



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

APPELLANT: Joseph David
DOCKET NO.: 07-29365.001-C-1
PARCEL NO.: 24-10-413-050-0000

The parties of record before the Property Tax Appeal Board are Joseph David, the appellant, by attorney Terrence Kennedy Jr., of Law Offices of Terrence Kennedy Jr. in Chicago; 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: \$ 18,550
IMPR.: \$ 122,446
TOTAL: \$ 140,996

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a 38-year-old, three-story walk-up masonry apartment building that contains 10,185 square feet of building area. There are 12 apartment units consisting of 6 one-bedroom units and 6 two-bedroom units. The building is located on a 9,920 square foot site in Oak Lawn, Worth Township, Cook County. The property is classified as a Class 3-15 multi-family two or three story non-fireproof corridor apartment or a California type apartment, with interior entrance, building under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance") and is to be assessed at 22% of market value.

The appellant, through legal counsel, submitted evidence along with a brief to the Property Tax Appeal Board claiming both unequal treatment in the assessment process and overvaluation as the bases of the appeal to challenge the subject's assessment.

In support of the inequity argument, the appellant submitted a grid analysis of five suggested Class 3-15 comparables located

"within a few blocks of the subject" and in the same assigned neighborhood code by the assessor as the subject property. The appellant also submitted color photographs as well as assessor database printouts for the subject and comparables. These printouts reflect that the assessments of the comparables are "partial assessments." The comparables consist of parcels ranging in size from 8,778 to 15,872 square feet of land area which are improved with 8 to 14 unit, masonry apartment buildings that range in age from 33 to 40 years old. The buildings range in size from 8,334 to 18,000 square feet of building area and have land-to-building ratios ranging from .77:1 to 1.48:1. The subject has a land-to-building ratio of .97:1. These properties have improvement assessments ranging from \$45,235 to \$110,821 or from \$5.36 to \$6.61 per square foot of building area. The subject has an improvement assessment of \$122,446 or \$12.02 per square foot of building area.

As to the overvaluation argument, the appellant submitted an appraisal of the subject property prepared by Matthew Kang and Gary Peterson of Peterson Appraisal Group, Ltd. to establish "an equitable basis for real estate taxation." In a cover letter, the appraisers noted "[g]iven the intended use of the appraisal, the value opinion is based solely on the application of [the] income capitalization approach." The appraisal depicts an opinion of market value of \$460,000 as of January 1, 2006.

Noting the sales history of the subject, the appraisers acknowledged that the subject property was purchased in February 2005 for \$750,000. "The ownership reportedly purchased the property to convert into a residential condominium building. It is noted, normally a premium is paid for properties for conversion potential and investors often give no consideration to the income/cash flow of the property." The appraisers further report that their analysis is that the subject "appears [to] have been purchased above market consideration." Neither appraiser was present at the hearing to offer testimony or to be cross-examined as to further details surrounding the sale.

Using the income approach, the appraisers first estimated market rent by analyzing five comparable rentals which ranged from \$565 to \$700 per month for 1-bedroom units and \$740 to \$825 per month for 2-bedroom units. The appraisers analyzed the comparables for differences with the subject including location, size, features and amenities, concessions, expenses, division of expenses, parking and other characteristics. The appraisers opined the subject's units are commanding below market level rental rates. The appraisers stabilized the subject's potential gross income at \$650 per month for 1-bedroom units and \$750 per month for 2-bedroom units resulting in total annual potential income of \$100,800. A vacancy and collection loss of 5% or \$5,040 was estimated resulting in effective gross income of \$95,760 annually. Next, the appraisers estimated stabilized expenses based on the subject's data and market surveys of data from comparable properties. Expenses were stabilized for insurance, common area utilities, scavenger expense, maintenance and

repairs, professional fees, management fee, and reserves for a total operating expense, excluding real estate taxes, at \$30,768 or \$2,564 per unit for an expense ratio of 30.52% of potential gross income. This resulted in a net operating income of \$64,992 or \$5,416 per unit before real estate taxes, mortgage debt service, capital items and book depreciation. Using both a band of investment technique and investor survey data, the appraisers arrived at an overall capitalization rate for the subject of 8.00% and a tax loaded capitalization rate of 14.091% to estimate the subject's value at \$460,000, rounded, under the income capitalization approach.

In the brief, appellant's counsel argued that the subject's recent purchase price of \$750,000 should not be controlling "because [the] appraisal and the economics establish that the actual market value is substantially lower than the price." Furthermore, assessment uniformity for Class 3 properties should take precedence.

Based on the appraisal evidence, the appellant requested the subject's total assessment be reduced to \$110,400 to reflect a market value of \$460,000 using the 2006 level of assessment for class 3 property of 24% under the Ordinance. Alternatively, based on lack of uniformity, the appellant requested the subject's total assessment be reduced to \$79,923.

The board of review submitted its "Board of Review-Notes on Appeal" wherein its final assessment of the subject totaling \$140,996 was disclosed. The subject's assessment reflects a market value of \$640,891 or \$62.92 per square foot of building area, including land, when applying the 2007 level of assessment for class 3 property as set forth in the Ordinance of 22%.

In support of the assessment, the board of review submitted information on the subject's February 2005 purchase price of \$750,000. In addition, the board of review presented five suggested sales comparables of multi-family, apartment buildings which were 30 to 42 years old. The comparables range in size from 7,000 to 10,500 square feet of building area and have 12 or 14 apartment units. The comparables sold between June 2001 and June 2006 for prices ranging from \$560,000 to \$1,120,000 or from \$60.00 to \$108.21 per square foot of building area, including land.

The board of review did not substantively respond to the appellant's lack of uniformity argument. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's counsel indicated that the Board granted an assessment reduction for the subject property in 2006 based on similar evidence and facts.

After reviewing the record, hearing the testimony, 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 Property Tax Appeal Board further finds that a reduction in the subject's assessment is not warranted.

The appellant contended unequal treatment in the subject's improvement assessment as a 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 assessment valuations 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 the appellant has not met this burden and that a reduction in the subject's assessment is not warranted based on lack of assessment uniformity.

In this appeal the appellant provided information on five equity comparables. The assessment data provided by the appellant reflects a partial improvement assessment for all five comparable properties. As no further assessment data was provided to clarify the assessed values of these properties, the Board is unable to determine their comparability to the subject. Accordingly, the appellant has not met the burden of clear and convincing evidence. The board of review failed to provide any comparable equity data for consideration. Therefore, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's improvement assessment is not warranted.

The appellant also argued overvaluation as a basis of the 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 appraisal that solely utilizes the income approach to value the subject property, as they failed to develop a sales comparison approach to value. 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 or 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.

Accordingly, the Board finds that reliance on the appellant's income approach would be deficient as a matter of law. After considering the evidence presented, the Board finds the subject's assessment is supported and a reduction in the subject's assessment is not warranted based on the income appraisal.

Therefore, the Board finds the best evidence of the subject's fair market value in the record is the February 2005 sale price for \$750,000. The Board has given no substantive weight to the appellant's appraisal evidence which did not sufficiently explain why the subject's sale price would not be reflective of its fair cash value 11 months later. Moreover, the subject's recent purchase price is further supported by the three most recent sales presented by the board of review which sold between May 2004 and June 2006 for prices ranging from \$670,000 to \$1,120,000 or from \$71.47 to \$108.21 per square foot of building area including land for properties with 12 or 14 apartment units each. However, the board of review did not request an increase in the assessment of the subject property to reflect the subject's recent purchase price. Thus, the Board finds no change in assessment is warranted on based on the testimony and evidence in this record.

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: April 19, 2013

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.