



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

APPELLANT: Kazimier Chlebek
DOCKET NO.: 09-23846.001-R-1
PARCEL NO.: 19-32-207-002-0000

The parties of record before the Property Tax Appeal Board are Kazimier Chlebek, the appellant, by attorney Brian P. Liston of Law Offices of Liston & Tsantilis, P.C., 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: \$2,656
IMPR.: \$59,156
TOTAL: \$61,812**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story mixed-use building of masonry construction containing 6,720 square feet of building area. The building is approximately 43 years old with six units and a partial unfinished basement. The property has a 6,250 square foot site and is located in Burbank, Stickney Township, Cook County. The property is a Class 2-12 mixed use commercial/residential building with apartment and commercial area totaling 6 units or less under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance"). Class 2-12 property had a 10% Ordinance level of assessment for the 2009 tax year.

The appellant's appeal is based on overvaluation with respect to the 2009 tax year. In support of this argument the appellant submitted information on four comparable sales. In the grid analysis, the appellant supplied minimal descriptive data with respect to the comparables providing only the age, lot size, building area, land to building ratio, sale date, sale price and price per square foot of building area. The appellant did submit printouts with respect to the sales. The comparables ranged in age from 43 to 89 years old. The buildings were two story structures that ranged in size from 2,912 to 11,780 square feet of building area. The sales occurred from October 2007 to May

2009 for prices ranging from \$115,000 to \$627,000 or from \$39.49 to \$70.86 per square foot of building area, including land.

The appellant also submitted an income analysis using the subject's income and expenses for 2008 and 2009 as reported on Schedule E of the appellant's federal income tax returns. The appellant arrived at a stabilized net income of \$21,746 and used a capitalization rate of 13.04% to arrive at an estimated value of \$166,737.

Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$16,674 to reflect a market value of \$166,740 or \$24.81 per square foot of building area, land included, when applying the Ordinance level of assessment for class 2 property.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$61,812 was disclosed. The subject's assessment reflects a market value of \$618,120 or \$91.98 per square foot of building area, including land, when applying the Ordinance level of assessments for class 2 property.

In support of the assessment the board of review provided information on four comparables to demonstrate the subject was equitably assessed. The comparables were located in Burbank and had the same classification and neighborhood codes as the subject property. The buildings ranged in size from 2,100 to 6,450 square feet of building area and ranged in age from 37 to 48 years old. Each comparable had a partial unfinished basement and one had central air conditioning. The comparables had improvement assessments ranging from \$29,266 to \$56,253 or from \$9.09 to \$13.94 per square foot of building area. The subject has an improvement assessment of \$59,156 or \$8.80 per square foot of building area.

The board of review also provided a list sales composed of class 2-12 properties under 48 years old, which include one sale that occurred in June 2008 for a price of \$700,000.

Based on this 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 the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); 86 Ill.Admin.Code

§1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted information on four alleged comparable properties to demonstrate overvaluation. The appellant failed to provide much by way of descriptive data to demonstrate that the comparables were similar to the subject property in location and physical characteristics so as to be indicative of the subject's fair cash value. The Board finds one of the comparables was similar to the subject in age; however, this comparable was improved with a building 75% larger than the subject property. The remaining comparables were 21 to 46 years older than the subject building. The record indicated that comparable #1 was 60% larger than the subject building, comparable #2 was 48% smaller than the subject building and comparable #3 was 57% smaller than the subject building. The Board finds these comparables are dissimilar to the subject property. Based on this record the Board finds the appellant failed to submit sufficient relevant and probative evidence of similar comparable sales to challenge the correctness of the assessment and to demonstrate the subject property was overvalued based on comparable sales.

The Board also finds the appellant's income analysis developed using the subject's actual income and expenses as reported on income tax returns is to be given no 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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, 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. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence; therefore, the Property Tax Appeal Board gives this evidence no weight.

The board of review evidence did include reference to one sale of a similar class property that occurred in June 2008 for a price of \$700,000, which tends to support the subject's market value as reflected by the assessment. The Board further finds the board of review submitted evidence that demonstrated the subject was equitably assessed. Based on this record the Board finds a change in the subject's assessment is not justified.

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.