



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

APPELLANT: John Schoen
DOCKET NO.: 07-29851.001-I-2 through 07-29851.002-I-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are John Schoen, the appellant, by attorney Joanne Elliott of Elliott & Associates, P.C., Des Plaines; the Cook County Board of Review; and Elgin School District U-46, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C., Chicago.

Based on the record presented, the Property Tax Appeal Board hereby finds the appeal shall be dismissed and thus no change in the assessment of the property as established by the Cook County Board of Review is warranted. The assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-29851.001-I-2	06-32-300-014-0000	90,513	164,898	\$255,411
07-29851.002-I-2	06-32-300-015-0000	107,811	0	\$107,811

Subject only to the State multiplier as applicable.

ANALYSIS

The intervening taxing district filed a Motion to Strike Appellant's Consulting Report and Dismiss Appeal. In order to understand the basis of the motion it is necessary to summarize the record.

The subject property consists of a 553,037 square foot site improved with three free-standing one-story metal clad industrial buildings containing a gross building area of approximately 15,000 square feet.

The appellant, through counsel, filed the appeal indicating in section 2e of the Industrial Appeal form that the appeal is based on a recent appraisal. In support of the appeal the appellant submitted an Income Consulting Report prepared by M. L. Barnvos of Valcon Appraisal Consultants, Ltd. The report contained an estimate of market value of \$685,000 as of January 1, 2007. The appraiser developed only the income approach to value in arriving at his estimate of market value.

The Assumptions and Limiting Conditions section of the appellant's appraisal at page 5, item 21 states:

We have not considered any market derived information in the valuation, but have relied upon the existing lease(s) in the estimate of value, as instructed by the client, or attorney for the same.

Additionally, the Valuation Procedures section of the appellant's appraisal at page 19, first paragraph states:

The traditional methods by which properties are normally valued include the Cost Approach, the Income Capitalization Approach and the Sales Comparison Approach. The consulting assignment employed only the Income Capitalization Approach to value, as instructed by client.

Based on this valuation report the appellant requested the subject's assessment be reduced to \$205,500.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$363,222 was disclosed. In support of the assessment, the board of review submitted a memorandum and information on comparable sales.

The record also contains a Stipulation of Assessments signed by the appellant and the board of review for a total assessment of \$275,000. The intervening taxing district rejected the stipulation by letter dated May 20, 2010.

In the Motion to Strike Appellant's Consulting Report and Dismiss Appeal the intervenor argued that the appellant's appraisal, by omitting the sales comparison approach, is insufficient as a matter of law. The intervenor cited Cook County Board of Review v. Property Tax Appeal Board and Omni Chicago (Omni), 384 Ill.App.3d 472, 894 N.E.2d 400 (1st Dist. 2008), where the court held:

Where 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.

Omni, 384 Ill.App.3d at 484. The court in Omni further stated that:

[T]he market or sales comparison approach must be presented in a taxpayer appraisal to satisfy Illinois case law that market value be established to properly

decide property tax assessment except where no market exists for the sale of the property.

Omni, 384 Ill.App.3d at 486. The intervenor argued, based on these tenets, the appellant's appraisal was insufficient to challenge the assessment and failed to satisfy section 1910.63(b) of the rules of the Property Tax Appeal Board which provides that:

Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. Failure to do so will result in the dismissal of the appeal.

86 Ill.Admin.Code §1910.63(b). Based on the failure to satisfy the burden of going forward, the intervenor requested the appeal be dismissed.

The proof of service disclosed the Motion to Strike Appellant's Consulting Report and Dismiss Appeal was served on the other parties to the appeal. The record contains no response from either the appellant or the board of review.

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

This matter is before the Property Tax Appeal Board on the intervening taxing district's Motion to Strike Appellant's Consulting Report and Dismiss Appeal. After being fully advised in the premises, the Property Tax Appeal Board hereby dismisses the appeal.

Section 1910.63(b) of the rules of the Property Tax Appeal Board provides that:

Under the burden of going forward, the contesting party must provide substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property. Failure to do so will result in the dismissal of the appeal.

86 Ill.Admin.Code §1910.63(b). In this appeal the appellant submitted an appraisal utilizing only the income approach to value to support the contention the subject property was overvalued. The appraiser explained in the report that only the income approach to value was developed based on directions from either the client or the client's attorney. The appraisal does not contain any reference to the inability to prepare a sales comparison approach due to the lack of reliable sales data or due to the unique nature or special use of the subject property so as to make the property not salable. Moreover, the Board finds the record does contain raw sales data on properties relatively similar to the subject submitted by the Cook County Board of

Review, indicating that sales are available to prepare an estimate of value using the sales comparison approach.

The appellate court has held where 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. Omni, 384 Ill.App.3d 472, 484, 894 N.E.2d 400 (1st Dist. 2008). Furthermore, the court has stated that the market or sales comparison approach must be presented in a taxpayer appraisal to satisfy the Illinois case law that market value be established to properly decide property tax assessment except where no market exists for the sale of the property. Id., 384 Ill.App.3d at 486.

The court in Omni stated:

Our holding is straightforward and clear: absent a showing that a single approach appraisal is warranted because the subject property is properly characterized as special use property such that there is no evidence of market data before the [Property Tax Appeal Board], the taxpayer's burden of going forward to challenge the assessment finalized by the [board of review] has not been met as a matter of law by a single approach appraisal that excludes the sales comparison approach.

Omni, 384 Ill.App.3d at 489. Based on this record the Board finds the appellant's submission is insufficient as a matter of law to challenge the correctness of the assessment. As a result the Board finds the appellant failed to satisfy the burden of going forward with substantive, documentary evidence or legal argument sufficient to challenge the correctness of the assessment of the subject property as required by section 1910.63(b) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.63(b)).

The Board further finds that the appellant did not respond to the Motion to Strike Appellant's Consulting Report and Dismiss Appeal. Section 1910.64(d) of the rules of the Property Tax Appeal Board provides in part that:

Within 21 days after service of a motion, a party may file a response to the motion. If no response is filed, the party shall be presumed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board in its decision on the motion. . . .

86 Ill.Admin.Code §1910.64(d). The Board finds the appellant has waived its objection to the granting of the motion.

Therefore, pursuant to sections 1910.63(b) and 1910.64(d) of the rules of the Property Tax Appeal Board, the appeal is dismissed.

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. Guit

Chairman

Member

Mario M. Louie

Member

Member

William 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: September 24, 2010

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.