FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Stefan Billen
DOCKET NO.: 07-30289.001-C-1 through 07-30289.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Stefan Billen, the appellant(s), by attorney Lisa A. Marino, of Marino & Assoc., 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-30289.001-C-1	17-05-213-010-0000	12,074	31,470	$43,544
07-30289.002-C-1	17-05-213-011-0000	19,845	47,206	$67,051
07-30289.003-C-1	17-05-213-012-0000	28,424	66,147	$94,571
07-30289.004-C-1	17-05-213-036-0000	1,881	12,529	$14,410

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of four parcels of land totaling 6,550 square feet and improved with a 71-year old, two-story, masonry, commercial building containing 9,005 square feet of building area. The appellant, via counsel, argued that the fair market value of the subject was not accurately reflected in its assessed value.

The PTAB consolidated this matter with the 2006 and 2008 appeals for hearing purposes. The PTAB finds that these appeals are within the same assessment triennial, involve common issues of law and fact and a consolidation of the appeals would not prejudice the rights of the parties. Therefore, under the *Official Rules of the Property Tax Appeal Board, Section 1910.78*.

In support of the market value argument, the appellant submitted an appraisal undertaken by John O'Dwyer of JSO Valuation Group, Ltd. The report indicates O'Dwyer is a State of Illinois

certified general appraiser and holds the designation MAI. The appraiser was not present to testify.

The appraiser indicated the subject has an estimated market value of $380,000 as of January 1, 2006. The appraisal report utilized the three traditional approaches to value to estimate the market value for the subject property. The appraisal finds the subject's highest and best use is its existing use.

The appraiser included the sale of the subject property in March 2005 for $2,150,000. The appraiser opined that the purchase price did not accurately reflect the subject's market value because the subject is leased to an established nightclub in an established nightclub area and that there are eight years remaining on the lease. He further opined that the purchaser paid a premium for this investment.

Under the cost approach to value, the appraiser estimated the value for the land at $160,000, rounded. The replacement cost new was utilized to determine a cost for the improvement at $691,522. The appraiser depreciated the improvement by 68% for a value of $220,838. The land and site improvements of $7,640 were added back in to establish a value under the cost approach of $380,000, rounded.

In the income approach to value, the appraiser looked at four comparable properties to estimate gross income of $56,225. Vacancy and collection of 12.5% and expenses were deducted for a net operating income of $38,103. The band of investment method and review of market data were utilized to establish a capitalization rate of 10% for an estimate of value under the income approach of $380,000, rounded.

Under the sales comparison approach, the appraiser analyzed five two or four-story, masonry, commercial buildings. The properties range: in age from 78 to 90 years and in size from 5,239 to 20,000 square feet of building area. The comparables sold from March 2003 to October 2004 for prices ranging from $235,000 to $970,000, or from $40.82 to $48.50 per square foot of building area, including land. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and difference of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of $42.50 per square foot of building area or $380,000, rounded.

In reconciling the three approaches to value, the appraisal gave most consideration to the sales comparison to arrive at a final estimate of value for the subject as of January 1, 2006 of $380,000.

At hearing, the appellant's attorney submitted Appellant's Exhibit #1, a copy of the commercial lease agreement for the tenant. She asserted the tenant has standing to appeal the assessed value of the subject because the tenant is responsible

for the property taxes on the subject as shown in the lease agreement.

The attorney argued that more weight should be given to the income of the property and not the sale price because the tenant is responsible for the taxes.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $219,576 was disclosed. The subject's final assessment reflects a fair market value of $577,832 or $464.17 per square foot of building area when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A properties is applied. The board also submitted raw sales information on five properties suggested as comparable. The properties sold from July 2004 to December 2008 for prices ranging from $900,000 to $2,500,000 or from $120.00 to $409.84 per square foot of living area, including land. The board's documentation indicated sale #4 was not a true sale, but a refinancing and title transfer. In addition the board noted the sale of the subject in March 2005 for $2,150,000.

At hearing, the parties reviewed the 2006 evidence in regards to the sale of the subject which included copies of: the trustee's deed; the county recorder of deeds website printout; the Illinois Real Estate Transfer Declaration (PTAX-203); and the Illinois Real Estate Transfer Declaration Supplemental Form A (PTAX-203-A). The PTAX-203-A indicates it is the opinion of the signators that the sale price is at market value, but item #3 indicates the property was for sale on the open market for "0 Months and item #4 indicates the property was 100% leased on the sale date with a lease date from June 1999 to June 2010 and the buyer did not occupy the property." The PTAX-203, question #6 indicates the property was not advertised for sale or sold using a real estate agency and question #10 indicates the transaction was the fulfillment of an installment contract initiated in 2004. Based on this evidence, the board of review requested confirmation of the subject's assessment.

The board of review's representative, Lena Henderson, argued that the subject is located within an affluent area that has many nightclubs and argues that the sale of the subject in March 2005 accurately reflects the subject's market value. She further argued that the monthly rent of $11,500 would reflect a value over $1,000,000 which is significantly less than the purchase price.

After hearing the testimony and considering the evidence, the Board finds it has jurisdiction over the parties and the subject matter 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.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 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 PTAB concludes that the evidence indicates a reduction in the subject's assessment is not warranted.

The PTAB finds the appraiser was not present at the hearing to testify and be cross-examined regarding the appraisal process and the conclusions therein. Therefore, the PTAB gives no weight to the conclusion of value estimated in the appraisal, but will review the comparables sales.

The sales within the sales comparison approach occurred between March 2003 and October 2004. The PTAB finds that sales #1, #2 and #4 receive diminished weight because they are dissimilar to the subject in size. The PTAB further finds that sales #3 and #5 are the most similar to the subject in size with prices of $43.75 and $44.86 per square foot of building area, including land.

The board of review provided information on five sales. The PTAB finds comparable #4 was not sale, but a refinancing and gives no weight to this comparable. Sale #1 was reported to be the down leg of a 1031 exchange property not listed on the market; therefore, this sale is given no weight. Sale #5 was no listed on the market and the purchases intended to demolish the building, a different use than the subject; therefore, this sale was given no weight. The remaining two comparables sold in 2004 for $120.00 and $175.00 per square foot of building area, including land.

In summary, the PTAB finds the best sales in the record had unit prices from $43.75 to $175.00 per square foot of building area, including land. The subject's assessment reflects a market value of $69.17 per square foot of building area which is supported by these sales.

The PTAB takes notice of the 2006 decision that was consolidated with this appeal for hearing purposes, 2006-29181. As in that appeal, the PTAB gives no weight to the sale of the subject property that occurred in March 2005 for $2,150,000. The PTAB finds the information contained in the PTAX-203 and the PTAX-203 A disclosed the sale did not have the elements of an arm's length transaction. The information disclosed the property was not advertised for sale and not exposed to the open market prior to the sale. In addition, the property was under a long term lease and 100% occupied by the tenant indicating the sale was a leased fee transfer. Therefore, the PTAB finds the sale was not indicative of a market unencumbered fee simple ownership of the subject property.

Based on this analysis, the PTAB finds that a change 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.

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: July 22, 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.