



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

APPELLANT: Gail Lampariello
DOCKET NO.: 08-24842.001-R-1
PARCEL NO.: 18-04-111-041-0000

The parties of record before the Property Tax Appeal Board are Gail Lampariello, the appellant(s), by attorney Patrick J. Cullerton, of Thompson Coburn LLP 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: \$ 6,144
IMPR.: \$ 112,708
TOTAL: \$ 118,852

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 5,297 square foot parcel of land improved with an 83-year old, three-story, masonry, residential/mixed-use building containing 7,614 square feet of living area, four and two-half baths, air conditioning, and a partial, unfinished basement. The appellant, via counsel, argued both the market value of the subject property is not accurately reflected in the property's assessed valuation and that there was unequal treatment in the assessment process of the improvement as the bases of this appeal.

In support of the market value argument, the appellant submitted income and expense statements for 2007 through 2009 and a 2008 rent roll. In addition, the appellant submitted an affidavit from the subject's managing agent attesting that the sale of the subject in 2006 was not an arm's length transaction.

In support of the equity argument, the appellant submitted information on a total of three properties suggested as comparable. The properties are described as commercial buildings

and are assessed at 38% with comparable #2 have a partial residential assessment. The properties have varying amenities. They range: in age from 22 to 55 years; in size 3,000 to 35,201 square feet of living area; and in improvement assessments from \$8.67 to \$10.68 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's improvement assessment of \$106,692 or \$14.01 per square foot of living area and total assessment of \$110,532 were disclosed. The subject's final assessment reflects a fair market value of \$1,151,375 when the Illinois Department of Revenue's 2008 three-year median level of assessment of 9.60% for Cook County Class 2 property is applied.

In support of the subject's assessment, the board of review submitted the property characteristic printout for the subject and listed the sale of the subject in April 2006 for \$1,015,000. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant asserted that the subject received a reduction at the board of review in 2010 which is the third year of the triennial period. She argued that the sale in 2006 was between family members and the property was never listed on the open market. The appellant's attorney acknowledged that the suggested comparables are located in different neighborhood codes on the other side of the expressway. The appellant's attorney submitted *Appellant's Exhibit #2*, a copy of a board of review website printout listing the assessor and board of review assessments for the subject for years 2006 through 2010. She asserted that the document shows the change in assessment was the result of Analysis of the cost, income, market data, and/or appraisal data submitted in support of the appeal.

The board of review's representative, Roland Lara, submitted *Board of Review's Exhibit-A*, a map of the subject and the comparables to show the proximity of these properties to the subject. He asserted that the comparables submitted by the appellant are located at a distance from the subject and are not comparable. As to the subsequent reduction in 2010, Mr. Lara argued that the appellant failed to submit any evidence to show that the subject's circumstances in 2010 existed in 2008.

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.

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, 331 Ill.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). Having considered the evidence presented, the PTAB concludes that the evidence indicates a reduction based on market value is not warranted.

The appellant submitted documentation showing the income and expenses of the subject property. The PTAB 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 PTAB gives this argument no weight and finds that a reduction based on market value is not warranted.

In addition, the PTAB finds the sale of the subject in 2006 was not an arm's length transaction and is not representative of the subject's market value.

The appellant also 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 PTAB finds the appellant has not met this burden.

The appellant presented a total of three properties suggested as comparable. The PTAB finds these properties are not located in a comparable location to the subject nor are these properties assessed similarly to the subject. The properties are located in different neighborhoods on the other side of a major interstate. In addition, these properties are classified by the county as commercial and are assessed at 38% of the listed market value whereas the subject's classification has an ordinance level of assessment of 15%. Therefore, the PTAB finds the appellant failed to meet their burden with clear and convincing evidence and a reduction in the improvement assessment is not warranted.

At hearing, the appellant made an additional argument that the subject received a reduction in 2010 that should be applied to the 2008 assessment. The PTAB finds the subject did not receive this reduction in 2009, the subsequent year of this appeal even though an appeal was also filed with the county. In addition, the appellant failed to show that the condition of the subject in 2010 was the same two years earlier in 2008, but was not the same in 2009. Therefore, the PTAB finds the argument made by the appellant at hearing unsupported and a reduction 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: October 18, 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.