



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

APPELLANT: Sonia Ospina
DOCKET NO.: 08-27368.001-C-1 through 08-27368.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Sonia Ospina, the appellant, 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
08-27368.001-C-1	17-08-123-001-0000	7,650	73,506	\$ 81,156
08-27368.002-C-1	17-08-123-002-0000	6,187	0	\$ 6,187

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has a total of 4,125 square feet of land and is improved with a 128 year old, four-story, masonry, apartment building. The subject's improvement size is 8,004 square feet of building area, which equates to an improvement assessment of \$9.79 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 as the basis 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 masonry, apartment buildings. They range: in age from 93 to 116 years; in size from 7,884 to 9,200 square feet of building area; and in improvement assessment from \$5.88 to \$8.29 per square foot of building area. The appellant also submitted the subject's income and expense information for 2006, 2007, and 2008 and a copy of a stipulation regarding the subject's 2007 Property Tax Appeal Board appeal. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$92,187 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 five apartment buildings located within eight miles 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 masonry, apartment buildings. They range in age from 92 to 121 years old, and range in size from 7,550 to 8,681 square feet of building area. The comparables sold between May 2003 and December 2009 for \$520,000 to \$1,068,000, or \$59.90 to \$141.46 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, Attorney Lisa Perna appeared on behalf of the appellant. Ms. Perna argued that the appellant's income and expense information and assessment comparables supported a reduction in the subject's assessment. The board of reviews representative argued that the subject's income and expense information and the board of review's sales comparables supported the subject's assessment.

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 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 age. 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 \$5.88 to \$8.29 per square foot of building area. The subject's improvement assessment of \$9.79 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 to the appellant's requested assessment is warranted.

The appellant submitted documentation showing income/expenses and vacancy of the subject property. The Board 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 and the board of review made this argument, neither party demonstrated 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 and the board of review did not provide such evidence and, therefore, the Board gives this argument no weight and finds that a reduction based on market value 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.

Donald R. Cuit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Marko M. Louie

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: January 24, 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.