



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

APPELLANT: Cabo
DOCKET NO.: 07-30953.001-C-1
PARCEL NO.: 24-18-300-028-0000

The parties of record before the Property Tax Appeal Board are Cabo, the appellant(s), by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. 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: \$ 16,714
IMPR.: \$ 57,056
TOTAL: \$ 73,770

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 17,876 square feet of land improved with a, 40-year old, two-story, masonry, apartment building containing 11 apartment units. The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant submitted an economic analysis undertaken by Ronald A. Wozniak, George K. Stamas, and Gary T. Peterson with Peterson Appraisal Group. The report indicates Wozniak is an associate real estate appraiser while Stamas and Peterson are State of Illinois certified real estate appraisers and that Peterson holds the MAI designation. The analysis indicated the subject has an estimated market value of \$225,000 as of January 1, 2005. The report utilized the income approach to value to estimate the market value for the subject property.

The report indicates the sales comparison and cost approaches were omitted at the specific request of the client. In addition,

the report indicates the depth of the report is specific to the needs of the client and for the sole intended use to establish an equitable ad valorem tax assessment. The subject was inspected on January 12, 2005.

In the income approach, which is also termed in the report as an "economic analysis", the appraisers analyzed the actual rents of the subject property. The report indicates the gross potential income of the subject will be developed from the rental of the apartments. Based on the rental rates of the subject, the appraisers estimated a potential gross income at \$86,880. Vacancy and collection were estimated at 7% to arrive at an effective gross income of \$80,798. Stabilized expenses were estimated at \$46,032 based on a review of the subject's actual expenses and nearby competing properties. A net operating income of \$34,766 was estimated. Using the band of investment method and a review of *Korpaz*, a loaded capitalization rate of 15.56% was utilized to estimate a value based on the subject's income of \$225,000, rounded.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment of \$73,770 was disclosed. The subject's final assessment reflects a fair market value of \$335,318 when using the Cook County Ordinance Level of Assessment for Class 3 property for 2007 of 22%.

In support of the subject's assessment, the board of review presented descriptions and assessment information on a total of six properties suggested as comparable and located within the subject's market. The data from the CoStar Comps service sheets reflect that the research was licensed to the assessor's office, but failed to indicate that there was any verification of the information or sources of data. The properties sold from March 2005 to August 2009 in an unadjusted range from \$215,000 to \$1,160,000 or from \$35.77 to \$137.41 per square foot of rentable building area. The properties contained apartment buildings that ranged: in number of units from 8 to 12; in size from 5,306 to 9,792 square feet of rentable building area; and in age from 34 to 79 years.

After considering the evidence and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this 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, 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 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 based on market value is not warranted.

The Board finds that the appellant's argument that the subject's assessment is excessive when applying an economic analysis based upon the subject's actual income is unconvincing and not supported by the evidence in the record.

In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill2d 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. Id.

Actual income can be useful when shown that they are reflective of the market. The appellant failed to proffer any market data to demonstrate that the subject's actual rental and vacancy data was reflective of the market.

In addition, the Board also finds the appellant's economic analysis flawed in regards to its lack of market sales data. This report did not include any market sales or justify why sales were not included within the analysis. The court has held that "[w]here 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." Cook Cnty. Bd. of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3d 472 at 484 (1st Dist. 2008). The Illinois Appellate Court recently revisited this issue in Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" case). In Sears, the court stated that, while the use of only one valuation method in an appraisal is not inadequate as a matter of law, the evidence must support such a practice and the appraiser must explain why the excluded valuation methods were not used in the appraisal for the Board to use such an appraisal. Id. at ¶ 29.

In this case, the appraisers provided no plausible reasons for excluding these valuation methods. Moreover, the report indicates the sales comparison and cost approach, both being customary

methods of evaluation, were omitted at the specific request of the client.

The Board also finds the board of review presented sales for comparable properties. Therefore, the Board finds that reliance on the appellant's economic analysis would be deficient as a matter of law, and, thus, no reduction is warranted based on the appellant's market value argument.

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 20, 2013



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.