



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

APPELLANT: Morton Balaban
DOCKET NO.: 07-30216.001-R-1
PARCEL NO.: 14-33-331-025-0000

The parties of record before the Property Tax Appeal Board are Morton Balaban, the appellant, by attorney Lisa A. Marino, of Marino & Associates, PC 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: \$ 29,126
IMPR.: \$ 139,808
TOTAL: \$ 168,934

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 4,440 square foot parcel of land improved with a 19-year old, three-story, masonry, multi-family dwelling. The improvement contains 7,020 square feet of living area as well as six apartments and a three-car garage.

The appellant's attorney raised two arguments: first that the subject property's was overvalued; and second, that there was unequal treatment in the assessment process as the bases of this appeal.

In support of the equity argument, the appellant submitted descriptive and assessment data for three suggested comparables located within an eight block radius from the subject. The properties were improved with a three-story, masonry, multi-family dwelling. They range: in units from four to six apartments; in age from 102 to 135 years; in size from 5,781 to 6,879 square feet of living area; and in improvement assessments from \$15.80 to \$17.69 per square foot. Properties #2 and #3 each contain a full basement and a two-car garage. The subject's improvement assessment is \$19.92 per square foot of living area.

In support of a market value argument, the appellant's attorney developed an income approach to value based upon the subject's actual income and expenses. Stabilizing net operating income at \$58,733, the appellant attorney applied an overall capitalization rate of 12.30% to reflect a market value of \$477,504. In support of this approach to value, the appellant submitted federal income tax forms for tax years 2004 through 2006 as well as an affidavit from the owner. The affiant stated that he is the owner or the subject property and that the income and expenses were based upon actual data. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$168,934. The board of review submitted descriptive and assessment data relating to four suggested comparables located from a quarter mile's distance to the subject's subarea. The properties are improved with a three-story, masonry, multi-family dwelling. They range: in units from three to six apartments; in age from 49 to 119 years; in size from 4,875 to 8,070 square feet of living area; and in improvement assessment from \$10.58 to \$27.06 per square foot. Properties #2 through #4 include a full basement, while properties #1 and #2 contain a multi-car garage.

In addition, the board's analysis indicated that the subject property and properties #1 through #3 were accorded an average condition by the assessor's office, while property #4 was accorded an average, renovated condition without further explanation.

Moreover, the board of review submitted characteristics printouts for the subject as well as the suggested comparables. The subject's printouts reflect that the subject is improved with a six-unit apartment building and that the taxpayer-owner resides at a different location than the subject property. As a result of its analysis, the board requested confirmation of the subject's assessment.

After considering the arguments as well as reviewing 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). After an analysis of the data, the Board finds that the appellant has not met this burden.

The Board finds that comparables #1 and #2 submitted by the appellant as well as comparable #3 submitted by the board of review are most similar to the subject in style, condition,

exterior construction, and improvement size. In analysis, the Board accorded most weight to these comparables. These comparables ranged in improvement assessments from \$15.80 to \$23.14 per square foot of living area. The subject's improvement assessment at \$19.92 per square foot is within the range established by these comparables.

The Board accorded diminished weight to the remaining properties due to a disparity in improvement size, age, location and/or condition.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. 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. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board finds that the appellant has not met the burden of demonstrating that the subject is overvalued and that a reduction is not warranted.

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:

It is the value of the "tract or lot of real property" property 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 Board gives this argument no weight.

As a result of aforementioned analyses, the Board finds the appellant has not demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence or that it is overvalued by a preponderance of the evidence. Therefore, a reduction in the subject's assessment 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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Member

Mario M. Louie

Member

J.R.

Acting 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 23, 2011

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.