



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

APPELLANT: John J. Nowakowski
DOCKET NO.: 09-30215.001-R-1
PARCEL NO.: 30-08-308-034-0000

The parties of record before the Property Tax Appeal Board are John J. Nowakowski, the appellant(s); 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: \$2,540
IMPR.: \$20,740
TOTAL: \$23,280

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story, mixed-use commercial/residential dwelling of masonry construction containing 4,938 square feet of living area. The dwelling is 55 years old. Features of the dwelling include three units, a partial unfinished basement, three and one-half baths, and one and one-half car garage. The appellant argued both unequal treatment in the assessment process and that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of these arguments, the appellant submitted descriptions on a total of three comparable properties suggested as comparable and located on the same street as the subject. The properties are described as two-story, masonry, mixed-use dwellings with between two and four units. The properties range in improvement assessments from \$4.26 to \$6.49 per square foot of living area. The subject's improvement assessment is \$4.20 per square foot of living area. The appellant also included interior and exterior photographs of the subject and exterior photographs of the three equity comparables.

The appellant also submitted Schedule E's from the appellant's federal income tax returns for the subject property for 2007 through 2009, a copy of an apartment lease for the subject, and

market value projections based upon vacancy rates completed by the appellant.

At the hearing, the appellant argued that the subject property was over assessed when compared to other properties in the area. The appellant asserted that the equity comparables that were submitted were based on proximity to the subject and not square footage. In addition, the appellant asserted that the real estate market has declined and that this has affected the subject's market value. The subject property is located in a "depressed area" that includes a high rate of vacancy. The vacancy rate for the subject property in 2009 was 75%. Lastly the appellant testified that the subject sustained storm damage to the structure, however, such damage occurred before 2009.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$23,280 was disclosed. This assessment reflects a market value of \$261,573 using the Illinois Department of Revenue's 2009 three-year median level of assessment for class 2 property of \$8.90%. The board of review presented descriptions and assessment information on the four comparable properties consisting of two-story, masonry, mixed-use dwellings located within the subject's neighborhood. The properties range: in age from 46 to 59 years; in size from 2,990 to 5,497 square feet of building area; and have improvement assessment from \$4.20 to \$5.61 per square foot of living area. The board of review also submitted a sale price of \$215,000 and sale date of August 2006 for comparable #3. 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 a reduction in the subject's assessment is not warranted.

The appellant contends unequal treatment in the subject's improvement assessment as the basis of the 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 (1989). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The Board finds the comparables submitted by the board of review and the appellant were most similar to the subject in location, style, exterior construction, features, and age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$4.26 to \$5.61 per square foot of living area. The subject's improvement assessment of \$4.20 per square foot of living area is below the range established by the comparables. After considering adjustments and the differences in both parties' comparables when compared to

the subject, the Board finds the subject's improvement assessment is equitable and a reduction in the subject's assessment is not warranted.

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 (3d Dist. 2002; Winnbago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d (2d 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 in the subject's assessment is warranted.

The appellant submitted documentation showing the income of the subject property. 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 property regarded as the most significant element in arriving at a "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. 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 collections 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 expenses is not 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

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: September 21, 2012

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.