



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

APPELLANT: 2119 South, LLC
DOCKET NO.: 08-27350.001-C-1
PARCEL NO.: 17-21-328-034-0000

The parties of record before the Property Tax Appeal Board are 2119 South, LLC, 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 a reduction 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: \$ 929
IMPR.: \$ 45,929
TOTAL: \$ 46,858

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 2,718 square feet of land, which is improved with a 100 year old, one-story, masonry, restaurant building. The subject's improvement size is 2,468 square feet of building area, which equates to an improvement assessment of \$30.38 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 should have a vacancy factor applied to it 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, commercial buildings. Additionally, the comparables range: in age from 4 to 106 years; in size from 2,208 to 2,975 square feet of building area; and in improvement assessments from \$13.12 to \$18.61 per square

foot of building area. The comparables also have various amenities. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

In support of the vacancy argument, the appellant submitted two affidavits. The first affidavit indicated the subject was 100% vacant for all of 2008. The second affidavit also indicates the subject was vacant for all of 2008, and that the vacancy was due to, "interior construction/ gut rehab."The appellant's indicated that a building permit was submitted; however, this document was not in the record.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$75,913 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for ten commercial buildings located within one mile of the subject. The 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, masonry, commercial buildings. Additionally, the comparables have from 2,000 to 4,800 square feet of building area. The comparables sold between January 2003 and May 2008 for \$235,000 to \$1,150,000, or \$50.00 to \$575.00 per square foot of building area, including land.

In addition, the board of review submitted a photo from December 2006 showing the rehabilitation of the subject was already underway. The board of review also submitted documentation that the current occupant of the subject, Nightwood Restaurant, opened its doors in October 2010. The board of review also submitted evidence that the subject and the residential condominiums located above the subject were purchased in January 2008 for \$575,000. 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). Having considered the evidence presented, the Board finds that the evidence indicates a reduction is not warranted.

As to the appellant's vacancy argument, Section 9-180 of the Property Tax Code provides in part:

"When... any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use." (35 ILCS 200/9-180).

In the case of Long Grove Manor v. Property Tax Appeal Board, 301 Ill.App.3d 654 the court held that an assessor may value any partially completed improvement to the extent that it adds value to the property. This case was analyzed in Brazas v. Property Tax Appeal Board, wherein the court allowed an assessor to value any partially completed improvement to the extent it adds value to the property regardless of whether the improvement is substantially complete. (309 Ill.App.3d 520)

The Board finds the appellant's affidavits are not persuasive as they do not indicate that the subject was uninhabitable during 2008. In addition, the appellant did not submit any evidence to

dispute the assessor's market value of the subject property. Therefore, the Board finds a reduction on this basis is not warranted.

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 met this burden.

The Board finds that all of the comparables submitted by the appellant were most similar to the subject in location, size, style, exterior construction, and features. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$13.14 to \$18.61 per square foot of building area. The subject's improvement assessment of \$30.38 per square foot of building area is above the range established by the most similar comparables. Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement assessment is not equitable, and a reduction in the subject's assessment 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

K. L. Ferr

Member

Member

Mark Morris

Member

JR

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 18, 2014

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.