



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

APPELLANT: Hadiel Salha
DOCKET NO.: 08-27313.001-R-1
PARCEL NO.: 16-02-309-013-0000

The parties of record before the Property Tax Appeal Board are Hadiel Salha, 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: \$4,500
IMPR.: \$29,377
TOTAL: \$33,877

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel is improved with a class 2-12¹ 2-story apartment building of masonry construction. The building contains approximately 4,174 square feet of building area and is approximately 95 years old. The subject features a partial unfinished basement. The property is located in Chicago, West Chicago Township, Cook County.

The appellant's appeal is based on a recent sale of the subject, unequal treatment in the assessment process and contention of law.² The appellant completed Section IV of the appeal form claiming the subject was purchased contract for deed on November 9, 2006. The appellant states the sale was through a realtor but did not state if the property had been advertised for sale. The appellant also submitted a notarized affidavit claiming the subject was purchased in an arm's-length transaction on November 9, 2006 for \$290,000. The appellant did not submit any evidence of the sale in the form of a sales contract, RESPA statement, Real Estate Transfer Declaration or settlement statement.

¹ Class 2-12: Two to six apartments up to 62 years old.

² The appellant did not submit any argument or evidence regarding the contention of law issue. Therefore, it will not be considered in this decision.

The appellant also valued the subject property using the income approach. Using a capitalization rate of 10% combined with a "tax load" factor of 2.295%, or a total cap rate of 12.295%, and a "stabilized net operating income" of \$5,963, the appellant derived a fair market value of \$48,499. Based on this value, the appellant requested a total assessed value of \$7,759.

In support of the inequity argument, the appellant submitted information on three comparable properties described as 2-story masonry apartment buildings. The buildings range in age from 90 to 98 years old and range in size from 4,644 to 6,938 square feet of living area. The comparables feature partial unfinished basements. The comparables have improvement assessments ranging from \$27,655 to \$37,122 or from \$5.35 to \$5.95 per square foot of living area. The subject has an improvement assessment of \$29,377 or \$7.04 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$3,259 or \$.78 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final improvement assessment of \$29,377 or \$7.04 per square foot of building area was disclosed. In support of the subject's assessment, the board of review presented descriptions and information on four comparable properties improved with class 2-12 2-story masonry apartment buildings. These buildings range in age from 76 to 101 years and range in size from 3,740 to 4,006 square feet of living area. The comparables feature partial unfinished basements and one has a 1½-car garage. These properties have improvement assessments ranging from \$26,316 to \$27,764 or from \$6.85 to \$7.09 per square foot of living area. Two of these comparables sold in May 2006 and November 2007 for \$34,000 and \$325,000 or for \$8.49 and \$84.64 per square foot of building area. 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. The Property Tax Appeal Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal, the value must be proven 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). Proof of market value may consist of an appraisal of the subject property, a recent sale of the subject property or comparable sales. (86 Ill.Admin.Code Sec. 1910.65(c)). After an analysis of the evidence in the record, the Board finds a reduction in the subject's assessment is not warranted.

Regarding the recent sale argument, the Board finds the appellant claims the subject was purchased in an arm's-length transaction on November 9, 2006 for \$290,000. However, the appellant did not submit any evidence of the sale in the form of a sales contract, RESPA statement, Real Estate Transfer Declaration or settlement statement as required in Section IV of the appeal form. Furthermore, the appellant did not disclose whether or not the subject had been advertised. Therefore, the Board questions the arm's-length nature of the sale and places little weight on the recent sale of the subject.

Regarding the income approach to valuation argument, 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".

The appellant used "stabilized net operating income" (subject's two year mean income) rather than market data in calculating the subject's value based on the income approach. 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 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 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 problematical 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. Based on this analysis, the Board gave no weight to the market value argument raised by the appellant.

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 Board finds the appellant has not met this burden.

The Board finds appellant's comparables #1 and #2 substantially larger than the subject. Therefore these comparables received less weight in the Board's analysis. The Board finds appellant's comparable #3 and all four of the board of review comparables most similar to the subject in size, style, age, features and exterior construction. These comparables have improvement assessments ranging from \$26,316 to \$27,764 or from \$5.95 to \$7.09 per square foot of living area. The subject's improvement assessment of \$29,377 or \$7.04 per square foot of living area falls within the range established by these comparables on a per square foot basis. After considering adjustments and differences in both parties' comparables, the Board finds the subject's assessment is equitable and no reduction is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the appellant disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no reduction is 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

Frank J. Huff

Member

Mark Morris

Member

JR

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.