FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Benjie Burford
DOCKET NO.: 08-20173.001-C-1
PARCEL NO.: 17-08-428-025-0000

The parties of record before the Property Tax Appeal Board are Benjie Burford, the appellant, by attorney Steven B. Pearlman, of Steven B. Pearlman & Associates in Chicago; 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:	$ 4,241
IMPR.:	$ 109,940
TOTAL:	$ 114,181

Subject only to the State multiplier as applicable.

ANALYSIS

The subject contains 10,148 square feet of land and consists of the first floor of a nine-year old, six story commercial building. The subject's improvement size is 6,353 square feet, which equates to an improvement assessment of $25.08 per square foot of building area. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the subject's improvement and that the subject’s market value is overstated, based on its income and expense information, as the bases of this appeal.

In support of the equity argument, the appellant submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as one-story, masonry, commercial buildings. Additionally, the comparables range: in age from 54 to 141 years; in size from 1,789 to 13,434 square feet of building area; and in improvement assessments from $1.44 to $8.81 per

square foot of building area. Based on this evidence, the appellant requested a reduction in the subject's assessment to $114,181.

In support of the market value argument, the appellant submitted income and expense information for the subject property, including a 2008 income and expense statement and an affidavit that indicated the subject was 31% vacant in 2008 because the tenant vacated in September 2008.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of $163,574 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for six commercial buildings located within five miles of the subject. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County Assessor's Office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further states that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The comparables are described as one-story, masonry, commercial buildings. Additionally, the comparables are from 23 to 84 years old, and have from 5,850 to 7,040 square feet of building area. The comparables sold between September 1998 and October 2003 for $425,000 to $7,040, or $60.37 to $265.33 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

As a preliminary matter, the administrative law judge allowed the appellant’s court reporter to be present, but indicated that the Board‘s tape recording of the proceeding is the official record.

At hearing, the appellant’s attorney submitted two exhibits. The first exhibit is a map that shows the location of the previously submitted comparables. This evidence was allowed over the objection of the board of review’s representative, as it was submitted for the purposes of clarification. The second exhibit is a grid sheet that lists the appellant’s and board of review’s

comparables. The board of review's representative did not object to the submission of this document as it contained no new evidence. It was admitted into evidence and market Exhibit #2.

Additionally, at hearing, the appellant's attorney stated that board of review's comparable sales range from 1998 to 2003 while the appeal year in question is 2008. The appellant's attorney also requested to amend his requested assessment to $42,422. The board of review's representative requested that, if the board were to grant a reduction, that it not go below the appellant's original request.

After reviewing the record, considering the evidence, and hearing the testimony, the Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

As to the appellant's request at hearing to lower his assessment request to $42,422, Property Tax Appeal Board Rule 1910.40(f) states in pertinent part: Pursuant to Section 16-180 of the Property Tax Code, in every case in which a change in assessed valuation of $100,000 or more is sought, the board of review shall, within 30 days after the receipt of the notice of the filing of an appeal with the Board, serve a copy of the petition on all taxing districts as shown on the last available tax bill. The appellant's original request was less than $100,000 lower than the subject's current assessment while the appellant's amended request was more than $100,000 lower than the current assessment. The appellant's requested assessment listed on the appeal form is $141,181. This requested assessment is $49,393 less than the subject assessment of $163,574. As the appellant did not request a reduction in assessment of $100,000 or more, the board of review was not obligated to notify any taxing districts regarding this appeal. The Board finds that amending the appellant's requested assessment would be prejudicial to the board of review and/or potential intervenors. As such, the appellant's request to amend his original requested assessment is denied.

As to the income and expense information submitted by the appellant, the Board gives the appellant's argument little weight. 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" 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 that 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. at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant did not demonstrate through an expert in real estate valuation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, 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 reflective of the market and the property's capacity for earning income. The appellant did not provide such evidence and, therefore, the Board gives this argument no weight and finds that a reduction based on market value is not warranted.

As to the appellant’s equity argument, appellants 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, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. Property Tax Appeal Board Rule 1910.65(b). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the PTAB concludes that the appellant has met this burden and that a reduction is warranted.

The Board finds that Comparables #2, #3, and #4 submitted by the appellant were most similar to the subject in location, size,

style, exterior construction, features, and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from $1.44 to $8.81 per square foot of building area. The subject's improvement assessment of $25.08 per square foot of building area is above the range established by the most similar comparables.

Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement assessment is not equitable, and a reduction in the subject's assessment to the appellant’s requested amount listed on the appeal form 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: February 21, 2014

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.