



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

APPELLANT: Christ Fourkas
DOCKET NO.: 08-28246.001-C-1
PARCEL NO.: 29-12-207-042-0000

The parties of record before the Property Tax Appeal Board are Christ Fourkas, the appellant(s), by attorney Richard Edward Zulkey, of Richard E. Zulkey & Associates, Chtd. 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: \$14,162
IMPR.: \$89,142
TOTAL: \$103,304

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a parcel of land improved with a 38-year old, three-story, apartment building containing 12,549 square feet of building area and 15 apartment units. The appellant argued that the market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted a summary appraisal report of the subject property with an effective date of January 1, 2009. The appraiser estimated a market value for the subject of \$485,000 based upon the three traditional approaches to value. The appraisal indicated the subject was inspected. The report listed the subject's lot size

at 13,125 square feet within the description of the site and the cost approach portions of the appraisal. However, 12,875 square feet was used in the sales comparison approach.

Under the cost approach to value, the appraiser analyzed the sale of three properties to arrive at an estimate of value for the land at \$5.00 per square foot or \$65,625 using 13,125 square feet. The reproduction cost new was utilized to determine a cost for the improvement at \$1,000,000. The appraiser estimated depreciation at 55% for a value of \$450,000. The land value was added back in to establish a value under the cost approach of \$515,625.

In the income approach to value, the appraiser analyzed the rents of three properties to estimate potential gross income at \$8,700 a month or \$104,400. Vacancy and collection was estimated at 12% for an effective gross income of \$91,872. Expenses were estimated at \$48,700 to arrive at a net operating income of \$43,172. The appraiser used market data to determine the capitalization rate of 9% to estimate a value under the income approach of \$480,000, rounded.

Under the sales comparison approach, the appraiser analyzed the sales of four two or three-story, masonry apartment buildings located within the subject's market. The properties range in age from 19 to 71 years and in size from 7 to 15 apartment units. The appraiser did not provide the square footage of the comparables. The comparables sold from May 2006 to July 2009 for prices ranging from \$210,000 to \$580,000, or from \$26,250 to \$38,000 per apartment unit. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$32,500 per apartment unit or \$485,000, rounded.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$103,304 was disclosed. This assessment reflects a fair market value of \$516,520 or \$34,435 per apartment unit when the Cook County Real Property Assessment Classification Ordinance level of assessments of 20% for Class 3 property is applied.

In support of the subject's assessment, the board of review presented descriptions and sales information on a total of four properties. These properties are described as three or four-story, masonry, apartment buildings with 12 apartment units.

They range in age from 18 to 40 years and in size from 7,650 to 15,360 square feet of building area. They sold from March 2003 to December 2007 for prices ranging from \$310,000 to \$665,000 or \$25,833 to \$55,417 per apartment unit.

At hearing, the appellant's attorney argued that the appraisal supports a reduction in the assessment. In addition, he argued that the subject received a reduction in 2010 which is part of the triennial assessment cycle as the year under appeal.

The board of review's representative, Roland Lara, argued that the appraiser was not present at the hearing to testify or be cross-examined and, therefore, the appraisal is hearsay. He also asserted that the appraisal does not value the property as of the lien date of January 1, 2008 and, therefore, should be stricken from the record or given no weight. He referenced a recent decision of the Property Tax Appeal Board (Board), 10-23666.001-R-1, to support his argument. In that appeal, the appraisal valued that property as of "tax year 2010". In that case, the Board found that there was no valuation date and that the subject property should be valued as of the lien date.

Mr. Lara also testified that the evidence does not indicate why the subject received a subsequent reduction in 2010 and that this evidence is necessary to determine if this reduction would apply to the year in question.

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 Board gives no weight to the board of review's argument that, based on a prior Board decision of another property, the appellant's appraisal does not value the subject as of the lien date and should be given no weight. Each appeal before the Board "shall be based upon equity and the weight of the evidence." Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (2d) 110,461, (1st Dist. 2012); 35 ILCS 200/16-185. In other words, each appeal to the Board is necessarily fact specific, and must be based upon the particular record of each case. See Ridgeland Sch. Dist., 2012 IL App. (2d) 110,461. Thus, the Board's decision in appeal number 10-23666.001-R-1 is not binding on the Board in this appeal. Therefore, the Board finds that the appraisal has been timely admitted into evidence and will be given its proper weight.

In addition, the Board gives no weight the appellant's attorney's argument that the subject received a reduction in 2010. There was no evidence submitted to show this reduction, the reason for the reduction, or that it should apply to the previous lien years.

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).

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the Board. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the

administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appraisal as hearsay. Therefore, the PTAB finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the Board will consider the raw sales data submitted by the parties.

The parties presented sales data on eight properties. The Board finds the appellant's comparables and the board of review's comparable #2 most similar to the subject with a sale date closest to the lien date in question. These sales occurred from May 2006 to July 2009 for prices ranging from \$210,000 to \$665,000 or from \$26,250 to \$44,333 per apartment unit. In comparison, the appellant's assessment reflects a market value of \$34,435 per apartment unit which is within the range established by the sales comparables. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's assessment is supported 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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: February 21, 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.