



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

APPELLANT: Kishor Bhatt (A. Guerro)
DOCKET NO.: 09-25775.001-C-1
PARCEL NO.: 16-05-202-002-0000

The parties of record before the Property Tax Appeal Board are Kishor Bhatt (A. Guerro), the appellant; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction 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: \$34,000
IMPR.: \$38,057
TOTAL: \$72,057

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 12,500 square foot land parcel improved with a two-story, masonry, mixed-use building containing 15,900 square feet of building area according to the appellant. The improvement consists of four residential apartments above an 8,000 square foot commercial space and was built in 1923.

The appellant contends that the subject's market value is not accurately reflected in its land value or its improvement value due to lack of income and a subsequent fire as the basis of this appeal.

In support of the land argument, the appellant submitted a written brief arguing that in this depressed economic market, land values have decreased 10% to 12%. As the subject is located in a "crime infested" neighborhood, property values have decreased by a minimum of 25%. Accordingly, the subject's land value should be decreased by 25%. No further evidence was offered by the appellant in support of this argument. Based on this evidence, the appellant requested a reduction in the subject's land assessment.

In support of a reduction in the subject's improvement value, the appellant submitted: a rent roll for 2009 indicating that subject was 100% vacant; a handwritten Schedule E for the tax year 2009 with no identifying property location; a vacancy affidavit signed by the appellant stating the subject property was 100% vacant for the 2009 tax year; an affidavit signed by the appellant's neighbor indicating the subject property was 100% vacant for the 2009 tax year; an unexecuted Loss Adjustment Authorization form indicating a fire occurred on the premises on June 14, 2009; an invoice from A-Emergency Fire Board-up, Inc dated June 29, 2009; and a Chicago Police Department Incident Report indicating a fire occurred on the premises on June 14, 2009 due to arson. The appellant also included color photographs of the front and rear of the building dated September 2009 showing that the subject property was boarded up. The appellant asserts that the subject's improvement assessment should be at 7.6% of its full value due to this vacancy. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$118,572 was disclosed. Of this amount, \$34,000 was allocated to the land and \$84,572 was allocated to the improvement. The subject's total assessment reflects a market value of \$741,075 using the level of assessment of 16% for Class 3 property as contained in the Cook County Real Property Assessment Classification Ordinance. In support of the subject's assessment, the board submitted raw sales data on six properties suggested as comparable. They are mixed-use buildings containing between 6,400 and 11,264 square feet of building area, all located in Chicago within a two and one-half mile radius of the subject property. The sales occurred between March 2004 and November 2008 for prices ranging from \$450,000 to \$1,325,000 or from \$60.88 to \$118.69 per square foot, including land. No adjustments were made for location, size, age or amenities. In addition, the board of review submitted a map showing the location of the sale comparables in relation to the subject property, as well as a black and white photograph of the subject property. As a result of its analysis, the board 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.

When overvaluation is claimed the appellant has the burden of proving the value of the property 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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). 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

presented, the Board concludes that the evidence indicates a reduction is warranted.

The Board gives no merit to the appellant's argument that the subject's land value has arbitrarily decreased by 25%. The appellant failed to proffer any evidence to support this contention, such as recent appraisal or sale comparables. Without more detailed information, the Board is unable to evaluate whether the subject land has an excessive market value. Therefore, the Board finds the appellant has not met the burden of a preponderance of the evidence and a reduction is not warranted.

The appellant also submitted documentation showing the income, expense and vacancy of the subject property for the 2009 tax year. 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 based on vacancy can be useful when shown that they are reflective of the market. 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 income and/or vacancy is not warranted.

The Board finds that the appellant did submit, however, sufficient documentation indicating that a fire occurred on June 14, 2009, which rendered the subject property uninhabitable. The Board finds the appellant's Chicago Police Department Case Incident Report, supported by the invoice to board up the property as well as the claim for loss documentation, to be

persuasive evidence. Section 9-180 of the Property Tax Code provides in part:

"When... any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use." (35 ILCS 200/9-180).

As the fire occurred on June 14, 2009, the subject property was fit for occupancy only 165 days out of a 365-day year, or 45%. Therefore, the Board finds that the subject's improvement value should be pro-rated accordingly for the 2009 tax year and that an assessment 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.



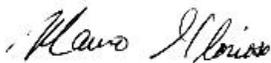
Chairman



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: 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.