



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

APPELLANT: Ken Newfield
DOCKET NO.: 08-20827.001-C-1
PARCEL NO.: 16-29-207-033-0000

The parties of record before the Property Tax Appeal Board are Ken Newfield, the appellant(s), 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:

LAND: \$ 8,108
IMPR.: \$ 88,930
TOTAL: \$ 97,038

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 6,931 square feet of land, which is improved with an 81 year old, three-story, masonry, 18 unit apartment building. The subject's improvement size is 17,598 square feet of building area, which equates to an improvement assessment of \$5.05 per square foot of building area. Its total assessment is \$97,038, which yields a fair market value of \$255,363, or \$14.51 per square foot of building area (including land), after applying the 38% assessment level for commercial properties under the 2008 Cook County Classification of Real Property Ordinance. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the subject's improvement, and also that the fair market value of the subject property was not accurately reflected in its assessed value as the bases of this appeal.

In support of the equity argument, the appellant submitted descriptive and assessment information for three properties suggested as comparable to the subject. The comparables are described as three-story, commercial buildings. Additionally, the comparables range: in age from 35 to 45 years; in size from 5,231 to 52,112 square feet of building area; and in improvement assessments from \$1.00 to \$3.35 per square foot of building area. The comparables also have various amenities.

In support of the market value argument, the appellant submitted sales information the same three comparables described in the previous paragraph. These comparables sold between June 2005 and February 2007 for \$375,000 to \$410,000, or \$7.40 to \$78.38 per square foot of building area, including land.

Additionally, in support of the market value argument, the appellant submitted an income and expense analysis using the subject's actual income as stated on its 2006, 2007, and 2008 federal income tax returns. The appellant subtracted an amount for "allowable expenses" from the subject's gross income for each of the three individual years. The net income was stabilized at \$61,382, and then a loaded capitalization rate of 14.673% was applied to arrive at a market value of \$418,332. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$97,038 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 five 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 mixed-use buildings. Additionally, the comparables are from 38 to 81 years old, and have from 15,237 to 17,844 square feet of building area. The comparables sold between January 2003 and April 2004 for \$430,000 to \$916,125, or \$26.46 to \$51.34 per square foot of building area, including land.

The board of review also submitted evidence showing that the subject sold in July 2006 for \$799,900. This evidence included an Illinois Real Estate Transfer Declaration, a Trustee's Deed, and a printout from the Cook County Recorder of Deeds' website. The Transfer Declaration states that the property was advertised for sale on the open market with a real estate agent, that the transaction did not involve related parties, and that no personal property was included in the sale price. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, both parties rested on the evidence previously submitted.

After reviewing the record, hearing the testimony, and considering the evidence, the Property Tax Appeal Board (the "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. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). "[A] contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, (citations) but would be practically conclusive on the issue of whether an assessment was at full value." People ex rel. Korzen v. Belt Ry. Co. of Chi., 37 Ill. 2d 158, 161 (1967). Having considered the evidence presented, the Board finds that the evidence indicates a reduction is not warranted.

The Board finds that Comparables #1, and #5 submitted by the board of review were most similar to the subject in location, size, style, exterior construction, features, and/or age. As such, the Board finds that the appellant has not met the burden of a preponderance of the evidence, as there is no range of sales comparables with which to compare the subject. Therefore, the Board finds the subject is not overvalued, and a reduction in the subject's assessment is not warranted based on the sales comparables submitted by the parties.

The appellant submitted documentation showing the income of the subject property. The Board gives the appellant's argument little weight. In Springfield Marine Bank v. Prop. Tax Appeal Bd., 44 Ill. 2d 428 (1970), the Illinois Supreme 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.

As the Court stated, actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant 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.

In determining the fair market value of the subject property, the Board finds the best evidence to be the sale of the subject in July 2006 for \$799,900. The sale is within 17 months of the 2008 lien date, and was supported by the board of review with a printout from the Cook County Recorder of Deeds' website, an Illinois Real Estate Transfer Declaration, and a Trustee's Deed. The Transfer Declaration states that the property was advertised for sale on the open market with a real estate agent, that the transaction did not involve related parties, and that no personal property was included in the sale price. Therefore, the Board finds the subject had a market value of \$799,900 for the 2008 assessment year. Since the market value of this parcel has been established, the Cook County Real Property Assessment Classification Ordinance as in effect for tax year 2008 shall apply. 86 Ill. Admin. Code § 1910.50(c)(3). The subject is a commercial property, and, therefore, the applicable assessment level is 38% of the subject's fair market value, which equates to \$303,962. The subject's current total assessed value is well below this amount, and, thus, the Board finds that a reduction is not warranted based on market value.

The appellant contends unequal treatment in the subject's improvement assessment as the basis of this 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. 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 comparables submitted by the parties were similar to the subject in location, size, style, exterior construction, features, and/or age. 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 improvement assessment is equitable and a reduction in the subject's assessment 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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 23, 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.