



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

APPELLANT: RTL Enterprises, LLC
DOCKET NO.: 10-20414.001-R-1
PARCEL NO.: 23-13-403-035-0000

The parties of record before the Property Tax Appeal Board are RTL Enterprises, LLC, the appellant(s), by attorney Richard J. Caldarazzo, of Mar Cal Law, 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:

LAND: \$ 3,898
IMPR.: \$ 34,345
TOTAL: \$ 38,243

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 7,425 square foot parcel of land improved with a 39 year old, two-story, apartment building containing 5,292 square feet of building area.

The appellant argued 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 bases of the appeal.

In support of the equity argument, the appellant submitted assessment data for two properties located within the subject's neighborhood. These properties are described as apartment buildings. The properties range are 44 and 133 years old and

contain 2,800 and 5,432 square feet of building area. The properties have improvement assessments of \$5.50 and \$6.14 per square foot of building area. The subject's improvement assessment is \$6.49 per square foot of building area. Based upon this data, the appellant requested a reduction in the subject's assessed value

In support of the market value argument, the appellant submitted a copy of the Schedule E's from the appellant's federal income tax returns for the subject property for 2008 to 2010 and an income/expense analysis which derived a market value for the subject of \$317,170. In addition, the appellant submitted a signed occupancy-affidavit stating that the subject was vacant for 19% of the 2010 tax year. Based upon this data, the appellant requested a reduction in the subject's market value.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$38,243 for the tax year 2009. The subject's assessment reflects a market value of \$429,697 or \$81.20 per square foot of building area using the Cook County Ordinance Level of Assessment for Class 2, residential property of 8.90%.

In support of the subject's assessment, the board of review submitted descriptive and assessment information for four properties which includes one property located on the same block as the subject. The comparables range in age from 38 to 39 years and contain between 5,292 and 5,904 square feet of building area. The comparables' improvement assessment range from \$6.79 to \$7.72 per square foot of building area. The comparables also have several amenities. Based on this evidence, the board of review requested confirmation of the subject's improvement assessment.

At hearing, the appellant's attorney, Ms. Lisa Perna, reviewed the evidence submitted. The board of review analyst, Mr. Roland Lara, testified that the appellant's vacancy argument is incorrect because the subject's vacancy was not because the subject was uninhabitable for occupancy and therefore, no vacancy relief should be granted. In addition, Mr. Lara noted that the appellant's figures in their income/expense analysis are not documented. Lastly, Mr. Lara noted that the appellant's comparables differ in size and age from the subject.

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.

As to the market value argument, 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. The appellant's brief and evidence only utilized the subject's actual income and expenses and vacancy and without the use of market data, 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.

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 not warranted.

The Board finds that the appellant submitted insufficient documentation to show that the subject was uninhabitable or unfit for occupancy as required by Sections 9-160 and 9-180 of the Property Tax Code, Sections 9-160 and 9-180 of the Property Tax Code provide in part:

The owner of the property on January 1 shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued for from the date the new or added improvement was inhabitable and fit for occupancy or fore intended customary use to December 31 of that year.." (35 ILCS200/9-180).

35 ILCS 200/9-180. The appellant indicated that the subject was 19% vacant for the 2010 tax year and therefore, the subject is incorrectly assessed based on this vacancy. The Board finds no evidence in the record that the subject's assessment is incorrect when vacancy is considered. The mere assertion that vacancies in a property exist, does not constitute proof that the assessment is incorrect or that the fair market value of a property is negatively impacted. There was no showing that the subject's market value was impacted by its vacancy during 2010. Furthermore, the appellant failed to show that the subject was not uninhabitable or unfit for occupancy. The appellant merely stated that the subject was not occupied/vacant and therefore, a reduction is not warranted based on the appellant's argument.

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 PTAB finds the appellant has not met this burden

The Board finds that comparables submitted by the board of review and comparable #1 submitted by the appellant were most similar to the subject in location, size, style, features, and/or 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 range from \$5.50 to \$7.72 per square foot of building area. The subject's improvement assessment of \$6.49 per square foot of building area is within the range established by the most similar comparables. Therefore, after considering adjustments and differences in both parties' comparables when compared to the subject, the Board finds that the subject's improvement assessment is equitable, and a reduction in the subject's assessment 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.

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: January 24, 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.