



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

APPELLANT: Patrick Dolan
DOCKET NO.: 10-22311.001-C-1
PARCEL NO.: 28-31-200-006-0000

The parties of record before the Property Tax Appeal Board are Patrick Dolan, the appellant, 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 a reduction 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: \$16,679
IMPR.: \$52,830
TOTAL: \$69,509

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with two, two-story apartment buildings with a combined building area of 11,424 square feet. Each building has 10 units and the buildings are 46 years old. The property is located in Tinley Park, Bremen Township, Cook County. The property is classified as a class 3-14 property under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance").

The appellant contends the assessment of the subject property is inequitable and also argued overvaluation based on an analysis of the subject's net operating income and expenses. In support of the assessment inequity argument the appellant submitted descriptions and assessment information on three comparables. The data provided by the appellant indicated the comparables had improvement assessments ranging from \$4.25 to \$4.99 per square foot of building area.

The appellant also submitted copies of the subject's income and expenses as reported on Schedule E for 2008 and 2009 as well as the subject's 2010 rent roll through August. Using this information the appellant calculated a net operating income of \$74,250, which was capitalized using a 14.21% capitalization rate to arrive at an estimated market value of \$522,519. Applying the 2010 Ordinance level of assessment of 13% for class 3-14 property to this estimate of market value the appellant arrived at an assessment request of \$67,928.

On the petition the appellant also made reference to an appeal of the subject property before the Property Tax Appeal Board for the 2009 tax year under Docket No. 09-21576.001-C-1. In that appeal the Property Tax Appeal Board issued a decision reducing the subject's assessment to \$85,550.¹

The appellant submitted a copy of the decision issued by the board of review establishing a total assessment of \$74,506. The appellant also indicated the subject had an improvement assessment of \$57,827 or \$5.06 per square foot of building area. Based on this evidence the appellant requested the subject's assessment be reduced.

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.

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 the evidence in the record supports a reduction in the subject's assessment.

The appellant contends in part assessment inequity 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 assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data the Board finds a reduction is warranted.

¹ For the 2009 tax year class 3 property had an Ordinance level of assessment of 16% of market value.

The appellant in this appeal submitted assessment information on three assessment comparables to demonstrate the subject was inequitably assessed. These comparables had improvement assessments that ranged from \$4.25 to \$4.99 per square foot of building area. The subject has an improvement assessment of \$5.06 per square foot, which is above the range established by the comparables.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses unconvincing and not supported by market derived evidence in the record. 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.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, 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. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence; therefore, the Property Tax Appeal Board gives this aspect of the appellant's argument no weight.

The Board further finds problematic the fact that appellant's counsel developed the "income approach" 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 evidence of value for that client's property.

The board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's argument as required by section 1910.40(a) of the rules of the Property Tax Appeal Board and is found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a) & §1910.69(a)). Based on the equity comparables in this record the Property Tax Appeal Board finds a reduction in the subject's assessment 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy 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: August 22, 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.