



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

APPELLANT: J. Harrison, Trustee
DOCKET NO.: 09-27968.001-C-1
PARCEL NO.: 02-08-201-010-0000

The parties of record before the Property Tax Appeal Board are J. Harrison, Trustee, the appellant(s), by attorney Edward Larkin, of Larkin & Larkin in Park Ridge; 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: \$ 22,090
IMPR.: \$ 3,910
TOTAL: \$ 26,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 37,601 square foot parcel of land, which is improved with a commercial facility. At the time of this appeal, the subject was constructed for use as a go-kart track. The subject also has a storage facility. The subject's total assessment was \$60,116, which equates to a fair market value of \$240,464 when the 25% assessment level for class 5-97 property under the 2009 Cook County Classification of Real Property Ordinance is applied. The subject's land assessment is \$0.87 per square foot of land. The appellant, via counsel, argued that the subject's market value is not accurately reflected in its assessment, and that there was unequal treatment in the subject's land assessment as the bases of this appeal.

In support of the market value argument, the appellant submitted a cursory income analysis showing that the subject has operated at a loss in tax years 2007 through 2009. The appellant argued that the subject's lack of income is based on the appellant's inability to lease the subject for the entirety of the calendar year, as the subject's designed use as a go-kart facility is seasonal in nature. Moreover, the appellant argued that the subject had no tenants for tax years 2007 through 2010.

In support of the land uniformity argument, the appellant submitted five properties suggested as comparable to the subject. These properties are described as either vacant land, property with a special commercial improvement, an industrial improvement, or a one-story retail store. These properties have land assessments that range from \$0.05 to \$0.87 per square foot of land.

The appellant also submitted a decision from the Cook County Board of review which states that the subject's 2010 assessment was reduced to \$26,000. 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 \$60,116 was disclosed. In support of the subject's assessment, the board of review submitted a property characteristic printout for the subject, and raw sales data for five commercial properties. 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 are one-story, masonry, commercial office or retail buildings that range in age from 38 to 58 years old, and in size from 1,500 to 2,616 square feet of building area. However, the age for Comparable #1 was not disclosed. The properties sold from January 2004 to September 2008 in an unadjusted range from \$235,000 to \$645,000, or from \$156.67 to \$332.35 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant argued that the board of review's evidence should be given no weight because it did not address the appellant's arguments.

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). Furthermore, evidence showing that the subject received a reduction in a later assessment year is admissible, and can be a relevant factor in determining whether the assessment for the tax year at issue is grossly excessive. Hoyne Savings & Loan Ass'n v. Hare, 60 Ill. 2d 84, 90 (1974). However, when such evidence is taken into account, consideration must be given to any changes in the property that may have changed the subject's assessed value. Id. Having considered the evidence presented, the Board concludes that the evidence indicates a reduction is warranted.

The appellant submitted documentation showing the income of the subject property, and also argued that the subject has been vacant for the entirety of the previous three tax years. The Board gives the appellant's arguments 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. Therefore, the Board finds that the subject is not overvalued, and a reduction is not warranted based on market value.

The appellant also contends unequal treatment in the subject's land 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 Comparables #4 and #5 submitted by the appellant were most similar to the subject in location and size. As such, the Board finds that the appellant has not met the burden of clear and convincing evidence, as there is no range of equity comparables with which to compare the subject. Therefore, the Board finds the subject's land assessment is equitable and a reduction in the subject's land assessment is not warranted based on a lack of uniformity.

However, the Board finds that, under Hoyne, it can consider the 2010 reduction by the Cook County Board of Review. The Board further finds that the best evidence of the subject's 2009 assessment is the decision rendered by the Cook County Board of Review for the subject's 2010 assessment. As described above, the subject's assessed value under the Cook County Board of Review's 2010 decision is \$26,000.

Based on this record the Board finds that the subject property should have an assessed value of \$26,000 for tax year 2009. The subject's current assessed value is above this amount, and, therefore, the Board finds that a 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.

Donald R. Cuit

Chairman

Frank J. Huff

Member

Mark Morris

Member

J.R.

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: May 24, 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.