



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

APPELLANT: Alex Samoylovich
DOCKET NO.: 08-27247.001-C-1 through 08-27247.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Alex Samoylovich, 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
08-27247.001-C-1	07-08-248-002-0000	19,199	7,974	\$ 27,173
08-27247.002-C-1	17-08-248-003-0000	27,863	9,360	\$ 37,223
08-27247.003-C-1	17-08-248-004-0000	11,700	7,938	\$ 19,638
08-27247.004-C-1	17-08-248-012-0000	30,537	844	\$ 31,381

Subject only to the State multiplier as applicable.

ANALYSIS

The subject contains 15,265 square feet of land and is improved with a 47 year old, one-story, masonry, industrial building. The subject's improvement size is 8,760 square feet of building area, which equates to an improvement assessment of \$2.98 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 and that the subject's assessment should be reduced due to partial vacancy in 2008 as the bases of this appeal.

In support of the equity argument, the appellant submitted descriptive and assessment information for three properties suggested as comparable to the subject. The comparables are described as one-story, masonry, industrial buildings. They range: in age from 52 to 121 years; in size from 4,000 to 18,000 square feet of building area; and in improvement assessment from \$1.37 to \$2.47 per square foot of building area. In addition, the appellant's grid sheet indicates the subject sold in January 2008 for \$1,770,000, or \$193.29 per square foot of building area, including land. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

In support of the claim that the subject's assessment should be reduced due to vacancy, the appellant submitted a vacancy affidavit that indicated the subject experienced 17% vacancy in 2008. In addition, the appellant submitted the subject's income and expense data for 2007 and 2008.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$115,415 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and sales data for seven industrial buildings located within one-half of a mile of the subject. Included with the sales data were the 2008 assessments for comparables #1 and #2. The comparables ranged in assessment from \$2.04 to \$2.70 per square foot of building area.

The board of review's evidence indicates its sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County Assessor's Office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further states that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The comparables are described as one-story or two-story, masonry, commercial buildings. They range in age from 51 to 127 years old, and contain from 5,400 to 12,400 square feet of building area. The comparables sold between February 2003 and October 2010 for \$360,000 to \$2,500,000, or \$66.67 to \$255.17 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the board of review's representative argued that the subject was fairly assessed based on its income and expense data. The appellant's attorney argued that the subject's assessment should be reduced based on 17% vacancy, or in the alternative, the subject's assessment should be reduced based on equity.

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 board of review comparables #1 and #2 were the most similar to the subject in size, style, and exterior construction. The Board finds that two comparables do not form a range. As such, the Board finds that the appellant has not met the burden of proving by clear and convincing evidence that the subject is inequitable assessed, 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.

The appellant submitted documentation showing the income 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 based on vacancy 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 no weight to this evidence and finds that a reduction based on market value is not warranted. In addition, the recent purchase price of the subject property support's its current value.

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: August 23, 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.