



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

APPELLANT: Michael Cozzone
DOCKET NO.: 08-24146.001-R-1
PARCEL NO.: 12-11-113-013-0000

The parties of record before the Property Tax Appeal Board are Michael Cozzone, 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: \$10,752
IMPR.: \$54,809
TOTAL: \$65,561**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel is improved with a class 2-11 3-story multi-family dwelling of masonry construction. The building contains 6,300 square feet of building area. The building is 36 years old. The property has a 5,600 square foot site and is located in Chicago, Jefferson 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-story² class 2-11 masonry multi-family dwellings on slab foundations. The buildings are either 32 or 39 years old and contain either 7,020 or 9,768 square feet of building area. Two comparables have the same neighborhood code as the subject property. The comparables have improvement assessments ranging from \$58,176 to \$69,885 or from \$7.15 to \$8.29 per square foot of building area. The subject has an improvement assessment of \$54,809 or \$8.70 per square foot of building area.

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.

² Based on photographic evidence.

The appellant also valued the subject property using the income approach to valuation prepared by legal counsel using the subject's actual income and expenses. Using a capitalization rate of 10% combined with a "tax load" factor of 2.297%, or a total cap rate of 12.297%, and a "stabilized net operating income" of \$24,838, the appellant estimated the subject's fair market value to be \$201,984. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$21,565 or \$3.42 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 \$54,809, or \$8.70 per square foot of building area was disclosed. In support of the subject's assessment, the board of review presented descriptions and information on four comparable properties improved with class 2-11 3-story masonry multi-family dwellings. These buildings are either 36 or 37 years old and contain either 6,300 or 6,351 square feet of living area. The comparables feature full unfinished basements. These properties have improvement assessments ranging from \$59,195 to \$59,367 or from \$9.34 to \$9.40 per square foot of living area. 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 comparables submitted by the board of review were most similar to the subject in location, size, age and features. These comparables have improvement assessments ranging from \$9.34 to \$9.40 per square foot of building area. The subject's improvement assessment of \$8.70 per square foot of building area falls below the range established by the 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 assessment was inequitable and a reduction in the subject's assessment is not justified.

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 2006-2008 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 in the field of 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 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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Mark Morris

Member

JR

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.