FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: First Midwest Bank Land Trust #7374
DOCKET NO.: 10-21741.001-R-1 through 10-21741.004-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are First Midwest Bank Land Trust #7374, the appellant, by attorney Michael E. Crane of Crane & Norcross, 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
10-21741.001-R-1	28-11-126-025-0000	3,937	20,546	$24,483
10-21741.002-R-1	28-11-126-026-0000	3,937	11,032	$14,969
10-21741.003-R-1	28-11-126-027-0000	3,937	11,032	$14,969
10-21741.004-R-1	28-11-126-028-0000	3,937	392	$4,329

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story commercial building that contains 2,806 square of building area situated on 12,000 square feet of land area. The subject property is located in Bremen Township, Cook County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted photographs, the subject's 2010 rent roll, a letter from a state licensed appraiser and an income analysis prepared by legal counsel. In developing the income analysis, appellant's counsel utilized the subject's actual reported gross annual rental income of $20,400. Counsel next deducted 25% or $5,100 for allowable expenses to arrive at a net income of $15,300. Counsel next capitalized the net income by a rate of 11% to arrive at an indicated value under the income approach of $139,091. The letter from the appraiser, Joseph T. Thouvenell of Madison Appraisal, LLC, indicates the subject's income and expenses were considered and opined they are within the current market range for similar types of properties. The appraiser also opined that an appropriate capitalization rate for similar properties is 10.5% to 11.5%. The opinion letter did not cite any similar rental comparables demonstrating the subject's

purported income and expense data used by counsel was reflective of the market or any calculations pertaining to a market capitalization rate.

The appellant also submitted a copy of the final decision issued by the Cook County Board of Review establishing a total assessment for the subject parcels of $58,750, which reflects an estimated market value of $235,000 when applying the Cook County Real Property Assessment Classification Ordinance level of assessment for Class 5-17 property of 25%. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the income analysis.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property as required by section 1910.40(a) of the rules of the Property Tax Appeal Board.

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 no reduction in the subject's assessment is warranted.

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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); 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 has not met the burden of moving forward and no reduction in the subject's assessment is warranted based on this record. In Commonwealth Edison Company v. Property Tax Appeal Board, 378 Ill.App.3d 901 (2nd Dist. 2008), the court held the appellant never carried its burden of production on such claim and never shifted the burden to the board of review to support its position on the value of the subject property, citing section 1910.63 of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.63(a)).

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach prepared by legal counsel using the subject's actual income and expenses unconvincing and not supported by any credible market evidence in the record. An income analysis using the subject's actual income and expenses is unpersuasive. 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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431. The appellant attempted to demonstrate through a valuation expert that the subject’s actual income and expenses are reflective of the market. However, in order to demonstrate or estimate the subject’s market value using an income approach, as the appellant's counsel attempted, the taxpayer must establish through the use of market derived comparable data, the market rent, vacancy and collection losses and expenses used to arrive at a net operating income reflective of the market and the property's capacity for earning income. Further, the appellant must establish through the use of market data a market derived capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence. The Board finds the letter from the appraiser is lacking any market data to support the opinion and is therefore not credible. As a result, the Property Tax Appeal Board gives this argument no weight.

The Board further finds it problematic the fact that appellant's counsel developed the "income analysis" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective value evidence for that client's property.

In conclusion, no change in the assessment of the subject s warranted based on the appellant submission 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: August 23, 2013

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.