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

APPELLANT: Nick Gutu
DOCKET NO.: 08-25181.001-C-1 through 08-25181.003-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Nick Gutu, the appellant(s), 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 ***a reduction*** 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 |
|---|---|---|---|---|
| 08-25181.001-C-1 | 13-28-104-017-0000 | 12,468 | 37,569 | $50,037 |
| 08-25181.002-C-1 | 13-28-104-018-0000 | 12,468 | 12,255 | $24,723 |
| 08-25181.003-C-1 | 13-28-104-019-0000 | 15,225 | 14,266 | $29,491 |

Subject only to the State multiplier as applicable.

## ANALYSIS

The subject property consists of a 10,066 square foot parcel of land improved with a 10-year old, one-story, masonry, commercial store building containing 4,930 square feet of building area. 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 copies of income and expense statements for the subject property for 2008 and an income capitalization analysis.

In support of the equity argument, the appellant submitted assessment data and descriptions on a total of three properties suggested as comparable to the subject and located within eight blocks of the subject. The data in its entirety reflects that the properties are improved with a one-story, masonry, retail

stores. The properties range: in age from 51 to 68 years; in size from 4,375 to 7,278 square feet of building area; and in improvement assessments from $8.27 to $12.08 per square foot of building area.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's improvement assessment was $110,724, or $22.46 per square feet of building area with a total assessment of $150,885. The subject's final assessment reflects a fair market value of $397,066 when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A properties is applied. The board also submitted copies of the property characteristic printouts for the subject as well as raw sales data on seven properties. The sales occurred between February 2005 and August 2008 for prices ranging from $750,000 to $2,450,000 or from $198.33 to $350.00 per square foot of building area. Based on this evidence, the board of review 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). 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 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 based on vacancy 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.

Appellants 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, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject property. *Property Tax Appeal Board Rule* 1910.65(b). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). Having considered the evidence presented, the PTAB concludes that the appellant has met this burden and that a reduction is warranted.

The appellant presented assessment data on a total of three equity comparables. The PTAB finds these comparables similar to the subject. The properties are improved with a one-story, masonry, retail stores. The properties range: in age from 51 to 68 years; in size from 4,375 to 7,278 square feet of building area; and in improvement assessments from $8.27 to $12.08 per square foot of building area. In comparison, the subject's improvement assessment of $22.46 per square foot of building area is above the range of comparables. The PTAB gives little weight to the board of review's evidence as the data is merely raw sales data.

However, the PTAB finds the subject is significantly newer than the suggested comparables and its assessment should reflect this fact. After considering adjustments and the differences in the comparables when compared to the subject, the PTAB finds the subject's per square foot improvement assessment is not supported and a reduction in the subject's assessment is 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.

Chairman

Member

Member

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: July 22, 2011

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.