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

APPELLANT: Don Schein
DOCKET NO.: 07-29889.001-C-1
PARCEL NO.: 20-11-110-001-0000

The parties of record before the Property Tax Appeal Board are Don Schein, the appellant, by attorney Arnold G. Siegel 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:

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|---|---|
| **LAND:** | $ 33,000 |
| **IMPR.:** | $ 489,452 |
| **TOTAL:** | $ 522,452 |

Subject only to the State multiplier as applicable.

## ANALYSIS

The subject property consists of a 30,000 square foot site improved with a 47-year-old, three-story, 122-unit masonry constructed apartment building containing 56,636 square feet of building area. The subject is located in Hyde Park Township, Cook County.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board claiming unequal treatment in the assessment process of the improvement as the basis of the appeal. In support of this claim, the appellant submitted assessment data and descriptive information on three properties suggested as comparable to the subject. Based on the appellant's documents, the three suggested comparables consist of two-story or three-story, apartment buildings located within approximately three blocks of the subject. The improvements range in size from 23,127 to 26,235 square feet of building area, in age from 80 to 95 years old and in number of apartments from 21 to 37 units. They range in land size from 11,550 to 23,601 square feet. The improvement assessments range from $6.75 to $7.84 per square foot of building area. The subject's improvement assessment is $8.64

per square foot of building area. Based on the equity comparables submitted, the appellant requested a reduction in the subject's improvement assessment.

The appellant also argued overvaluation in that the income generated by the subject does not warrant its high level of taxation, and therefore its excessive assessment. In support of the request for relief due to the subject's diminished income, the appellant's attorney prepared and submitted an "income approach", using the subject's actual income and expenses. The appellant's evidence disclosed that the subject's three year average adjusted net income for tax years 2004 through 2006 was $287,905. Applying a capitalization rate of 15.16% produced a market value for the subject of $1,899,109. A factor of 22%, which represents the Cook County Real Property Classification Ordinance level of assessment for Class 3 property, was applied to determine a requested total assessment of $422,453 for the subject.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of $522,452, which reflects a market value of $2,374,783 or $41.93 per square foot of building area, utilizing the Cook County Real Property Assessment Classification Ordinance level of assessment of 22% for Class 3 property, such as the subject. As evidence, the board of review submitted five sales with an unadjusted range of from $2,300,000 to $5,850,000 or from $14,375 to $56,250 per unit. No analysis or adjustment of the sales data was provided by the board. The board's evidence disclosed The Recorder of Deeds Office recorded a Warranty Deed, executed on March 28, 2004 for $5,200,000 or $91.81 per square foot or $42,975 per unit for the subject property. A copy of the subject's warranty deed and real estate transfer declaration were provided. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

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's argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that 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 overcome this burden.

Regarding the inequity argument, the Board finds the appellant submitted three properties as suggested comparables to the subject. The Board finds these three properties have improvement assessments ranging from $6.75 to $7.84 per square foot of building area. The subject's per square foot improvement assessment of $8.64 falls above the range established by these

properties. However, the Board further finds the three suggested comparables provided by the appellant are inferior to the subject in terms of land size, building size, age and number of units and accorded little weight. The Board accords little weight to the board's sales evidence in that it lacks analysis as well as a supported conclusion of value and fails to address the appellant's equity argument. After considering adjustments and the differences in the appellant's suggested comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's improvement assessment is not warranted.

Next, the appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist, 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c)) Having considered the evidence, the Board finds the appellant has not satisfied this burden and a reduction is not warranted.

Regarding the appellant's overvaluation contention, the Board 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" clearly 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, which 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 428 at 430-431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses were 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. 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 failed to follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument no weight.

As a final point, the Board finds the subject's sale in 2004 further supports the subject's current assessment.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the subject dwelling was inequitably assessed or overvalued and a reduction is not 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: May 20, 2011

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.