



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

APPELLANT: Mariusz Tyminski
DOCKET NO.: 08-28097.001-C-1
PARCEL NO.: 24-18-221-003-0000

The parties of record before the Property Tax Appeal Board are Mariusz Tyminski, the appellant; 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: \$14,616
IMPR.: \$59,331
TOTAL: \$73,947

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 16,240 square foot land parcel improved with a three-story, masonry, apartment building containing 11,028 square feet of building area. The improvement consists of 12 residential apartments and was built in 1969. Each apartment unit contains approximately 919 square feet of living area.

The appellant submitted evidence before the Property Tax Appeal Board arguing both unequal treatment in the assessment process and that the market value of the subject property is not accurately reflected in the property's assessed valuation as the bases of this appeal.

In support of the equity argument, the appellant submitted copies of descriptive and assessment data, black and white photographs, and assessor database printouts for six suggested comparables located within one block of the subject. The properties are improved with one, three-story, masonry, 12-unit, multi-family dwelling. All six suggested comparables are 39 years old and contain 11,028 square feet of building area. They range in

improvement assessment from \$23,158 to \$59,381, or from \$2.10 to \$5.38 per square foot of building area. Subject's improvement assessment is \$12.47 per square foot of building area.

In support of the market value argument, the appellant submitted a settlement statement indicating that subject sold on July 21, 2006 for \$910,000. Additionally, the appellant submitted a summary of subject's expenses and rent roll history from 2006 through 2008, copies of Form 1120 income and expense statements for the subject property for 2006 and 2007, and a 2008 IRS Form 7004 requesting an extension to file a business income tax return.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was presented. The board of review submitted a memorandum, a photograph of the subject property, the subject's property record card, and six suggested sale comparables. Further, the board submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration and a copy of a recorded Trustee's Deed in Trust for the subject, both of which indicate that the subject sold in July 2006 for \$910,000. The board of review's memorandum asserted that the subject's total assessment of \$152,186 reflected a market value of \$760,930, or \$69.00 per square foot by applying the Cook County Ordinance Level of Assessments for class 3 property of 20% for tax year 2008. The board also submitted unadjusted, raw sales data on the six suggested sale comparables. These sale properties indicate an unadjusted value range from \$64.27 to \$108.21 per square foot. Properties #1 and #4 are located in Oak Lawn, property #2 is located in Alsip, while only properties #3, #5 and #6 are located in the subject's Village of Chicago Ridge. The improvements range in sales price from \$755,000 to \$1,120,000 and in age from 30 to 40 years. Age data was absent for suggested comparable #2. Moreover, the submitted documents reflect that the aforementioned data relating to the sale properties has not been verified. Beyond this submission, the board of review failed to proffer equity evidence in support of the subject's current assessment.

After reviewing the evidence, the Property Tax Appeal 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). 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. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the PTAB concludes that the evidence indicates a reduction based on market value is not warranted.

The appellant submitted documentation showing the income and expense 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 can be useful when shown that they are reflective of the market. 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 this argument no weight and finds that a reduction based on market value is not warranted.

In determining the fair market value of the subject property, the PTAB finds the best evidence to be the sale of the subject property. Based on all the evidence submitted, the PTAB finds the subject sold in July 2006 for \$910,000. Furthermore, the PTAB finds that the subject's sale price as presented by the appellant and board of review supports the current assessment on the subject and, therefore, the PTAB finds the appellant has failed to meet the burden of proving by a preponderance of the evidence that the subject is overvalued. Therefore, the PTAB finds that no reduction is warranted.

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 met this burden.

The Board finds that the comparables submitted by the appellant are most similar to the subject. These multi-family comparables range in improvement assessment from \$2.10 to \$5.38 per square foot of building area. The subject's improvement assessment is \$12.47 per square foot of building area, which is above the established range of the comparables. Moreover, the Board finds that the board of review's unadjusted, raw sales data fails to address the equity argument raised by the appellant, herein.

As a result of this analysis, the Board finds the appellant has adequately demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence and a 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank 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: April 20, 2012

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.