FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Bernard Hammer
DOCKET NO.: 07-29855.001-R-1
PARCEL NO.: 17-09-210-005-0000

The parties of record before the Property Tax Appeal Board are Bernard Hammer, the appellant(s), by attorney Bernard Hammer in Winnetka, 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:

LAND:	$20,812
IMPR.:	$17,480
TOTAL:	$38,292

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 2,420 square foot parcel of land improved with two-story, frame, mixed-use building containing 1,748 square feet of building area. The appellant argued unequal treatment in the assessment process as the basis of the appeal.

In support of the equity argument, the appellant submitted a brief arguing that the subject property is over assessed as compared to newer, masonry properties. The appellant asserts that the subject property is not 113 years old, but actually more than 137 years old and pre-dates the great Chicago fire. He asserts the subject was built on wooden posts and lacks a foundation as reason to support the age of the building. The brief describes the basement's condition. The appellant asserts the subject should not be assessed more than 50% of the average of the suggested comparables.

In this brief, the appellant included a grid of 24 suggested comparables. The comparables are described as masonry mixed-use buildings, with one property a store-front retail building,

located within five blocks of the subject. The properties range: in age from 5 to 130 years; in size from 1,937 to 11,520 square feet of building area; and in improvement assessment from $5.73 to $18.73 per square foot of living area.

The appellant further argued that the 2007 real estate market is soft and that 2007 values are lower than 2005 values and asked the PTAB to take judicial notice of this fact.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $69,196 with an improvement assessment of $48,384 or $27.68 per square foot of building area was disclosed. The board of review's evidence list the subject at 113 years old. In support of the subject's assessment, the board of review submitted a copy of the subject's board of review level appeal. The documentation includes a printout of 39 suggested comparables. The properties are described as mixed-use buildings located within the subject's neighborhood code. The properties range: in age from 34 to 129 years; in size from 2,346 to 12,180 square feet of building area; and in improvement assessment from $7.53 to $44.32 per square foot of building area. Four of these suggested comparables are prorated at values of $5.14 and $10.21 per square foot of building area. In the notes section of this printout, the board of review has the history of the appeal. In the note section of a second printout with these properties listed it indicates other factors and reiterates the appeal history of the subject and indicates the appellant's comparables are all masonry and the value of the subject should reflect this with a downward adjustment. The final notation indicates the 2004 file indicates the 2005-2006 insurance value as $157,000. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a brief asserting that the board of review has erroneous data for the subject's bath count and that data on three of the appellant's comparables changed which reduced those assessments. The appellant further asserts that the board of review's two printouts contain erroneous information for properties and some comparables used by the appellant. The appellant asserts that the notes section acknowledges the need for a reduction due to the subject's frame construction and lack of a foundation.

The appellant further argues that judicial notice should be taken that masonry construction costs much more than stucco or wood construction. The appellant asserts that the articles included in the rebuttal evidence show that the cost of brick veneer walls and two brick thick walls would cost more to construct than stucco and wood walls.

Finally, the appellant's rebuttal lists several of the board of review's comparables and argues that these properties are not similar to the subject because they are 150% to 700% larger than the subject.

At hearing, the appellant, Bernard Hammer, reiterated his argument that the subject was built prior to the Chicago fire in 1871 and that the subject floods when it rains. He argued that the subject is frame and built on posts while the comparables are all masonry construction. He asserts the subject's condition cannot be the same as the masonry buildings.

Mr. Hammer then requested that the PTAB take judicial notice that the real estate market has declined from 2006 to 2007 and 2008.

Mr. Hammer argued the board of review failed to correct the assessor's error in the assessment. He asserted that based on the newspaper articles submitted as evidence, the assessment should have gone down and not up. He asserted that he has paid the bills for the property because the tenant has not.

Mr. Hammer indicated the story of the three Little Pigs teaches children that houses made of brick can withstand exterior forces of power while a wooden house cannot compare to a house of bricks. He asked the Property Tax Appeal Board to take judicial notice of this principle.

Mr. Hammer requested the Property Tax Appeal Board take judicial notice of the notes made by the board of review in their evidence concerning the condition of the subject and the insurance value for the subject.

The board of review's representative, Michael Terebo, argued that the board's comparables supports the subject's assessment. He asserted that several of the board of review's comparables are within the age range as listed by the assessor.

As to the subject's vacancy, Mr. Terebo argued the appellant made an equity argument and did not submit any evidence to show the subject was vacant.

Mr. Terebo testified the evidence submitted by the board of review does not indicate if the suggested comparables are frame or masonry construction. He had no knowledge as to how the assessor arrived at the subject's condition and state of repair as average. Mr. Terebo testified that the statements written in the notes section of the board of review's evidence are the positions of the board of review.

In rebuttal, Mr. Hammer argued that the board of review has failed to rebut his evidence that the subject is over assessed. He reiterated his request for judicial notice that the real estate market has declined from 2005 to 2007 and 2008.

Mr. Hammer submitted *Appellant's Hearing Exhibit #1*, a highlighted copy of a cartoon from *Chicago Magazine*. Mr. Hammer asserted this cartoon, which depicts the City of Chicago's sewage problems in the mid 1800's, is proof that the subject property was built prior to the Chicago Fire and requested the Property Tax Appeal Board to take judicial notice of this article in

finding that the subject was at least 137 years old in 2007. The board of review objected to the judicial notice that the subject was built prior to the Chicago fire.

Mr. Terebo testified that if the board of review cannot find any comparable properties, they don't have any evidence that the subject is not assessed properly. He testified that the board of review takes no position on the request for judicial notice in regards to the cost of masonry versus stucco or wood. In regards to the request for judicial notice that the market was declining from 2005 to 2007 and 2008, Mr. Terebo testified there is no objection to that request. He had no comment on the appellant's argument that the story of the Three Little Pigs shows that brick is stronger than wood.

After 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 appellant contends unequal treatment in the subject's improvement assessment 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 assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989).). A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). After an analysis of the assessment data, the PTAB finds the appellant has not met this burden.

As to the requests for judicial notice, the PTAB takes judicial notice that the real estate market declined from 2006 to 2007. However, the PTAB does not take judicial notice that frame construction is less valuable than masonry construction. The PTAB finds that this fact is not commonly known or readily ascertainable and is subject to reasonable dispute. In addition, the PTAB will not take judicial notice that the story of the Three Little Pigs teaches the principle that brick houses are stronger than wood houses.

As to the age of the property, the PTAB will not take judicial notice that the subject property was built prior to the Chicago Fire. The PTAB finds *Appellant's Hearing Exhibit #1* in sufficient to show when the subject was built. The appellant failed to submit any documentation to show the building requirements at the time the assessor claims the subject was built. However, the PTAB does find that the subject is significantly aged and that the subject is built on posts and lacks a foundation. The PTAB further finds that the board of review acknowledged this condition within its evidence.

The parties presented a total of 63 properties suggested as comparable. The PTAB finds the appellant's comparables #4, #6, #8, #11, and #20 and the board of review's comparables #1 through #10 most similar to the subject in size. These properties

received the most weight in the analysis. The properties are mixed-use buildings that range in size from 2,346 to 3,762 square feet of building area and have improvement assessments from $14.80 to $28.30 per square foot of building area. In comparison, the subject's improvement assessment of $27.68 per square foot of building area is within the range of these comparables. However, these comparables are masonry while the subject is frame with no foundation. The PTAB finds that the subject's assessment should reflect this difference by being below the range of the most similar comparables. In addition, the PTAB finds the board of review's evidence acknowledges that the comparables should have a downward adjustment to account for the masonry construction of the comparables and the wood construction with no foundation for the subject.

The PTAB finds that, although the appellant's initial filing show suggested comparable #17 contained 3,250 square feet of building area, his rebuttal evidence shows the county corrected the size to reflect 6,288 square feet of building area. Therefore, this comparable was given less weight. In addition, the PTAB finds the remaining properties were significantly larger in size to the subject and, therefore, less comparable; these comparables were also given less weight.

Therefore, after considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is not supported and a reduction in the improvement assessment is warranted.

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: December 21, 2012

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.