



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

APPELLANT: 119th & Cicero LLC
DOCKET NO.: 08-29001.001-C-1
PARCEL NO.: 24-28-201-068-0000

The parties of record before the Property Tax Appeal Board are 119th & Cicero LLC, the appellant(s), by attorney Steven B. Pearlman, of Steven B. Pearlman & Associates in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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: \$ 54,574
IMPR: \$ 0
TOTAL: \$ 54,574

Subject only to the State multiplier as applicable.

ANALYSIS

The subject consists of 57,920 square feet of land, with no improvements. The subject is classified as a 5-90 minor commercial improvement under the Cook County Classification of Real Property Ordinance. The subject had a partial total assessment of \$103,050 for tax year 2008, of which \$8,785 was for the purported minor improvement. These assessments were reflected on a printout from the Cook County Assessor's website, which was submitted by the appellant. The appellant argued that the subject should be classified as a class 1-00 vacant land property, and that the subject is inequitably assessed as the bases for this appeal.

In support of the classification ordinance, the appellant submitted various maps and color photographs of the subject. The maps show that the subject is surrounded by a commercial development with a home improvement store as the anchor. The photographs show that the subject is not developed, and contains no fence. Instead, the subject contains weeds and gravel.

In support of the equity argument, the appellant submitted ten vacant land properties suggested as comparable to the subject. These comparables range in size from 1,206 to 25,000 square feet of land, and have land assessments ranging from \$0.55 to \$0.88

per square foot. Based on this evidence, the appellant requested a reduction the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$103,050 was disclosed. In support of the subject's assessment, the board of review submitted raw sales data for seven sales comparables to show that the subject was not overvalued. The comparables are all vacant land that range in size from 13,504 to 1,001,880 square feet of land area. These comparables sold from March 2006 to October 2007 for between \$85,000 and \$7,438,500, or from \$4.99 to \$13.17 per square foot of land. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County Assessor's Office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further states that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

At hearing, the appellant reaffirmed the evidence previously submitted. The appellant also submitted the assessment history of the subject for the triennial spanning 2008, 2009, and 2010. This document was accepted into evidence, without objection from the board of review, and marked as "Appellant's Hearing Exhibit A." The subject's assessment history shows that the subject's market value increased from 2008 to 2009, and remained the same from 2009 to 2010. The appellant also requested three forms of relief. First, the appellant requested relief based on the uniformity and classification arguments set forth in the brief. Second, the appellant requested that the subject's market value be consistent throughout the entire triennial.

After reviewing the record and considering the evidence, the Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

The appellant argued that the subject's classification was inaccurate. "Subject to such limitations as the General Assembly may hereafter prescribe by law, counties with a population of more than 200,000 may classify or continue to classify real property for purposes of taxation. Any such classification shall be reasonable and assessments shall be uniform within each class." Ill. Const. of 1970 art. IX, § 4(b). "Classification refers to the categorizing of real property according to its use, for the purpose of determining at which percentage of fair market value the property should be assessed." People ex rel. Costello v. Lerner, 53 Ill. App. 3d 245, 250 (5th Dist. 1977) (citing People ex rel. Jones v. Adams, 40 Ill. App. 3d 189, 195 (5th Dist. 1976)). In accordance with Section 4(b) of Article IX of

the Illinois Constitution, Cook County classifies property within it, and applies different assessment levels to different classes of properties. The Illinois Constitution states that the classifications "shall be uniform within each class." The Illinois Appellate Court interpreted this state constitutional provision to mean that real property could be classified according to use. Costello, 53 Ill. App. 3d at 250. As detailed above, the subject was classified as a commercial property with a minor improvement for tax year 2008 (class 5-90). The appellant asserts that the subject is vacant land (class 1-00). Thus, the Board's decision rests on whether the subject is used for commercial purposes, or whether it is vacant land. Based on the evidence submitted by the parties, the Board finds that the appellant has shown that the subject's classification should be changed.

According to the Cook County Code of Ordinances "[r]eal estate used for commercial purposes means any real estate used primarily for buying and selling of goods and services, or for otherwise providing goods and services, including any real estate used for hotel and motel purposes." Cook Co., Ill., Code of Ordinances § 74-62(b). Using this definition, the Board finds that the subject is not used for commercial purposes, and is instead, vacant land. The photographs of the subject show that the subject contains nothing but weeds and gravel. The board of review provided no evidence regarding the subject's description or classification. Therefore, the Board finds that it is not used for commercial purposes, and that the subject shall be considered a class 1-00 property for this 2008 appeal only. As such, the Board will set the subject's improvement assessment at \$0, and decrease the assessment level used to calculate the subject's assessment from 38% to 22%.

The appellant contends unequal treatment in the subject's land assessment as the basis of this 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. Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989)); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing DuPage Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 654-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

The Board finds that the subject's assessment was only a partial assessment. Therefore the Board is unable to determine the subject's full assessment to fairly and accurately compare it to the comparables' assessments. Thus, the Board finds that the subject's land assessment is equitable, and a reduction is not warranted.

The Board does not find the appellant's remaining argument regarding the consistency of the subject's market value persuasive. No evidence was submitted by either party to support or discredit the subject's market value for tax year 2008. Moreover, this argument was raised for the first time at hearing, and the board of review was not given notice of the appellant's market value argument, nor an opportunity to intelligently respond. As such, the Board cannot make a finding of market value, and a reduction in the subject's assessment 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 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: November 22, 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.