



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

APPELLANT: Saroj Puri  
DOCKET NO.: 08-28261.001-C-2  
PARCEL NO.: 03-27-301-022-0000

The parties of record before the Property Tax Appeal Board are Saroj Puri, the appellant; the Cook County Board of Review; and the intervenor, Arlington Heights School District 25, by attorneys Ares G. Dalianis and Scott Metcalf of Franczek Radelet P.C. in Chicago.

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:** \$ 195,570  
**IMPR.:** \$ 130,676  
**TOTAL:** \$ 326,246

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of a 60,548 square foot parcel of land improved with a 23-year old, one-story, masonry, commercial building used as a restaurant. The improvement contains 4,906 square feet of living area.

The appellant argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant submitted written argument regarding the subject's partial vacancy due to the loss of his tenant, which filed bankruptcy.

At hearing, the appellant testified that he purchased the property in 2002 with a long-term lease with Vicorp, which the appellant also referred to as Baker's Square. He indicated that it was a triple net lease where Vicorp paid the property taxes and the appellant's net income per year was approximately \$200,000. He stated that Baker's Square filed for Chapter 11 Bankruptcy in April, 2008, with a shutdown of operations at his property in June, 2008. He testified that the Vicorp did not pay the second installment of the property taxes for 2008, but that he decided to pay them. He also stated that while Vicorp was still leasing the property, that after paying his mortgage that his net income was \$137,000 per year. After the bankruptcy filing, he stated that his net income was a loss of \$56,993.

Mr. Puri indicated that the property has been vacant since that time even though he and his wife are required to pay the property taxes. In addition, he stated that they had lease offers from the market for half of what they initially paid with rental options for only 50 years; therefore, he rejected these offers.

In support of the above assertions, the appellant had submitted copies of the Chapter 11 Filing for Vicorp and Notice of Creditors Meeting distributed by the Bankruptcy Court. Based upon this analysis, the appellant requested a reduction in the subject's assessment.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$326,246. This assessment reflects a market value of \$861,642 or \$175.63 per square foot when the Cook County Ordinance level of assessment for class 5A, commercial property of 38% is applied.

In support of the subject's market value, the board submitted raw sales data was submitted for six properties identified with retail/restaurant designations. The data from the CoStar Comps service sheets reflect that the research was licensed to the assessor's office, but failed to indicate that there was any verification of the information or sources of data. The properties sold in an unadjusted range from \$189.39 to \$432.02 per square foot of building area, while the buildings ranged in size from 3,960 to 4,960 square feet of building area.

Moreover, the board of review's cover memorandum stated that the data was not intended to be an appraisal or an estimate of value and should not be construed as such. The memorandum indicated that the information provided therein had been collected from

various sources that were assumed to be factual and reliable; however, it further indicated that the writer hereto had not verified the information or sources and did not warrant its accuracy. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board of review's representative testified that he had no personal knowledge as to whether any of the sale properties were leased fee sales.

In rebuttal to the board of review's evidence, the appellant asserted that there was no information regarding whether or not the sales were leased fee, while noting that four of the six sales occurred in 2001.

The intervenor, Arlington Heights School District #25, submitted a brief and unadjusted sales data relating to 11 properties. The data from the CoStar Comps service sheets reflected that the properties were all retail/restaurant facilities. The properties sold in an unadjusted range from \$150.00 to \$878.02 per square foot of building area, while the buildings ranged in size from 2,950 to 7,500 square feet of building area. The properties sold from March, 2005, through December, 2007.

At hearing, the intervenor's attorney noted that the following properties were leased fee sales: #1, #2, #4, #6 and #11. Further, the intervenor's attorney requested that the Board take judicial notice of three prior Board decisions relating to different subject properties where the Board denied vacancy relief.

In written rebuttal, the appellant submitted duplicate copies of 2008 and 2009 tax forms as well as reiterating his prior arguments.

At hearing, the appellant asserted that the subject property received a certificate of error for tax year 2008. Without any documentation in the record, the Board accorded the board of review 21 days from the hearing date within which to submit documentation relating to the allegedly 2008 certificate of error. Thereafter, the remaining parties were accorded another 21 days to submit a response to any documentation, if so desired.

The board of review timely submitted documentation indicating that the county assessor recommended a 2008 certificate of error, which was not endorsed by the board of review. The

appellant submitted a timely response arguing that the Board should recommend the 2008 certificate of error.

After considering the parties' arguments as well as 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, 331Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2<sup>nd</sup> 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 Board concludes that the evidence indicates a reduction is not warranted.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income analysis based on the subject's actual income and expenses or estimates of business value, cash flow, and personalty value unconvincing. 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 appellant 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 appellant 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 appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value.

The appellant failed to follow this procedure in developing an income analysis. In addition, the Board finds that the appellant failed to provide any evidence that remedies were taken to offset the subject's vacancy other than testimony indicating that market offers were rejected by the appellants.

Further, the Board finds that the unadjusted raw, market data submitted into evidence by the board of review and the intervenor supports the subject's current valuation. Specifically, in analyzing the most similar sales submitted by the intervenor, these sales sold from June, 2005, to September, 2007, for values that ranged from \$152.63 to \$539.14 per square foot, while the subject's market value is \$175.63 per square foot of building area. In addition, these properties ranged in age from 6 to 34 years and in improvement size from 3,100 to 6,552 square feet of building area. After making adjustments to these sale comparables for pertinent factors, the Board finds that the subject's market value is supported by these comparables. As a result of this analysis, the Board finds the appellant has not met their burden and 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.

*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: March 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.