



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

APPELLANT: John Coletta
DOCKET NO.: 08-21280.001-R-1
PARCEL NO.: 11-30-418-002-0000

The parties of record before the Property Tax Appeal Board are John Coletta, the appellant(s), by attorney Michael E. Crane, of Crane & Norcross 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: \$ 13,432
IMPR.: \$ 32,316
TOTAL: \$ 45,748

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 2,900 square foot parcel of land improved with a 90-year old, three-story, masonry, multi-family dwelling containing 3,528 square feet of building area and three apartment units. The appellant argues that the market value of the subject property is not accurately reflected in the property's assessed valuation and inequity as the bases of this appeal.

In support of the market value argument, the appellant included a copy of the settlement statement disclosing that the subject was purchased on October 6, 2008 for \$325,000. This document also discloses that the seller was Federal Home Loan Mortgage

Corp. The appellant also included an affidavit attesting that the subject was advertised on the MLS for \$354,900.

In addition, the appellant included a vacancy affidavit and a 2008 rent roll to show that the subject was vacant during most of 2008.

In support of the equity argument, the appellant submitted four equity comparables that ranged in improvement assessment from \$7.60 to \$8.78 per square foot of building area.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment of \$45,748 was disclosed. The subject's final assessment reflects a fair market value of \$476,542 or \$135.07 per square foot of building area using the Illinois Department of Revenue's 2008 three year median level of assessment for class 2 property of 9.60%. The subject has an improvement assessment of \$9.16 per square foot of building area.

In support of the subject's assessment, the board of review submitted descriptions and assessment information on four properties. These properties have improvement assessments from \$9.28 to \$11.30 per square foot of building area. Sales information was provided on one comparables that sold in November 2005 for \$510,000. In addition, the board of review disclosed a 2005 sale for the subject of \$527,000. As a result of this analysis, the board requested confirmation of the subject's assessment.

After considering the evidence and reviewing the record, the Property Tax Appeal 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.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).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in October 2008 was a "compulsory sale." A "compulsory sale" is defined as

(i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Board of Educ. of Meridian Community Unit School Dist. No. 223 v. Illinois Property Tax Appeal Board, 961 N.E.2d 794, 802, 356 Ill.Dec. 405, 413 (2d Dist. 2011) (citing Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207, 211, 387 N.E.2d 351 (2d Dist. 1979)).

However, the Illinois General Assembly recently provided very clear guidance for the Board with regards to compulsory sales. Section 16-183 of the Illinois Property Tax Code states as follows:

The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

35 ILCS 200/16-183. Therefore, the Board is statutorily required to consider compulsory sales of comparable properties.

In considering the compulsory sale of the subject property the Board looks to the comparable sales to determine if the

subject's sale was reflective of the market. The Board finds the appellant failed to present any sales comparables, but that the board of review included a previous sale of the subject and one other sales comparable. These sales occurred in January and November 2005 for prices of \$527,000 and \$510,000, or \$149.38 and \$132.81 per square foot of building area. In comparison, the subject sold in October 2009 for \$92.12 per square foot of building area; this sale is below the range established by the market. Therefore, the Board finds the subject's sale is not reflective of the market value. Conversely, the subject's assessment reflects a market value of \$476,542 or \$135.07 per square foot of living area which is below, but closer to the range established by the market. The Board finds the subject's assessment is supported and a reduction based on the sale not warranted.

As to the appellant's argument of vacancy, the appellant submitted documentation showing the vacancy and income of the subject property. 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.

The taxpayer also contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties presented eight equity comparables. The Board finds the appellant's comparable #3 and the board of review's comparables #1, #2 and #3 the most similar to the subject. These comparables had improvement assessments that ranged from \$8.46 to \$9.75 per square foot of living area. The subject's improvement assessment of \$9.16 per square foot of living area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: October 24, 2014

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.