



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

APPELLANT: Martin & Marbry, Inc.
DOCKET NO.: 08-30953.001-R-1
PARCEL NO.: 12-26-206-053-0000

The parties of record before the Property Tax Appeal Board are Martin & Marbry, Inc., the appellant, by attorney G. Terence Nader, of Schoenberg Finkel Newman & Rosenberg LLC 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: \$ 6,860
IMPR.: \$ 56,923
TOTAL: \$ 63,783

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 6,125 square feet of land that is improved with a 40 year old, three-story, masonry, multi-family building. The subject's improvement size is 4,914 square feet of building area, which equates to an improvement assessment of \$11.58 per square foot of building area. Its total assessment is \$63,783, which yields a fair market value of \$664,406, or \$135.21 per square foot of building area (including land), after applying the 2008 Illinois Department of Revenue three year median level of assessment for Class 2 properties of 9.60%. The appellant, via counsel, argued that there was unequal treatment in the assessment process of the subject's improvement, and also that the fair market value of the subject property was not accurately reflected in its assessed value as the bases of this appeal. In the alternative, the appellant's attorney argued that the assessment should be reduced pursuant to 35 ILCS 200/16-185.

In support of the equity argument, the appellant submitted descriptive and assessment information for five properties suggested as comparable to the subject. The comparables are described as two-story, masonry, multi-family dwellings. Additionally, the comparables range: in age from 39 to 41 years; in size from 4,704 to 5,598 square feet of living area; and in improvement assessments from \$9.33 to \$10.59 per square foot of living area. The comparables also have various amenities.

In support of the market value argument, the appellant submitted a rent roll, copies of Schedule Es from the appellant's federal income tax returns for the subject property for 2004 through 2006 and an income capitalization analysis in a written brief.

In support that the assessment should be reduced based on 35 ILCS 200/16-185, the appellant submitted a 2007 Property Tax Appeal Board decision that resulted in an assessment reduction to \$48,000 based on an agreement by the parties. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's total assessment of \$63,783 was disclosed. In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties suggested as comparable to the subject. The comparables are described as two-story or three-story, masonry, multi-family dwellings. Additionally, the comparables range: in age from 40 to 41 years; in size from 4,704 to 4,915 square feet of living area; and in improvement assessments from \$11.58 to \$11.90 per square foot of living area. The comparables also have several amenities.

The board of review also submitted a memo indicating that 35 ILCS 200/16-185 is inapplicable as the subject property is not owner-occupied. Based on this evidence, the board of review requested confirmation of the subject's improvement assessment. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant's attorney admitted the subject property is not owner-occupied, and stated that the appellant only seeks that the 2008 assessment match the 2007 assessment.

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.

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 finds that the evidence indicates a reduction is not warranted based on market value.

The appellant submitted documentation showing the historical income of the subject property. The Board gives the appellant's argument little weight. 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. Id. at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant's attorney 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 also 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 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 comparables #1, #2, #3 and #5 submitted by the appellant, as well as all of the comparables submitted by the board of review, were most similar to the subject in location, size, style, exterior construction, features, and/or 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 \$9.33 to \$11.90 per square foot of living area. The subject's improvement assessment of \$11.58 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.

Additionally, the Board finds that 35 ILCS 200/16-185 is inapplicable to the subject property and no reduction is 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy 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: May 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.