



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

APPELLANT: Nick Panomitros
DOCKET NO.: 08-29885.001-C-1
PARCEL NO.: 17-17-228-021-0000

The parties of record before the Property Tax Appeal Board are Nick Panomitros, 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: \$ 69,018
IMPR.: \$118,699
TOTAL: \$187,717

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 10,684 square foot parcel of land, that is improved with a 76-year old condominium building with commercial units on the first floor. The appeal is for the commercial space only. The appellant, via counsel, claimed that there was unfair treatment in the assessment process, and that the subject's market value is not accurately reflected in its assessment as the bases of this appeal.

In support of the equity argument, the appellant submitted website printouts from the Cook County Assessor's webpage showing assessment information for three properties suggested as comparables to the subject. These properties are all classified as 5-97 under the Cook County Classification of Real Property Ordinance, and are all in the subject's neighborhood. They contain from 12,480 to 14,608 square feet of building area, and range in age from 56 to 138 years old. The suggested comparables have improvement assessments ranging from \$1.44 to \$13.29 of building area, while, according to the appellant's brief, the subject's improvement assessment is \$16.23 per square foot of building area.

In support of the market value argument, the appellant submitted an affidavit with the subject's property manager named as the

affiant, wherein the affiant states that the back portion of the commercial space has been vacant since 2004, and that because of various negative characteristics, a new tenant has not been found. Also attached was a Vacancy-Occupancy Affidavit, a Rent Roll sheet, and an Income and Expense report for the subject. All of the documents are signed by the property manager and notarized. The appellant's brief concludes that, based on the foregoing evidentiary documents, the subject was 39% vacant in 2008, and its market value should be decreased accordingly. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$187,717 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 seven commercial properties located within eight miles of the subject. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the 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 stated 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.

The suggested comparables contained buildings that range in age from 36 to 120 years old, and in size from 9,680 to 12,000 square feet of retail area. However, the board of review's evidence did not state the age of Comparable #4. The buildings are either mixed use, apartment buildings, or condominium buildings with retail condominiums at the ground level. The properties sold from April 2001 to May 2009 in an unadjusted range from \$1,225,000 to \$5,075,000, or from \$104.17 to \$422.92 per square foot of building area, land included. The printouts also indicate that the sales described in Comparables #2 and #3 did not include the services of any real estate brokers, and that both parties used the same real estate broker in Comparable #4, and the same real estate broker in Comparable #7. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant waived the original 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.

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.

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 not met this burden.

The Board finds that the appellant has not proven, by clear and convincing evidence, that the subject has been treated unfairly in the assessment process. The website printouts submitted by the appellant state that the subject's improvement size is 67,500 square feet of building area, while the appellant's brief states that the subject's improvement size is 7,313. The suggested comparables submitted by the appellant all have an improvement size listed as well, and, unlike the subject, that is the improvement size that the appellant uses to calculate each suggested comparable's improvement assessment. By doing the calculations this way, the appellant is not "comparing apples to apples." To be consistent, the appellant would have to take the 67,500 square feet of building area for the subject, and divide that by the subject's improvement assessment. By doing so, the subject's improvement assessment becomes \$1.76 per square foot of building area.

The Board finds that the comparables submitted by the appellant were most similar to the subject in location, size, style, exterior construction, features, and age. 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 \$1.44 to \$13.29 per square foot of living area. The subject's improvement assessment of \$1.76 per square foot of living area is within the range established by the most similar comparables. Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement assessment is equitable, 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.



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: September 21, 2012



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.