



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

APPELLANT: Nick Christy
DOCKET NO.: 08-28576.001-R-1
PARCEL NO.: 26-17-104-004-0000

The parties of record before the Property Tax Appeal Board are Nick Christy, the appellant, by attorney Brian P. Liston of the Law Offices of Liston & Tsantilis, 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: \$ 2,582
IMPR.: \$ 12,691
TOTAL: \$ 15,273

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story, mixed-use and multi-family building of masonry construction. The building is 100 years old and contains 2,831 square feet of building area. Features of the building include two apartment units, a commercial unit, a partial unfinished basement, and a two-car garage. The subject is classified as a class 2-12 residential property under the Cook County Real Property Assessment Classification Ordinance and is located in Chicago, Hyde Park Township, Cook County.

The appellant contends both assessment inequity and overvaluation as the bases of the appeal.¹ In support of the assessment inequity argument, the appellant submitted information on three comparable properties described as two-story, mixed-use and multi-family buildings of frame or masonry construction. The comparables have the same neighborhood and classification codes as the subject. The comparables range in age from 86 to 128 years and contain from 2,552 to 5,043 square feet of building

¹ When the appellant completed section 2d of the residential appeal form, he checked the box indicating this appeal was based on unequal treatment in the assessment process. However, the appellant also submitted income and expenses for the subject property in order to show that it was overvalued. Despite the technical error, the Board herein will examine all data submitted.

area. Features of the buildings include two or four apartment units and an unfinished basement, either full or partial. The number of commercial units was not disclosed. One comparable has central air conditioning, and two have garages. The comparables have improvement assessments ranging from \$9,474 to \$20,665 or from \$3.71 to \$4.65 per square foot of building area. The subject's improvement assessment is \$12,691 or \$4.48 per square foot of building area.

The appellant's attorney also argued the subject's income and expenses indicate the subject should have a market value of (\$35,617) or (\$12.58) per square foot of living area, land included. In support of this argument, the appellant's attorney presented the subject's income and expenses for 2006 through 2008. For these three years, the subject had average gross income of \$3,673 and average allowable expenses of \$8,630. Counsel first determined the subject's stabilized net operating income was (\$4,956) and then developed a capitalization rate of approximately 13.9% to arrive at an indicated market value of (\$35,617).

Based on this evidence, the appellant's attorney requested the subject's total assessment be reduced to \$7,278 (\$2,495 for land and \$4,783 for the improvement).²

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$15,273 was disclosed. The subject's assessment reflects a market value of \$159,094 or \$56.20 per square foot of building area, land included, when applying the 2008 three year average median level of assessments for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 9.60% as determined by the Illinois Department of Revenue.

The board of review presented descriptions and assessment information on four comparable properties consisting of two-story, multi-family and mixed-use buildings of masonry construction. The board of review's comparable #4 is the same property as the appellant's comparable #2. The comparables all have the same neighborhood and classification codes as the subject. The buildings range in age from 105 to 130 years and contain from 1,464 to 4,212 square feet of building area. Each building has two or four apartment units, a commercial unit, and a partial unfinished basement. Two comparables have garages. These properties have improvement assessments ranging from \$11,055 to \$19,606 or from \$4.32 to \$7.55 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the

² The appellant's request for a reduced improvement assessment of \$4,783 equates to \$1.69 per square foot of building area.

parties and the subject matter of this appeal. The Board further finds a reduction in the subject's assessment is not warranted.

The appellant also argued overvaluation as an alternative basis of the 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). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted on this basis.

The Board finds the subject's total assessment of \$15,273 reflects a market value of approximately \$159,094 or \$56.20 per square foot of living area, land included, when applying the 2008 three year average median level of assessments for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 9.60% as determined by the Illinois Department of Revenue.

The appellant formulated an overvaluation argument using the subject's actual income for 2006 through 2008. The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income is 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:

[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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate through any documentation or an expert appraisal witness that the subject's actual income and expenses are 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 the expenses deducted to arrive at a net operating income reflective of the market and the property's

capacity for earning 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 did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds problematic the fact that the appellant's attorney developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion testimony of value for that client's property. (See 86 Ill.Admin.Code §1910.70(f)).

Based on this record, the Board finds a reduction to the subject's assessment based on overvaluation is not justified.

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 not met this burden.

Both parties presented assessment data on a total of six equity comparables. The board of review's comparable #4 is the same property as the appellant's comparable #2. The appellant's comparables #1 and #2 are much larger than the subject and received reduced weight in the Board's analysis. The board of review's comparable #1 is much smaller and also received reduced weight. The Board finds that the appellant's comparable #3 and the board of review's comparables #2 and #3 were very similar to the subject in size, location, design, building use, and foundation. In addition, the board of review's comparables #2 and #3 were most similar to the subject in age and had masonry exterior construction like the subject. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$9,474 to \$16,789 or from \$3.71 to \$4.79 per square foot of building area. The subject's improvement assessment of \$12,691 or \$4.48 per square foot of building area falls within the range established by the most similar comparables. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted on this basis.

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 Morris

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: August 23, 2013

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.