



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

APPELLANT: Freedom Plaza LLC
DOCKET NO.: 08-20741.001-C-1 through 08-20741.008-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Freedom Plaza LLC, the appellant, by attorney Richard J. Caldarazzo, of Mar Cal Law, 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:

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|------------------|--------------------|--------|---------|-----------|
| 08-20741.001-C-1 | 20-33-308-018-0000 | 21,639 | 14,599 | \$ 36,238 |
| 08-20741.002-C-1 | 20-33-308-019-0000 | 19,593 | 49,966 | \$ 69,559 |
| 08-20741.003-C-1 | 20-33-308-020-0000 | 6,531 | 26,905 | \$ 33,436 |

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 22,854 square feet of land, which is improved with two 56 year old, one-story, masonry, commercial buildings. The subject's total improvement size is 6,461 square feet of building area, which equates to an improvement assessment of \$14.16 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 was entitled to vacancy relief as the bases of this appeal.

In support of the equity argument, the appellant submitted three properties suggested as comparable to the subject. The comparables consist of vacant land parcels that range in size from 21,925 to 41,581 square feet of land. The comparables had land assessments that ranged from \$0.38 to \$0.82 per square foot

of land. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

In support of the vacancy argument, the appellant submitted an exterior photo of the subject and two affidavits. The first affidavit stated the subject was 100% vacant during 2008. The second affidavit stated that the subject was vacant due to "negative market conditions restricting owner's ability to lease the subject property."

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total final assessment of \$139,233. In support of the subject's assessment, the board of review submitted property record cards for each of the subject parcels. The property record cards indicate that the subject parcels have land assessments of \$2.09 per square foot of land. The board of review also submitted raw sales data for five commercial buildings located within eight 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 have from 5,280 to 6,804 square feet of building area. The comparables sold between March 2003 and December 2008 for \$, or \$51.14 to \$136.36 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney reaffirmed the equity evidence and argued that the subject is entitled to vacancy relief as the prior tenant was ordered to vacate due to a zoning violation. The board of review's representative argued that the appellant's evidence was insufficient.

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 equity argument, 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. Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989)); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing DuPage Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 654-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

The Board finds that none of the equity comparables were similar to the subject in use. The subject parcels are commercial parcels while the comparables are vacant land parcels. As such, the Board finds that the appellant has not met the burden of clear and convincing evidence, as there is no range of equity comparables with which to compare the subject. Therefore, the Board finds the subject's assessment is equitable and a reduction in the subject's assessment is not warranted.

As to the appellant's vacancy argument, the Board gives this 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.

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. Therefore, the Board gives this argument no weight and finds that a reduction based on market value 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: 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.