



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

APPELLANT: Eileen Cardascio
DOCKET NO.: 09-03693.001-R-1
PARCEL NO.: 06-07-223-031

The parties of record before the Property Tax Appeal Board are Eileen Cardascio, the appellant, by attorney Thomas J. Boyle of Neal, Gerber & Eisenberg, in Chicago, and the DuPage 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 DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$6,510
IMPR.: \$58,640
TOTAL: \$65,150

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with an 18-year-old condominium unit of brick construction containing 1,192 square feet of living area. The subject is located in Lombard, York Township, DuPage County.

The appellant's appeal as set forth in Section 2d of the Residential Appeal petition is based on "contention of law" and hand-written in was "property unit is 100% vacant." In support of this argument, counsel submitted a two-page brief and a "Vacancy Affidavit" signed by the appellant.

In the brief, counsel argued the subject's estimated market value of \$195,470 based on its assessment was excessive as it failed to account for the subject's 100% vacancy for all of 2009 due to the "owner's stay in a rehabilitation nursing home, the property has remained vacant since December 2007." These factual assertions were averred in the appellant's affidavit. Counsel then contends that "[c]onsistent with previous policies regarding 100% vacancy of properties, it is requested that a 20% occupancy factor be applied to this property's 2009 improvement assessment." There

is no factual support for the purported foregoing policy. In conclusion in the brief and based on an occupancy factor of 20%, the subject's improvement assessment should be reduced to \$11,728.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$65,150 was disclosed. The final assessment of the subject property reflects a market value of approximately \$195,880 or \$164.33 per square foot of living area including land using the 2009 three-year median level of assessments for DuPage County of 33.26%.

In support of the subject's assessment, the board of review presented its Addendum to Board of Review Notes on Appeal along with Exhibit 1 consisting of assessment equity and market value data on five comparable condominium units located in the subject's building. These units are each assessed identically to the subject property. These comparables sold between November 2006 and November 2007 for prices ranging from \$190,000 to \$220,000 or from \$159.40 to \$184.56 per square foot of living area including land.

Also in Exhibit 1, the assessor wrote that it "does not grant vacancy to residential properties." Based on the foregoing 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 parties and the subject matter of this appeal. The Board further finds a reduction in the subject's assessment is not warranted.

In essence the appellant has argued that the subject property's market value is not accurately reflected in its assessed valuation. When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. See National City Bank of Michigan/Illinois v. Property Tax Appeal Board 331 Ill.App.3d 1038 (3rd Dist. 2002). 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. 86 Ill.Admin.Code §1910.65(c). Having considered the evidence, the Board concludes that the appellant has not satisfied this burden and that a reduction is not warranted.

The appellant made a vacancy argument in the form of a brief written by counsel with supporting documentation. The brief indicated the subject's assessment reflects a market value of \$195,470. The brief relied solely upon a vacancy affidavit. Counsel indicated the subject's improvement assessment of \$58,640 should be reduced by an occupancy factor of 20% for a final improvement assessment of \$11,728 based upon a purported vacancy of 100% supported by the owner's vacancy affidavit. No data supported the contention that there was a "policy" to apply vacancy factors to residential properties such as the subject

under the circumstances averred by the appellant. The Board further finds no substantive explanation for the occupancy factor of 20% was given. The Board also finds the appellant submitted no evidence of market value or vacancy rates for similar type properties.

Furthermore, the Board finds the appellant agreed with the assessment of the subject property as reflected in the assessment and requested a reduction due to vacancy. The Board finds there is no evidence in the record to indicate the market value reflected in the assessment is not indicative of the subject's value in 2009.

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.

In summary, the appellant's attorney simply argued the subject's vacancy rate, applying the purported vacancy rate to the improvement assessment should justify a significant assessment reduction. As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the subject improvements were overvalued by a preponderance of the evidence and no reduction is 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: June 22, 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.