



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

APPELLANT: Steve Livaditis
DOCKET NO.: 08-20205.001-R-1
PARCEL NO.: 17-06-200-018-0000

The parties of record before the Property Tax Appeal Board are Steve Livaditis, 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 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: \$ 5,295
IMPR.: \$ 53,465
TOTAL: \$ 58,760

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a four-story, seven-year old, masonry building containing 5,898 square feet of building area. The property has a 2,950 square foot site and is located in West Chicago Township, Cook County.

The appellant argued that the subject's assessment was inequitable based upon a misclassification by the assessor's office and that the market value of the subject property is not accurately reflected in the property's assessed valuation as the bases of this appeal.

As to the misclassification argument, the appellant's pleadings included an affidavit from the building manager stating that the building contains three residential units and one commercial unit. The affiant stated that the units are not condominiums and that a condominium declaration had not been filed and would not be filed in the foreseeable future.

As to the equity argument, the appellant submitted information on three properties described as two-story or three-story, masonry, multi-unit buildings located within a two mile radius of the subject. They ranged in building size from 6,488 to 9,968 square feet of building area. The properties have improvement assessments ranging from \$5.20 to \$8.10 per square foot of building area. The subject's improvement assessment is \$9.06 per square foot of building area. The data indicated that property #1 and #2 were accorded a designation of 2-12 by the assessor's office which is defined as a "mixed-use commercial/residential building totaling 6 units with a square footage less than 20,000 square feet, any age". In contrast, property #3 was accorded a designation of 2-11 which is defined as an "apartment building with from 2 to 6 units, any age". The assessor database printouts submitted for the subject reflect a designation by the assessor's office of 2-97, which is defined as a "special residential improvements". In addition, this printout stated that the subject building is "prorated over one or more land parcels".

As to the market value argument, the appellant's pleadings include a copy of a rent roll for 2008 as well as a two-page, cash flow analysis dated from January to December 2008. Based on this evidence, the appellant requested a reduction in the subject's assessment.

At hearing, the appellant's attorney asserted that the property was misclassified while stating that the building included one commercial unit and three residential units therein. He also stated that there was a related parcel to this subject.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$58,760 was disclosed. The board of review presented a signed memorandum regarding the subject property. It stated that "a fair way to value a condo conversion is by using any sales that have occurred, determine an average sale price, and value the building as a whole as if fully occupied...then, using the dates of sale for each unit, determine a 'weighted occupancy' factor that is applied against the improvement assessment of the building. Adding the land assessment to the new improvement gives you a new total. If no sales have occurred, and the property remains unoccupied, the property shall revert back to its previous assessed value or have applied a 10% occupancy factor to the improvement to determine the fair value." The

memorandum also asserted that the appellant chose to compare the subject to mixed-use buildings instead of similar properties.

At hearing, the board of review's representative, Nick Jordan, testified that the assessor's office accords a 2-97 designation to a property pending condominium conversion. In support, the board of review submitted without objection from the appellant, board of review's *Hearing Exhibit #1*. Jordan testified that in preparation of this hearing he investigated the subject property via the county records, which resulted in a document indicating that a condominium declaration was in fact filed for the subject property on April 12, 2010.

Further, Jordan testified that based upon his personal knowledge the 2-97 designation is accorded to undeclared portions of buildings and/or buildings built for the purpose of being converted into condominium units with the intent that a declaration will be filed in the future. He stated that this 2-97 designation can be triggered by information submitted on permit requests or a request of a taxpayer with a misclassification request or filing of schematics for a future conversion. He also stated that this designation remains in effect until there is a subsequent change, in this case, a 2010 declaration was filed and new parcel numbers were accorded to the property. Further, the board of review's *Hearing Exhibit #2* was submitted, which was an enlarged photograph from the assessor's database. The photograph reflects one, four-story building with two commercial units on the first floor with three upper floors of unidentified units. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After considering the parties' 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 a 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 assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989); 86 Ill.Admin.Code 1910.63(e). 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 met this burden.

Initially, the Board finds unpersuasive the appellant's assertion of misclassification of the subject. The Board finds the un rebutted evidence and detailed, credible testimony of the board of review convincing, with the proper designation for this subject accorded by the assessor's office. In contrast, the appellant failed to provide sufficient evidence or any testimony on this issue.

In addition, the Board finds that the appellant's suggested comparables are not similar to the subject in usage, location, size, and age. Based on this evidence, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement assessment was inequitable and a reduction in the subject's assessment is not justified.

As to the market value argument, 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 Board concludes that the evidence indicates a reduction is not warranted.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income analysis based on the subject's actual income and expenses or estimates of business value, cash flow, and personalty value unconvincing. 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 an income analysis. Therefore, the Board finds the appellant has not met their burden and that 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.



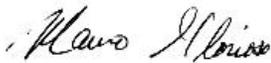
Chairman



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: August 22, 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.