



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

APPELLANT: Lunt Investment
DOCKET NO.: 09-33507.001-I-1
PARCEL NO.: 07-33-201-075-0000

The parties of record before the Property Tax Appeal Board are Lunt Investment, the appellant(s), by attorney David R. Bass, of Field and Goldberg, LLC in 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: \$ 20,250
IMPR.: \$ 123,845
TOTAL: \$ 144,095**

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2009 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a 21,600 square foot parcel of land improved with an 36-year old, one-story, masonry, industrial building. The property is located in Schaumburg,

Schaumburg Township, Cook County. The property is a class 5-93 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. The appellant lists the subject's as containing 9,690 square feet of building area and includes a statement disclosing the appraisal considers the subject to be in average condition. However, the appellant did not submit this appraisal or any further documentation evidencing the subject's size.

In support of the market value argument, the appellant submitted information on five sale comparables. In addition, the appellant submitted 2005 through 2009 income and expense statements. The appellant's attorney submitted a brief applying an attorney developed capitalization rate to the subject's actual income to arrive at an attorney estimated value for the subject.

In addition, the appellant argues that the subject's subsequent reduction in 2010 should apply to the 2009 assessment. In support of this proposition, the appellant's counsel cited Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974) and 400 Condominium Association v. Tully, 79 Ill.App.3d 686, 398 N.E.2d 951 (1st Dist. 1979).

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$114,094. The subject's assessment reflects a market value of \$576,376 when applying the Cook County Ordinance level of assessment for class 5 property of 25%. The board of review lists the subject as containing 10,208 square feet of building area and included a sketch of the subject to support this size.

In support of its contention of the correct assessment the board of review submitted information on five sale comparables.

Conclusion of Law

As to the subject's size, the Board finds the appellant failed to submit sufficient evidence to show the subject's size is incorrectly listed by the county. Moreover, the Board finds the board of review included a sketch of the subject showing its dimensions. Therefore, the Board finds the subject contains 10,208 square feet of building area which reflects a market value of \$56.46 per square foot of building area.

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. 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 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 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 attorney 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 and, therefore, the Board gives this argument no weight and that a reduction based on the subject actual income is not warranted.

The parties also presented 10 sales comparables. The Board finds the best evidence of market value to be appellant's comparables #2 and #5 and the board of review's comparable #5. They sold between September 2008 and January 2011 for prices ranging from \$590,000 to \$875,000 or from \$25.00 to \$59.33 per square foot of building area. The subject's assessment reflects a market value of \$56.46 per square foot of living area which falls within the range established by the best comparables in this record. Based on this record and after adjustments to the comparables the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject's improvement was overvalued and a reduction in the subject's assessment is not justified.

In addition, the Board gives no weight to the appellant's reliance regarding the appellant's contention of law referencing Hoyne and 400 Condominium Association, [citations omitted]. The Board finds in the recent decision of Moroney & Co. v. Property Tax Appeal Board, 2013 IL App (1st) 120493, 2 N.E.3d 522, the Court at ¶46 did not perceive Hoyne and 400 Condominium as standing for the proposition that "subsequent actions by assessing officials are fertile grounds to demonstrate a mistake in a prior year's assessments." In Moroney, the Court wrote in pertinent part:

... in each of those unique cases, which are confined to their facts, there were glaring errors in the tax assessments -- in Hoyne, the assessment was increased on a property from \$9,510 to \$246,810 in one year even though no changes or improvements to the property had occurred (Hoyne, 60 Ill.2d at 89), and in 400 Condominium, assessments on a garage were assessed separately from the adjoining condominium in violation of the Condominium Property Act (400 Condominium, 79 Ill.App.3d at 691). Here, based upon the evidence that was submitted, there is no evidence that there was an error in the calculation of the 2005 assessment. Rather, the record shows that the 2005 assessment was properly calculated based on the market value of the property.

The Property Tax Appeal Board finds the appellant presented no credible evidence showing there were unusual circumstances present in this 2009 appeal relative to the establishment of the subject's assessment for the 2010 tax year.

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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: December 19, 2014

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.