



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

APPELLANT: James Plepel
DOCKET NO.: 08-26825.001-R-1
PARCEL NO.: 24-36-213-025-0000

The parties of record before the Property Tax Appeal Board are James Plepel, the appellant, 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 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: \$ 2,599
IMPR.: \$ 31,880
TOTAL: \$ 34,479

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 4,332 square feet of land area is improved with an 85-year-old two-story masonry mixed-use commercial/residential building with three residential units and four commercial units. The structure contains 5,724 square feet of building area and features a partial basement finished as an apartment. The building also has central air conditioning. The property is located in Blue Island, Worth Township, Cook County.

The appellant submitted a Residential Appeal petition contending both unequal treatment in the assessment process with regard to the subject's improvement assessment and as a contention of law arguing in a brief, based upon an income analysis performed by counsel, that the subject was overvalued.

In support of the inequity argument, the appellant submitted descriptive and assessment information for three properties suggested as comparable to the subject which are located within 5.5 blocks of the subject property. The comparable parcels range in size from 7,308 to 30,796 square feet of land area. Each parcel is improved with a two-story masonry or frame and masonry, multi-family and/or mixed-use building. Each property is reported to have a classification of 2-11 like the subject which

is defined under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance") as apartment or mixed use commercial/residential building of two to six units. The comparables range in age from 80 to 89 years old and range in size from 6,048 to 9,047 square feet of building area. One comparable has a concrete slab foundation and two have full basements, one of which is finished as an apartment. Two comparables have central air conditioning and one comparable also has a two-car attached garage. The properties have improvement assessments ranging from \$22,769 to \$36,437 or from \$3.76 to \$4.03 per square foot of building area. The subject has an improvement assessment of \$31,880 or \$5.57 per square foot of building area. As set forth in the brief based on this evidence, the appellant requested a reduction in the subject's assessment to \$25,094 or an improvement assessment of \$22,495 or \$3.93 per square foot of building area.

For the contention of law, counsel for the appellant made an argument that the subject property was overvalued. In the brief, counsel asserted that "an analysis of the Subject Property's stabilized income and expenses" indicates a fair market value of \$130,995. In support of this argument the appellant's attorney presented the subject's income and expenses for 2006 through 2008. According to the appellant's attorney, the subject had gross income ranging from \$35,000 to \$50,782 and allowable expenses ranging from \$16,841 to \$31,592. Counsel determined the subject's stabilized net operating income was \$19,124. The attorney used a 14.599% capitalization rate, which included an effective tax rate of 10%, to arrive at an indicated market value of \$130,995. In the brief, the appellant's attorney stated that, "In determining the base capitalization rate, we considered the Subject's age, location, condition, the risk of collection loss/vacancy loss and the likelihood of a breakdown in a major mechanical system or structural component." (Appellant's brief, p. 4.) Based on this estimate of value the attorney requested the subject's total assessment be reduced to \$20,959 after applying the 16% level of assessment for class 2 property as provided by the Ordinance.

The Cook County Board of Review submitted its "Board of Review - Notes on Appeal" wherein the subject's total assessment of \$34,479 was disclosed. The subject's assessment reflects a market value of approximately \$359,156 or \$62.75 per square foot of building area, land included, when applying the 2008 three year median level of assessment for Cook County class 2 property of 9.60%. (See 86 Ill.Admin.Code §1910.59(c)(2)). The subject has an improvement assessment of \$31,880 or \$5.57 per square foot of building area.

To demonstrate the subject property is correctly assessed the board of review submitted descriptions, copies of photographs and assessment information on four comparables. The parcels range in size from 4,050 to 5,261 square feet of land area. The comparables are improved with two-story masonry constructed mixed use multi-family buildings that range in size from 4,650 to 6,226

square feet of building area. The buildings range in age from 79 to 117 years old. The comparables had the same classification code and neighborhood code as the subject property. Each of the comparables has either two or four apartments. One comparable has a concrete slab foundation and three have full basements, two of which are finished as recreation rooms. One comparable has a 2.5-car garage. These properties have improvement assessments ranging from \$28,459 to \$34,676 or from \$5.57 to \$6.12 per square foot of building area.

Based on this evidence, the board of review requested confirmation of the subject's improvement 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 inequity 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 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 demonstrate unequal treatment by clear and convincing evidence.

The record contains descriptions and assessment information on seven comparables submitted by the parties. The Board has given less weight to appellant's comparables #2 and #3 due to the substantially larger dwelling sizes of these buildings and differences in foundation/finish as compared to the subject. The Board finds the comparables submitted by the board of review along with appellant's comparable #1 were most similar to the subject in size and/or location. The comparables were also similar to the subject in exterior construction, age and/or features. These comparables had improvement assessments ranging from \$22,769 to \$34,676 or from \$3.76 to \$6.12 per square foot of building area. The subject has an improvement assessment of \$31,880 or \$5.57 per square foot of building area, which is within the range established by the best comparables in the record. Based on this record the Board finds a reduction in the subject's assessment based on assessment inequity is not justified.

The appellant also argued overvaluation as part of a "contention of law" as an alternative basis of the appeal. When market value is the basis of the appeal the value of the property must be proved 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). The Board finds the appellant

did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

The Board finds the subject's total assessment of \$34,479 reflects a market value of approximately \$359,156 or \$62.75 per square foot of building area, land included, when applying the 2008 three year median level of assessment for Cook County class 2 property of 9.60%. (See 86 Ill.Admin.Code §1910.59(c)(2)).

The appellant's counsel formulated an overvaluation argument using the subject's actual income and expenses from 2006 through 2008. 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 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 documentation or 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's counsel 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. (See 86 Ill.Admin.Code §1910.70(f)). Thus, based on this record, the Board finds a reduction to the subject's assessment based on overvaluation is not 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.

Donald R. Cuit

Chairman

[Signature]

Member

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Member

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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: May 24, 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.