



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

APPELLANT: Richard Wyszynski
DOCKET NO.: 09-29003.001-R-1
PARCEL NO.: 17-06-326-003-0000

The parties of record before the Property Tax Appeal Board are Richard Wyszynski, the appellant; 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: \$ 10,254
IMPR.: \$ 47,616
TOTAL: \$ 57,870

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 3,016 square foot parcel of land improved with a 99-year old, 5,120 square foot, three-story, masonry, multi-family residence with five baths, five apartments and a full, unfinished basement. The appellant raised three issues: first, that there were errors in the property's descriptive data; second, that there was unequal treatment in the assessment process of the improvement; and third, that the subject is overvalued as the bases of this appeal.

In support of the first argument, the appellant indicated that the county had erroneously recorded that the subject's improvement contains warm air central heat and an enclosed porch area. Mr. Wyszynski testified that his building contained gas space heaters and provided photographic evidence in his pleadings to support his testimony. In addition, he stated that the subject has an open porch, while submitting photographs confirming this testimony.

In support of his equity argument, the appellant submitted a multiple-page grid analysis with assessment data and descriptions

for eight properties suggested as comparable to the subject. The evidence reflects that the appellant used assessment data from the assessor's database for the 2010 and 2011 tax years in support of his 2009 appeal. Black and white photographs of the subject property and the suggested comparables were also included. Data relating to basement area, number of fireplaces, air conditioning, and garage area was absent for property #8, which is a Class 3-15 apartment building as classified under the Cook County Real Property Ordinance Code. The remaining data reflects that the properties are located within a one and one-half mile radius of the subject and are improved with a three-story, masonry, multi-family dwelling. The eight properties range in number of apartments from six to twelve units and in age from 83 to 131 years, with either a full, finished or unfinished basement for six properties. In totality, the improvements range in size from 6,072 to 10,194 square feet of living area and in improvement assessment from \$4.41 to \$7.50 per square foot of living area after correcting the appellant's calculations. Moreover, these improvement assessments reflect data submitted for the 2010 tax year.

In support of the market value argument, the appellant submitted a letter dated June 25, 2009 and signed by Mary Jane Oliver on Prudential Premier Realty, LLC stationery. The letter states that: the value of the subject is approximately \$200,000, the interior and exterior of the property have been viewed; there is no central heating system; there are no laundry facilities; and there is no parking available for the tenants of the subject property. Ms. Oliver does not list any credentials or appraisal qualifications on the letterhead.

At hearing, the appellant testified that all of his suggested comparables have more square feet of living area than the subject property, yet are assessed at a lower assessment per square foot value. He also testified that Ms. Oliver is a realtor with "tons of experience". Moreover, he reiterated his written statements by explaining how his building provides decent, affordable housing for long-term, low-income tenants, thereby yielding the appellant a low annual income. He also testified as to the rental rates of neighboring multi-tenant properties as procured through his conversations with several of the tenants.

In addition, the appellant submitted: correspondence elaborating on the appellant's additional arguments that the subject is inequitably assessed when comparing the rental income from the subject to the income from other properties; black and white photographs of the subject property and several other properties in the subject's neighborhood; a rent roll listing three tenants for the subject property as well as a photocopy of the headings of two leases from May 1, 2006; a letter from the Cook County Assessor's Office dated September 16, 2003 detailing the guidelines for filing a residential multi-family assessment appeal; a list of quotes from various city and county officials regarding real estate taxes and rental housing; as well as data regarding rental income and sale data in the subject's

neighborhood from various sources, including the Multiple Listing Service. Of note, the photographs have typed descriptions of what the picture is depicting. Based upon these analyses, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$57,870, with an improvement assessment of \$47,616 or \$9.30 per square foot of living area. The board also submitted copies of the property characteristic printouts for the subject as well as four suggested comparables, all located within a one-quarter mile radius of the subject. The board's properties contain a three-story, masonry, multi-family dwelling with a full, finished or unfinished basement and four full baths. The improvements range: in age from 57 to 117 years; in size from 4,717 to 5,840 square feet of living area; and in improvement assessment from \$9.37 to \$10.98 per square foot of living area.

The board of review's representative testified that although the subject property does not have an enclosed porch, the assessor's records only include heated living area in its building square footage calculation. Accordingly, the board's four comparables are most similar to the subject in location, size, construction, and classification, and should be afforded greater consideration. As a result of its analysis, the board requested confirmation of the subject's assessment.

In written rebuttal, the appellant submitted correspondence and attachments arguing that the board of review's comparables are superior to the subject and do not address all comparability factors. He also included two lists, one with property addresses, permanent index numbers and sale prices for properties evidencing a general decline in market values, as well as a second one with properties suggested as being overassessed based on their sale prices as compared to their assessed values.

At hearing, Mr. Wyszynski stated the lack of modernization decreases the value of the subject and that he is performing a service by providing tenants with affordable housing. In addition, Mr. Wyszynski asserted that the income generated by the subject property is far less than the income from other properties in the neighborhood. He argued that based upon this, the subject's assessed value should be reduced.

The board of review's representative, Roland Lara, testified that the appellant's properties lack comparability due to the disparity in building area. He also argued that, based on assessment theory, a larger square footage will yield a lower assessment price per square foot. Mr. Lara asserted that the properties submitted by the board of review are more similar to the subject than the appellant's comparables. He also indicated that the market value of the subject property as indicated on the Prudential letterhead was not ascertained by a licensed appraiser. Moreover, the appellant failed to submit any tax returns as evidence of rental income and expenses for the subject

as well as the comparables properties. Therefore, Mr. Lara requested that the appellant be held to his burden of proof and the current assessment be upheld.

After considering the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter 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. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. Mathematical equality in the assessment process is not required. A practical uniformity, rather than an absolute one is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395, 169 N.E.2d 769 (1960). After hearing the testimony and considering the evidence submitted, the Board finds that the appellant has not met this burden.

In totality, the parties submitted 12 equity comparables. The Board finds that the board of review's four comparables are most similar to the subject. These four comparables contain a three-story, masonry, multi-family dwelling located within a close proximity to the subject. The improvements range: in age from 57 to 117 years; in size from 4,717 to 5,840 square feet of living area; and in improvement assessment from \$9.37 to \$10.98 per square foot of living area. Further, these comparables contain a full, finished or unfinished basement and hot water/steam heat. In comparison, the subject's improvement assessment of \$9.30 per square foot of living area falls below the range established by these comparables. The Board further finds that although the evidence reflects that the subject's improvement does not include the heating system reflected in the assessor's records, the similarities of the board's comparables outweigh this minor difference. Additionally, the unrebutted testimony of the board of review's representative indicated that only heated living area is included in the assessor's calculation of assessment per square foot of living area, therefore, whether the appellant's porch is open has little bearing on the equity analysis.

The Board accorded less weight to the appellant's properties due to a disparity in location, design, size and use as at least one property contains more than six apartment units as reflected in the appellant's data. Moreover, the appellant's evidence reflected assessment data from the 2010 and 2011 assessment years when the valuation date in question is January 1, 2009. The appellant's rebuttal evidence also included assessment data from 2012 as well as new sales evidence that may not be considered in the Board's analysis (86 Illinois Administrative Code Section 1910.66 (c)). Therefore, the Board finds no reduction is warranted as to this issue raised by the appellant.

As to the appellant's second issue, 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); 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.AdM.Code 1910.65(c)). Having considered the evidence presented, the Board finds that the appellant has not met this burden and that a reduction is not warranted.

In determining the fair market value of the subject property, the Board finds the appellant failed to submit sufficient evidence to show the subject was overvalued. The Board finds the appellant's evidence lacks: the credentials of Mary Jane Oliver of Prudential Premier Realty, LLC showing she is qualified to appraise the subject property at a value of \$200,000; the experience of this individual; any evidence of comparables sales used in establishing the subject's value; any adjustments made to these sales; the reasoning for these adjustments; and testimony as to how she arrived at these conclusions.

Additionally, the appellant submitted partial documentation showing the income of the subject property and suggested comparables. 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 provided some information from the Multiple Listing Service, other data was gathered from his interviews with tenants in neighboring buildings. Accordingly, 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.

Accordingly, in determining the fair market value of the subject property, the Board finds that the appellant failed to submit sufficient evidence to show the subject was overvalued. Therefore, the Board finds that the appellant has not met its burden by a preponderance of the evidence and that the subject does not warrant a reduction based upon the market data submitted into evidence.

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 M. Louie

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: January 31, 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.