



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

APPELLANT: H.A. Langer & Associates  
DOCKET NO.: 08-24454.001-C-1 through 08-24454.002-C-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are H.A. Langer & Associates, the appellant, by attorney Mary Ann Connelly of the Law Offices of Terrence Kennedy Jr., 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     |
|------------------|--------------------|---------|---------|-----------|
| 08-24454.001-C-1 | 17-04-414-007-0000 | 75,000  | 183,870 | \$258,870 |
| 08-24454.002-C-1 | 17-04-414-008-0000 | 223,575 | 551,610 | \$775,185 |

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of an eight-story 136 unit apartment building with 80,048 square feet of above grade building area.<sup>1</sup> The building was approximately 81 years old. The property has an 11,943 square foot site and is located in Chicago, North Chicago Township, Cook County. The subject property is classified as a class 3-91 apartment building over three stories, seven or more units, under the Cook County Real Property Assessment Classification Ordinance (hereinafter "the Ordinance"). For the 2008 tax year the property is to be assessed at 20% of market value pursuant to the Ordinance.

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<sup>1</sup> On the appeal form the appellant indicated the subject building had 77,336 square feet of building area. In its written narrative the appellant asserted the subject had 77,336 square feet of building area while in a grid analysis the appellant asserted the subject building had 50,272 square feet. The appellant also submitted a copy of the subject's property record card dated December 3, 2009, describing the subject building as having 80,048 square feet of building area. The property record card had a schematic diagram depicting the footprint of the subject building. The board of review described the subject property as an eight-story building with 80,048 square feet of building area. For purposes of this appeal the Property Tax Appeal Board will accept the size of the subject building as stated on the subject's property record card.

The appellant argued in part assessment equity as the basis of the appeal. In support of the assessment inequity argument the appellant provided information on five comparables classified as class 3-91 properties under the Ordinance. The appellant indicated the comparables ranged in age from 33 to 85 years old and ranged in size from 33,220 to 129,624 square feet of building area. The buildings ranged in story height from 4-story to 17-story and comparables #2 through #5 had from 40 to 146 units. These properties had improvement assessments ranging from \$232,552 to \$1,758,520 or from \$7.63 to \$13.57 per square foot of building area. In the grid analysis the appellant's counsel indicated the subject building had 50,272 square feet of building area, rather than 80,048 square feet of building area, with an improvement assessment of \$735,480 or \$14.63 per square foot of building area. Based on this analysis the appellant's counsel asserted the subject's improvement assessment should be reduced to \$508,953 or \$10.12 per square foot of building area if using 50,272 square feet as the size of the subject building. Based on assessment equity the appellant requested the subject's total assessment be reduced to \$807,528.

In the alternative the appellant's counsel developed an income approach purportedly based on the income and expense statements for 2004 through 2006. In the narrative the appellant's counsel stated the subject's gross income averaged \$1,379,032 for the past three years. Counsel then asserted expenses were stabilized at 50% resulting in a net operating income of \$689,516. Counsel then indicated an 11% capitalization rate and a 3.12% tax load were appropriate but then used a loaded capitalization rate of 13.87%. Counsel then capitalized the net income resulting in an estimated market value of \$4,971,276. Counsel then multiplied the estimated market value by the 20% level of assessment for class 3-91 property to arrive at a total assessment of \$994,255.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$1,034,055 was disclosed. The subject property had an improvement assessment of \$735,480 or \$9.19 per square foot of above grade building area when using 80,048 square feet as the size of the subject building. The subject's total assessment reflects a market value of \$5,170,275 or \$38,017 per unit or \$64.59 per square foot of building area, including land, when using the Ordinance level of assessments for class 3-91 property of 20%.

In support of the assessment the board of review submitted a memo and information on five comparable sales of apartment buildings that ranged in size from 77,500 to 90,925 square feet of building area and had from 56 to 144 units. The buildings were constructed from 1924 to 1968 and were from 4-story to 8-story in height. The sales occurred from August 1997 to March 2008 for prices ranging from \$4,870,000 to \$16,000,000 or from approximately \$43,162 to \$111,111 per unit or from \$53.56 to \$195.19 per square foot of building area, including land. 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 the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant argued in part assessment equity with respect to the improvement assessment. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data the Board finds the appellant did not meet the clear and convincing burden of proof standard and a reduction in the assessment is not warranted based on assessment inequity.

Initially, the Board finds the appellant's counsel was inconsistent with the reported size of the subject building which casts doubt on the credibility of his argument. Second, the comparables submitted by the appellant had improvement assessments ranging from \$232,552 to \$1,758,520 or from \$7.63 to \$13.57 per square foot of building area. The subject has an improvement assessment of \$735,480 or \$9.19 per square foot of above grade building area when using 80,048 square feet as the size of the subject building. The subject's improvement assessment is within the range established by the comparables on a square foot basis, which demonstrates the subject property is not being inequitably assessed. In conclusion, the Board finds the appellant did not demonstrate assessment inequity with clear and convincing evidence.

As an alternative argument the appellant contends overvaluation using an income approach to value. 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 any market data 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".

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 any submission prepared by an expert appraisal witness 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 problematic 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.

The Board further finds the raw sales submitted by the board of review demonstrated the subject property is not overvalued.

Based on this record the Board finds no change in the subject's assessment is 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. Cuit*

Chairman

*Frank J. [unclear]*

Member

Member

*Mark [unclear]*

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: June 21, 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.