



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

APPELLANT: Sam Martorina
DOCKET NO.: 08-25574.001-R-1
PARCEL NO.: 17-07-228-020-0000

The parties of record before the Property Tax Appeal Board are Sam Martorina, the appellant, by attorney Cory Novick, of The Law Offices of Patrick C. Doody 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: \$ 9,024
IMPR: \$ 30,454
TOTAL: \$ 39,478

Subject only to the State multiplier as applicable.

ANALYSIS

The subject contains 2,400 square feet of land and is improved with a 112 year old, three-story, masonry, mixed-use building. The subject's improvement size is 7,360 square feet of building area and has an improvement assessment of \$30,454, or \$4.14 per square foot of building area. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the subject's improvement as the basis of this appeal.

In support of this argument, the appellant submitted a Property Tax Appeal Board Appeal Form, a vacancy affidavit signed by the appellant that indicated the subject was 100% vacant for all of 2008, and a copy of the subject's 2008 board of review decision. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

At hearing, the appellant was called to testify and stated that he has owned the subject building since the 1990's and that renovation of the building began in 2006 and is not complete. Further, the appellant stated that, due to the renovation, the subject was 100% vacant for all of 2008.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's improvement

assessment of \$30,454 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as three-story, masonry, mixed-use buildings. They range: in age from 100 to 132 years; in size from 6,960 to 7,425 square feet of building area; and in improvement assessment from \$8.10 to \$8.76 per square foot of building area. The evidence was silent as to whether the comparables had vacancy relief.

In addition, the board of review submitted a copy of its file from the appellant's 2008 board of review appeal. Included in the copy of the file was the same vacancy affidavit that was submitted to the Board. Also included was a copy of the board of review's residential summary sheet form signed by the appellant's attorney, Patrick Doody, that indicated the basis of the appellant's appeal was lack of uniformity; however, on the board of review form titled "Board of Review Log" and signed by the appellant's attorney, the basis of appeal is listed as "vacancy." Lastly, the appellant's brief, which consists of a grid sheet signed by Mr. Doody, lists "Basis For Request" as "100% Vacancy."

The board of review submitted a copy of the inside and outside of the file jacket used for the subject's 2008 board of review appeal. The inside of the file jacket is signed by a representative of each of the three board of review commissioners. The file jacket notes indicate the board of review did not reduce the subject's assessment. Next to the "No Change" for the subject's assessment is a small box that is titled "Code." In the "code box" is the number "3." The inside of the file jacket also says, "Insuff Doc". Based on this evidence, the board of review requested confirmation of the subject's improvement assessment.

At hearing, the board of review's representative, Doug LaSota, stood on the board of review's previously submitted evidence.

Upon questioning from the appellant's attorney, Mr. LaSota stated that it was the board of review's policy to grant vacancy relief to taxpayers when property is vacant.

In his closing statement, Mr. LaSota indicated that while it is a board of review policy to grant vacancy relief to vacant properties, whether relief is granted is based on the facts and circumstances surrounding the property. He also stated granting vacancy relief to vacant properties is not a board of review rule. Lastly, he stated certain evidence, such as a photograph showing vacancy, should be submitted to the board of review, and that in the case at hand, no photos were submitted.

In his closing statement, the appellant's attorney argued that Mr. LaSota's comments regarding board of review rules versus board of review policies should be stricken as they are testimony.

After reviewing the record, considering the evidence, and hearing the testimony, the Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant contends unequal treatment in the subject's improvement assessment as the basis of this 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. Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989)); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing DuPage Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 654-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

The Board finds that all of the comparables submitted by the board of review were similar to the subject in location, size, style, exterior construction, and features. These comparables had improvement assessments that ranged from \$8.10 to \$8.76 per square foot of living area. The subject's improvement assessment of \$4.14 per square foot of living area is below the range established by the comparables. Therefore, after considering adjustments and differences in the comparables when compared to the subject, the Board finds that the subject's improvement assessment is equitable, and a reduction in the subject's assessment is not warranted.

In addition, the Board is not persuaded by the appellant's attorney's argument that the board of review's closing statement should be stricken as it was testimony. Property Tax Appeal Board Rule Section 1910.92(a) provides for, "an informal procedure for the determination of the correct assessment of property which is the subject of an appeal. The procedure, to the extent that the Board considers practical, shall eliminate formal rules of pleading, practice and evidence. Each hearing shall be conducted in a manner best calculated to conform to substantial justice." In addition, Property Tax Appeal Board Rule Section 1910.92(b) states, in pertinent part, "The Board or its designated hearing officer will receive evidence that is material and relevant, and that would commonly be relied upon by reasonably prudent persons in the conduct of their affairs." Illinois Administrative Procedure Act 5 ILCS 100/10-40(a).

Pursuant to these rules, the Board will consider the statements made by Mr. LaSota during his closing statement. Mr. LaSota stated that the board of review grants vacancy relief depending on the facts and circumstances surrounding the case. In addition, the board of review's representative stated that a photo showing vacancy should be submitted. The appellant's attorney did not elicit from the board of review's representative, a board of review rule or policy that would require the board of review to grant vacancy relief solely upon the submission of a vacancy affidavit. Accordingly, the Board finds the appellant has not demonstrated by clear and convincing evidence that the subject property is inequitably assessed because it is the board of review's policy to grant vacancy to vacant properties. Therefore, the Board finds that the subject's improvement assessment is equitable, and a reduction in the subject's assessment 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.

Ronald 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: November 22, 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.