



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

APPELLANT: Jack Gore
DOCKET NO.: 08-20528.001-R-1
PARCEL NO.: 14-28-100-008-0000

The parties of record before the Property Tax Appeal Board are Jack Gore, the appellant, 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:

**LAND: \$34,800
IMPR.: \$45,200
TOTAL: \$80,000**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel is improved with a class 3-15 3-story apartment building of masonry construction. The building contains 8,835 square feet of building area and contains 9 apartments. The building is 26 years old. The property is located at 733-735 W. Belmont, Chicago, Lake View Township, Cook County.

The appellant's appeal is based on unequal treatment in the assessment process and contention of law.¹ The appellant submitted information on three comparable properties described as 3-story class 3-15 masonry apartment buildings containing from 9 to 29 apartments. The buildings range in age from 28 to 99 years old and range in size from 12,234 to 36,552 square feet of building area. The comparables have improvement assessments ranging from \$56,119 to \$81,693 or from \$2.24 to \$4.81 per square foot of building area. The subject has an improvement assessment of \$45,200, or \$5.12 per square foot of building area, and a land assessment of \$34,800. The property was the subject of an appeal the prior year in which the board of review stipulated to an improvement assessment of \$45,879 and a land assessment of \$38,280.

¹ The appellant did not submit any argument or evidence regarding the contention of law issue. Therefore, it will not be considered in this decision.

The appellant also valued the subject property using the income approach to value prepared by counsel using the subject's actual income and expenses. Using a capitalization rate of 10% combined with a "tax load" factor of 3.02%, or a total cap rate of 13.02%, and a "stabilized net operating income" of \$38,436, the appellant estimated the subject's fair market value to be \$295,207. Based on this value, the appellant requested a total assessed value of \$59,042.

Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$24,242 or \$2.74 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final improvement assessment of \$45,200, or \$5.12 per square foot of building area, and land assessment of \$34,800 were disclosed. In support of the subject's assessment, the board of review presented a valuation memo in which the building was valued at \$400,000. The board of review did not submit any equity comparables. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds the evidence in the record does not support a reduction in the subject's assessment.

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 assessment data, the Board finds the appellant has not met this burden.

The Board finds the appellant submitted equity comparables that were not similar to the subject. All three of the appellant's comparables were substantially larger than the subject. Comparables #1 and #3 were significantly older than the subject. Comparables #1 and #2 contained more apartments than the subject. However, the Board finds appellant's comparable #2 similar to the subject in age, stories and exterior construction. This comparable has an improvement assessment of \$4.51 per square foot of building area. The Board finds the subject's improvement assessment of \$5.12 per square foot of building area is well justified given the larger size and greater number of apartments of the most similar comparable. Therefore, the Board finds the subject's assessment is equitable and no reduction is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a

reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the appellant disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no reduction is warranted.

Regarding the income approach to valuation argument, 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:

[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".

The appellant used "stabilized net operating income" (subject's two year mean income) rather than market data in calculating the subject's value based on the income approach. 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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate through an expert that the subject's actual income and expenses are 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 reflective of the market and the property's capacity for earning 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 did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds problematical the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion testimony of value for that client's property. Based on this analysis, the Board gave no weight to the market value argument raised by the appellant.

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.

Donald R. Cuit

Chairman

[Signature]

Member

[Signature]

Member

[Signature]

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: May 24, 2013

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.