



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

APPELLANT: Wafeek Aiyash
DOCKET NO.: 08-27187.001-R-1
PARCEL NO.: 16-16-120-023-0000

The parties of record before the Property Tax Appeal Board are Wafeek Aiyash, the appellant, by attorney Ellen G. Berkshire, of Verros, Lafakis & Berkshire, 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: \$ 7,755
IMPR.: \$ 95,815
TOTAL: \$ 103,570

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 7,050 square feet of land that is improved with a 76 year old, three-story, masonry, apartment building. The subject's improvement size is 16,830 square feet of building area, which equates to an improvement assessment of \$5.69 per square foot of building area. Its total assessment is \$103,570, which yields a fair market value of \$1,078,854, or \$64.10 per square foot of building area (including land), after applying the 2008 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 9.60%. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the subject's improvement, and also that the fair market value of the subject property was not accurately reflected in its assessed value as the bases of this appeal.

In support of the equity argument, the appellant submitted descriptive and assessment information for five properties suggested as comparable to the subject. The comparables are described as two-story or three-story, masonry, apartment buildings. Additionally, the comparables range: in age from 69 to 91 years; in size from 12,036 to 21,734 square feet of building area; and in improvement assessments from \$0.80 to \$4.37 per square foot of building area. Comparable #1 is located within one-half mile of the subject, however, comparable #2

through #5 range from 3.3 to 4.6 miles away from the subject. No photos of the comparables were provided and no other amenities of the comparables were detailed.

In support of the market value argument, the appellant submitted evidence showing that the subject sold in December 2007 for \$350,000. This evidence included a settlement statement that indicates the Seller and Lender are the same party and that although the contract price is \$350,000, the loan amount and lender's coverage is \$686,000. Line items on the settlement statement also indicate this sale may have been pursuant to a foreclosure. Furthermore, the appellant's pleadings state that the sale was not between related parties, however, the subject was not advertised for sale on the open market and the parties did not use a real estate broker. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$103,570 was disclosed. In support of the subject's assessment, the board of review submitted descriptive information for six properties suggested as comparable to the subject. However, no assessment information was included for these properties. The comparables are described as two-story or three-story, masonry, apartment buildings. Additionally, the comparables are from 22 to 82 years old, and have from 15,500 to 16,200 square feet of building area. The comparables also have various amenities. The board of review's evidence indicates that Comparable #1 sold in 2007 for \$725,000, or \$18,125 per unit; Comparable #2 sold in 2003 for \$1,175,000, or \$53,409 per unit; Comparable #3 sold in 2000 for \$425,000, or \$20,238 per unit; Comparable #4 sold in 2001 for \$900,000, or \$60,000 per unit; Comparable #5 sold in 2004 for \$1,575,000, or \$50,806 per unit; and that Comparable #6 sold in 2003 for \$797,000, or \$49,812 per unit. 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 (the "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. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). "[A] contemporaneous

sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, (citations) but would be practically conclusive on the issue of whether an assessment was at full value." People ex rel. Korzen v. Belt Ry. Co. of Chi., 37 Ill. 2d 158, 161 (1967).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in December 2007 for \$350,000 was a "compulsory sale." A "compulsory sale" is defined as:

(i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (2d Dist. 1979)).

However, when there is a recent sale of the subject, and that sale is a compulsory sale, the Board may consider evidence which would show whether the sale was an arm's-length transaction. Calumet Transfer, 401 Ill. App. 3d at 655-56. In this case, the appellant did not submit any such evidence to show that the sale of the subject in December 2007 for \$350,000 was an arm's-length transaction. Such evidence could have included the descriptive and sales information for recently sold properties that are similar to the subject. See id. at 656. Since there is no evidence that the sale of the subject was an arm's-length transaction, the Board finds that the subject is not overvalued and a reduction is not warranted.

The appellant also 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 only comparable #1 submitted by the appellant was similar to the subject in location, style, exterior construction, and/or age. Comparables #2 through #5 are located between 3.3 and 4.6 miles away from the subject, however. As such, the Board finds that the appellant has not met the burden of clear and convincing evidence, as there is no range of equity comparables with which to compare the subject. Therefore, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted based on the evidence contained in the record.

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

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.