to support the appellant's attorney's argument that the subject's recent purchase price reflected an investment value and not its market value. Additionally, the assistant state's attorney argued that the subject land unit pricing is within the range of the bard of review's land comparables.

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

The Board finds that the appellant did not meet the burden of proving by a preponderance of the evidence that the subject is over assessed. The evidence in the record indicates the subject was purchase in May 2006 for \$8,081,000, while the subject's current assessment reflects a market value of \$1,918,805 at 100% occupancy. As no witness testified regarding the subject's purchase price, the Board grants no weight to the appellant's attorney's argument that the price reflected an investment value and not market value. Furthermore, the appellant did not provide an appraisal or sales comparables in support of the subject's market value. The board notes that the appellant's recent purchase price in May 2006 was \$8,081,000. If the board were to use this price as the subject's fair market value and then apply the appellant's requested assessment ratio of 16%, the resulting assessment would be \$1,292,960, which is significantly higher than the subject's current assessment of \$554,316.

As to the appellant's classification argument, the Board finds the appellant did not prove by a preponderance of the evidence that the subject should be assessed as residential property. The Board grants no weight to the appellant's attorney's argument that the subject is "...strictly for multi-family residential usage." (Transcript p.7). No witness testified in support of this argument. In fact, the documents submitted by the appellant indicate that the subject building's use is not "strictly residential". The appellant submitted documentation from the City of Chicago that indicated the subject building was approved for 6,715 square feet of retail space. At hearing, the appellant's attorney stated that a CVS Pharmacy was scheduled to occupy the first floor. (Transcript p. 19).

As to the appellant's argument that the subject cannot be assessed until a certificate of occupancy is issued or the property is rendered suitable for occupancy, Section 9-180 of the Property Tax Code states in pertinent part, "The owner of a property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures, or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable or fit for occupancy or for intended customary use to December 31 of that year." (35 ILCS 200/9-180)

In the case of Long Grove Manor v. Property Tax Appeal Board, 301 Ill.App.3d 654 the court held that an assessor may value any partially completed improvement to the extent that it adds value to the property. This case was analyzed in Brazas v. Property Tax Appeal Board, wherein the court allowed an assessor to value any partially completed improvement to the extent it adds value to the property regardless of whether the improvement is substantially complete. (309 Ill.App.3d 520) In the case at hand, the appellant's documentation indicates construction began shortly after the subject's purchase in May 2006. In addition, the photos submitted by the appellant show a partially completed building. Based on these factors, the Board finds that the subject was a partially completed improvement that added value to the property and that pursuant to Brazas, the assessor is allowed to value the improvement. Id. The Board notes that subject's property record card indicates that the subject improvement assessment reflects a partial value. The record card shows that a 10% occupancy factor was applied to the two improved parcels' improvement assessments. The Board notes that appellant did not present evidence as to the market value of

either of these subject parcels. Therefore, the Property Tax Appeal Board finds that the appellant has not met his burden of proving by a preponderance of the evidence that the subject's assessment as established by the board of review is incorrect.

As to the appellant's argument that the board of review's file notes indicate two of the subject PINs should have been reduced, section 1910.50 (a) of The Property Tax Code 35 ILCS 200 provides in pertinent part that, "All proceedings before the Property Tax Appeal Board shall be considered de novo, meaning the Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review..." Pursuant to this rule, the Board grants no weight to the appellant's argument that the Property Tax Appeal Board should reduce assessments in accordance with notes written in a board of review file.

The appellant 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, 654-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

The Board finds that none of the suggested comparables submitted by the appellant were similar to the subject in location, size, and features. The Sidwell map provided by the appellant indicates PIN 17-16-247-065-0000 is located on Harrison Street while the other subject PINs are located on State Street. In addition, subject PIN 17-16-247-065-0000 is much smaller than the suggested comparables. PIN 17-16-247-065-0000 contains 1,450

square feet of land while the other vacant land parcels range in size from 2,500 to 5,000 square feet and the improved subject parcels range in land size from 4,700 to 5,000 square feet. The Board finds no testimony or evidence was submitted in support of the appellant's contention that a 1,450 square foot land parcel located on Harrison Street should have the same land unit pricing as larger parcels located around the corner on State Street. As such, the Board finds that the appellant has not met the burden of proving the subject is inequitably assessed by clear and convincing evidence, as there is no range of equity comparables with which to compare the subject PIN 17-16-247-065-0000. Based on this record the Board finds no reduction in the subject's assessment based on assessment inequity is justified.

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.



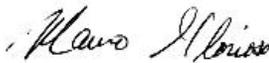
Chairman



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: March 21, 2014



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.