



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

APPELLANT: Mark & Nancy Mostert
DOCKET NO.: 08-28101.001-C-1
PARCEL NO.: 29-29-301-014-0000

The parties of record before the Property Tax Appeal Board are Mark & Nancy Mostert, the appellants; 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: \$ 14,089
IMPR.: \$ 16,144
TOTAL: \$ 30,233

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 7,806 square foot parcel improved with a one-story, class 5-17, 35-year-old, frame constructed, commercial building containing 1,704 square feet of building area and located in Thornton Township, Cook County.

The appellants appeared before the Property Tax Appeal Board claiming the subject's market value is not accurately reflected in its assessment. The appellants requested a reduction in the subject's assessment based on the subject's vacancy and loss of income. In support of this claim, the appellants submitted copies of vacancy affidavits disclosing the subject was 42% vacant in 2008 and 100% in 2009. In addition, the appellants submitted a one-page brief, copies of cash flow analyses and Schedule E/Supplemental Income & Loss statements for tax years 2005 through 2008 as well as the subject's rent roll for 2008. In addition, the board of review's decision disclosing the subject's final assessment of \$30,233 was provided.

At the hearing, the appellants argued that the subject was 42% vacant in 2008 and 100% in 2009 and based on the subject's

vacancy and loss of income requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of \$30,233, which reflects a market value of \$79,560 or \$46.69 per square foot of building area, utilizing the Cook County Real Property Assessment Classification Ordinance level of assessment of 38% for Class 5a property, such as the subject. As evidence, the board of review submitted descriptive information on four properties that sold from August 1996 to December 2008 for prices ranging from \$50,000 to \$375,000 or from \$31.49 to \$198.00 per square foot. The board's evidence disclosed that the recorder of deeds office recorded, document #020823809, executed in July 2002 for \$99,500 or \$58.39 per square foot for the subject.

At the hearing, the board's representative indicated that the board of review would rest on the written evidence submissions. Based on this analysis, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a two-page letter as well as six new comparable properties and argued that they further supported a reduction in the subject's assessment.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When market value is the basis of the appeal the value of the property must be proved 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 arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c))

The Board finds the appellants' argument that the subject's assessment is excessive based on the subject's vacancy and loss of income 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:

it is the value of the "tract or lot of real property" 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, which 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 428 at 430-431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellants did not demonstrate that the subject's actual income and expenses were reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellants 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. Further, the appellants must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellants failed to follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument no weight.

Next, The Board finds no evidence in the record that the subject's assessment is incorrect when vacancy is considered. The mere assertion that vacancies in a property exist does not constitute proof that the assessment is incorrect or that the fair market value of a property is negatively impacted.

The Board gives little weight to the board's sales evidence in that it lacks analysis as well as a supported conclusion of value.

Finally, the Property Tax Appeal Board did not consider the six new comparables submitted in rebuttal. Section 1910.66 (c), of the Official Rules of the Property Tax Appeal Board states in part, "Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties." 86 Ill. Adm. Code §1910.66(c). Therefore, the Property Tax Appeal Board is precluded from considering the new comparables submitted as rebuttal evidence.

As a result of this analysis, the Property Tax Appeal Board finds the appellants have failed to adequately demonstrate that the subject property was overvalued by a preponderance of the evidence and a reduction 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. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn R. Lerbis

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: June 24, 2011

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.