FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: BAC Bldg., LLC
DOCKET NO.: 08-26812.001-R-1
PARCEL NO.: 24-17-412-009-0000

The parties of record before the Property Tax Appeal Board are BAC Bldg., LLC, the appellant(s), by attorney Richard J. Caldarazzo, of Mar Cal Law, P.C. 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:	$ 11,970
IMPR.:	$ 67,518
TOTAL:	$ 79,488

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 13,300 square foot parcel of land improved with a 38-year old, three-story, masonry, multi-family dwelling containing 12,000 square feet of living area and 12 apartment units. 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 2006 through 2008 income and expense statements.

In support of the equity argument, the appellant submitted information on a total of three properties suggested as comparable. The properties are described as two-story, masonry, multi-family dwellings. The properties have varying amenities. They range: in age from 38 to 47 years; in size from 7,610 to 12,000 square feet of living area; and in improvement assessments from $3.86 to $5.22 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 $67,518 or $5.63 per square foot of living area and total assessment of $79,488 were disclosed. The subject's final assessment reflects a fair market value of $397,440 when the 2008 Cook County Ordinance level of assessment of 20% for Cook County Class 3 property is applied.

In support of the subject's assessment, the board of review submitted descriptions and sales information on six properties suggested as comparable. The properties are described as apartment buildings. The comparables have varying amenities. They sold from January 2003 to August 2009 for prices ranging from $535,000 to $760,000 or from $47.98 to $68.92 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant asserted that the subject's income and expenses as well as the comparables support a reduction. The board of review's representative argued that the appellant failed to submit evidence to show the subject's market value through a market analysis as opposed to actual income expenses; he cited previous PTAB decisions to support this argument. In addition, he asserted the appellant's comparable #1 was given a partial assessment at 36.7% and submitted *board of review hearing exhibit #5*, a printout from the assessor's database to support this. This evidence shows that comparable #1 has a full improvement assessment of $6.05 per square foot of living area.

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, 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 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.

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 comparables similar to the subject. These properties range: in age from 38 to 47 years; in size from 7,610 to 12,000 square feet of living area; and in full improvement assessments from $4.32 to $6.05 per square foot of living area. In comparison, the subject's improvement assessment of $5.63 per square foot of living area is within the range of these comparables. Therefore, after considering adjustments and the differences in both parties' comparables when compared to the subject, the PTAB finds the subject's per square foot improvement assessment is supported and a reduction in the improvement 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.

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: November 22, 2013

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.