



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

APPELLANT: Kowalski
DOCKET NO.: 08-29728.001-C-1
PARCEL NO.: 06-35-100-051-0000

The parties of record before the Property Tax Appeal Board are Kowalski, the appellant(s), by attorney Arnold G. Siegel, of Siegel & Callahan, 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: \$108,574
IMPR.: \$ 2,344
TOTAL: \$110,918

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 85,378 square feet of land that is improved with two improvements. The first improvement is a 54 year old, 12 unit motel with 3,379 square feet of building area. The second improvement is a 1080 square foot manager apartment unit. The appellant, via counsel, only addresses the first improvement. The appellant argued that there was unfair treatment in the assessment of the land, and that the subject's market value was not accurately reflected in its assessment.

In support of the land equity argument, the appellant submitted descriptive and assessment information on three properties suggested as comparables to the subject. Comparable #1 is vacant land, and Comparables #2 and #3 are improved with a class 2-02 dwelling and a class 2-03 dwelling, respectively. These properties had from 7,125 to 61,115 square feet of land, and land assessments ranging from \$0.24 to \$1.00 per square foot of land. The subject's land assessment is \$3.34 per square foot of land.

In support of the market value argument, the appellant submitted copies of Form 1120Ss and Form 8825s from the appellant's federal income tax returns for the subject property for 2007 and 2008, and an income capitalization analysis in a written brief. Also included are Income Statements for the subject for 2007 and 2008,

both of which were prepared by B & R Accounting and Tax. The appellant also included a 2007 Rent Roll describing the rental rates for the one and two bed rooms in the motel. The brief concludes that the subject's market value should not exceed \$85,981. Based on this evidence, 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 final assessment of \$110,918 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for four commercial properties within three miles of the subject. The data from the CoStar Comps service sheets states 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 from April 2003 to August 2008 in an unadjusted range from \$200,000 to \$1,200,000, or from \$2.67 to \$9.28 per square foot of land. The properties are all vacant land. The printouts also indicate that Comparables #1, #3 and #4 failed to include any real estate brokers for the parties involved in the transactions, while the parties in Comparables #2 used the same real estate broker.

Moreover, the board of review's memorandum stated that it was not intended to be an appraisal or an estimate of value, and should not be construed as such. It indicated that the information provided in the memorandum was collected from various sources and assumed to be factual, accurate, or reliable. However, the memorandum disclosed that the writer had not verified the information or sources referenced, and therefore, did not warrant its accuracy. Based on this evidence, the board requested confirmation of the subject's assessment.

In rebuttal, the appellant stated that the board of review failed to address the subject's land uniformity argument. The appellant then waived the previous request for an oral hearing, and re-affirmed the evidence previously submitted.

After reviewing the record, hearing the testimony, 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 contends unequal treatment in the subject's improvement 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 Du Page 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 date, the Board finds that the appellant has met this burden.

The Board finds that the appellant has failed to prove, by clear and convincing evidence, that the subject's land has been inequitably assessed. The appellant provided three comparables, none of which were the same classification as the subject under the Cook County Real Property Assessment Classification Ordinance. Therefore, these properties are not comparable to the subject, and a reduction is not warranted based on the appellant's land assessment equity argument.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 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 appellant submitted documentation showing the income of the subject property. The Board gives the appellant's argument little weight. In Springfield Marine Bank v. Prop. Tax Appeal Bd., 44 Ill.2d 428 (1970), the Illinois Supreme 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.

As the Court stated, actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant 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.

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. 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: September 21, 2012

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.