



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

APPELLANT: David Hanner
DOCKET NO.: 08-28255.001-C-1
PARCEL NO.: 21-30-408-041-0000

The parties of record before the Property Tax Appeal Board are David Hanner, 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 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: \$ 10,766
IMPR.: \$ 56,224
TOTAL: \$ 66,990

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 10,766 square foot parcel of land improved with a 41-year old, three-story, multi-family apartment building containing 11,163 square feet of building area. The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation and that there was unequal treatment in the assessment process of the improvement as the bases of this appeal.

In support of the market value argument, the appellant submitted and income and expense analysis and 2006, 2007 and 2008 Schedule E's from the appellant's federal income tax returns for the subject property. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

In support of the equity argument, the appellant submitted limited descriptive and assessment data, as well as black and white photographs, for three suggested comparables. The properties are apartment buildings, all of which are located within a nine block radius of the subject. The properties range: in age from 39 to 81

years; in size from 7,964 to 11,994 square feet of building area; and in improvement assessment from \$3.64 to \$4.39 per square foot of building area. The subject's improvement assessment is \$5.04 per square foot of building area. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review-Notes on Appeal" wherein the subject's improvement assessment of \$66,990 was disclosed. In support of the subject's assessment, the board of review submitted a memorandum, a photograph of the subject property, the subject's property record card, and six suggested sale comparables. The board of review's evidence indicates that the subject's total assessment of \$66,990 reflects a market value of \$334,950, or \$30.00 per square foot of building area after the Cook County Ordinance Level of Assessment for class 3 property of 20% is applied. The board also submitted unadjusted, raw sales data on the six suggested sale comparables. These sale properties indicate an unadjusted value range from \$27,666 to \$54,545 per unit. The properties range: in sales price from \$332,000 to \$740,000 and in building size from 6,400 to 10,650 square feet. Building size was not submitted for comparable #5. Lastly, the board of review submitted a copy of the trustees deed with transfer stamps affixed as evidence of the sale of the subject in May 2006 for \$540,000 or \$48.37 per square foot and \$45,000 per unit.

At hearing, the appellant's attorney reaffirmed the previously submitted evidence. The board of review's representative argued that the subject was fairly assessed based on its recent purchase price.

After considering the arguments, testimony, and 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 arm's 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)). Having considered the market value evidence presented, the Board concludes that this evidence indicates a reduction is not 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 made this argument, 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 Board gives this argument no weight and finds that a reduction based on market value is not warranted.

The appellant also contends unequal treatment in the subject's improvement assessment as the basis of the appeal. Appellants 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, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Proof of assessment inequity should include assessment data and documentation establishing the physical, location, and jurisdictional similarities of the suggested comparables to the subject property. Property Tax Appeal Board Rule 1910.65(b). Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). After considering the evidence presented, the Board concludes that the appellant has not met this burden and that a reduction is not warranted.

The appellant presented assessment data on a total of three equity comparables. The Board does not find these suggested properties to be similar to the subject. The Board finds that the properties differ with the subject and that only one comparable is similar in

size and in age to the subject. The Board finds that one comparable does not constitute a range and is insufficient to establish that the subject is not equitably assessed. Therefore, the Board finds the one suggested comparables is not a persuasive indicator of the subject's assessment inequity given the limited data provided. The appellant has not met the burden of proving by clear and convincing evidence that the subject is inequitably assessed. For this reason, the Board concludes that 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.



Chairman



Member



Member



Member



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: August 23, 2013



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.