



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

APPELLANT: Robert Roe
DOCKET NO.: 08-26850.001-C-1
PARCEL NO.: 07-34-400-020-0000

The parties of record before the Property Tax Appeal Board are Robert Roe, the appellant(s); 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: \$31,231
IMPR.: \$ 0
TOTAL: \$31,231

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is a vacant parcel of land, with no improvements, and is located in neighborhood 80 as designated by the Cook County Assessor. The subject is adjacent to a parcel of land that is improved with a restaurant that the appellant owns. The appellant requested a reduction in this adjacent parcel's assessment at the board of review, but does not do so now. Therefore, the Board will only consider the vacant parcel in this appeal.

The appellant has raised three issues as the bases for this appeal. The first issue is that the Cook County Assessor's records regarding the subject's size are incorrect. Second, the appellant alleges that there was unequal treatment in the assessment process. Third, the appellant alleges that the market value of the subject property is not accurately reflected in its assessed value.

In support of the subject's size, the appellant stated on the grid sheet that the subject was 60 feet by 332 feet in size, which is equal to 19,920 square feet. No further information was provided.

In support of the equity argument, the appellant submitted information on six comparable properties. The properties are all

vacant land that range in size from 10,454 to 73,180 square feet of land. The comparables are located in neighborhoods 20, 40, 72, or 80 as designated by the Cook County Assessor, and have land assessments ranging from \$0.05 to \$1.21 per square foot of land.

In support of the market value analysis, the appellant submitted: a handwritten income and loss chart for the restaurant on the adjacent parcel; twelve Illinois Sale and Use Tax TeleFile Worksheets (one for every month in 2008); a Form 1040 U.S. Individual Income Tax Return for tax year 2008 for Robert J. Roe and Helen E. Roe (filing jointly); three Form 1040 Schedule E Supplemental Income and Loss forms for tax years 2006, 2007, and 2008; and three Form 1120 U.S. Corporation Income Tax Returns for tax years 2006, 2007, and 2008 for the Famous Chili Pub, Ltd. The Famous Chili Pub, Ltd. is the restaurant located on the adjacent parcel.

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

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$31,231 was disclosed. In support of the subject's assessment, the board of review submitted three sales comparables. The properties are all zoned for commercial use, and range in size from 17,850 to 753,980 per square foot. The board of review's evidence does not state whether these comparables have an improvement or are vacant land. These properties sold in either 2004 or 2005, for \$650,000 to \$7,271,000, or \$9.64 to \$36.41 per square foot. The sales were not adjusted to account for market conditions at the time of the sale.

The board of review also submitted nine equity comparables ranging in size from 1,916 to 83,286 square feet of land. All of the comparables are vacant and classified as residential by the Cook County Assessor. The board of review stated that the subject is currently classified as residential, but that it should be classified as commercial. The comparable properties all have the same land assessment of \$1.54 per square foot of land.

The board of review also submitted a one-page analysis stating that the subject's size is 20,280. Based on this evidence, the board of review requested confirmation of the subject's 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 this appeal.

Initially, the Board finds that the best evidence of the subject's size and exterior construction is the board of review's statement that the property is 20,280 square feet of land. The appellant's pleadings do not state how the smaller size of the

property was determined. Therefore, the appellant's assertion is unpersuasive, and the Board finds that the property contains 20,280 square feet of land. This finding by the Board means that the subject's land assessment is \$1.54 per square foot of land.

Next, the appellant contends unequal treatment in the subject's improvement assessment as a 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. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The Board finds comparables #5 and #6 submitted by the appellant, and comparables #2 and #3 submitted by the board of review to be most similar to the subject in location and size. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had land assessments that ranged from \$1.21 to \$1.54 per square foot of land. The subject's assessment of \$1.54 per square foot of land is within the range established by the most similar comparables. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's land assessment is equitable.

Lastly, the appellant argued that the subject was overvalued. 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 (3d Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2d 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 Board concludes that the evidence indicates a reduction is not warranted.

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.

The appellant's evidence includes various tax returns and income statements for the restaurant located on the adjacent parcel. However, neither party submitted evidence that the subject property supports the adjacent parcel. Therefore, the appellant's evidence was given little weight in this appeal. However, even if the subject did support the adjacent parcel, the appellant's evidence of income is insufficient as a matter of law. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

It 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, which 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 430-431.

Based on the record, the Board finds that the appellant has not proven that the subject was overvalued by a preponderance of the evidence, 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.

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: April 20, 2012

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.