



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

APPELLANT: Don Ophus
DOCKET NO.: 09-35320.001-C-1 through 09-35320.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Don Ophus, the appellant(s), by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
09-35320.001-C-1	03-30-406-002-0000	24,218	307	\$24,525
09-35320.002-C-1	03-30-406-003-0000	22,640	279	\$22,919
09-35320.003-C-1	03-30-406-016-0000	21,875	636	\$22,511
09-35320.004-C-1	03-30-406-029-0000	67,681	176,066	\$243,747

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 four parcels of land totaling 43,653 square feet and improved with a 61-year old, one-story,

multi-tenant, commercial building. The property is located in Wheeling Township, Cook County. The property is a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an Income Analysis Consulting Report undertaken by Ronda Sandic, Gary M. Skish, and Gary T. Peterson with First Real Estate Services, Ltd. The report indicates Sandic, Skish, and Peterson are State of Illinois certified real estate appraisers and that Peterson holds the MAI designation. The analysis indicated the subject has an estimated market value of \$870,000 as of January 1, 2007. The report utilized an income analysis to estimate the market value for the subject property. This consulting report lists the subject as containing 18,628 square feet of gross leasable area. The report does not indicate if this is the full size of the building or if there are common areas that are not leasable.

In describing the income analysis, the appraisers analyzed the rent of six properties. The consulting report provides limited information on these comparables and lists the lease dates only as current. The rents range from \$10.00 to \$15.00 per square feet of rentable area. The appraisers reviewed the subject's current income statement to conclude a rent for the subject of \$11.12 per square foot. The appraisers estimated a market rent for the subject of \$12.00 per square foot. Vacancy and collection were estimated at 10%. This reflects an effective gross income of \$201,182. Stabilized expenses were estimated at \$50,482 for a net operating income of \$150,700. Using the band of investment method and a review of market surveys, a capitalization rate of 9.5% estimated. This rate was then loaded to account for real estate taxes to estimate a value based on the subject's income of \$870,000, rounded.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$313,702. The subject's assessment reflects a market value of \$1,254,808 using the Cook County Ordinance level of assessment for class 5 property of 25%.

In support of its contention of the correct assessment the board of review submitted seven sales comparables. These properties are retail/auto repair buildings that range in size from 1,800 to 13,267 square feet. They sold from July 2004 to July 2009 for prices ranging from \$104.17 to \$294.44 per square foot of building area. The board of review lists the subject's size as

20,559 square feet of building area and included a diagram of the subject's perimeter.

Conclusion of Law

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellant's economic analysis flawed in regards to its lack of market sales data. This report did not include any market sales or justify why sales were not included within the analysis. In contrast, the board of review submitted seven sales comparables; establishing that there is a market for this type of building.

The court has held that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law." Cook Cnty. Bd. of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3d 472 at 484 (1st Dist. 2008). The Illinois Appellate Court recently revisited this issue in Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" case). In Sears, the court stated that, while the use of only one valuation method in an appraisal is not inadequate as a matter of law, the evidence must support such a practice and the appraiser must explain why the excluded valuation methods were not used in the appraisal for the Board to use such an appraisal. Id. at ¶ 29.

In this case, the appraisers provided no plausible reasons for excluding these valuation methods. Therefore, the Board finds that reliance on the appellant's economic analysis would be deficient as a matter of law. Moreover, the Board finds the board of review's comparables #1, #3, #4, and #6 are similar to the subject and most reflective of the subject's lien date. These properties support the subject's assessment and no reduction is justified.

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: May 22, 2015



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.