



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

APPELLANT: Omar Ahmad
DOCKET NO.: 10-23885.001-C-1 through 10-23885.003-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Omar Ahmad, the appellant(s), by attorney Samuel J. Macaluso, of Sam D. Macaluso & Associates, Inc. in Countryside; 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
10-23885.001-C-1	31-35-100-007-0000	21,906	18,974	\$ 40,880
10-23885.003-C-1	31-35-100-056-0000	18,285	228	\$ 18,513

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 53,588 square feet of land, which is improved with a 49 year old, one-story, masonry, commercial retail building. The subject's improvement size is 8,605 square feet of building area, and its total assessment is \$59,393. This assessment yields a fair market value of \$237,572, or \$27.61 per square foot of building area (including land), after applying the 25% assessment level for commercial properties under the 2010 Cook County Classification of Real Property Ordinance. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value, that the second parcel in this appeal is incorrectly classified, and that the subject is entitled to vacancy relief as the bases of this appeal.

In support of the market value argument, the appellant submitted evidence showing that the subject sold in October 2010 for \$52,500. This evidence included a settlement statement, a printout from the Multiple Listing Service, and a printout from the Cook County Recorder of Deeds' website. Furthermore, the appellant's pleadings state that the sale was not between related parties, that the subject was advertised for sale on the open market, that the parties used a real estate broker, and that the sale was pursuant to a foreclosure.

In support of incorrect classification argument, the appellant argued that the rear parcel of land, which has Property Index Number ("PIN") 31-35-100-056-0000, should be classified as a 1-00 property (vacant land), and not as a 5-90 property (commercial minor improvement), as it currently is classified as by the Cook County Assessor. The appellant submitted a survey and a color photograph dated May 25, 2011 of PIN -056, and argued that it is not a commercial lot, and has no street frontage, and no water or sewer services.

In support of the vacancy argument, the appellant argued that the subject was vacant and uninhabitable for all of tax year 2010. The appellant submitted building permits, color photographs of the subject's interior, and affidavits attesting to the subject's vacancy and uninhabitability for tax year 2010. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$59,393 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for five commercial retail buildings located within 15 miles of the subject. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County Assessor's Office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further states that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The comparables are described as commercial retail buildings. Additionally, the comparables are from 66 to 90 years old, and have from 2,250 to 41,362 square feet of building area. The comparables sold between November 2006 and December 2008 for \$180,000 to \$2,500,000, or \$37.50 to \$118.87 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant reaffirmed the evidence previously submitted. The appellant also submitted an appraisal not previously submitted. The appraisal does not include page numbers, but under a section titled "Description of the Improvements" and subsection "Condition," the appraiser noted that "[p]ler the owner . . . [s]ince purchase . . . [t]he metal building situated on the rear site has been demolished and hauled away."

At hearing, the appellant's attorney, Samuel Macaluso, reaffirmed the evidence previously submitted. Mr. Macaluso also argued that Senate Bill 3334 mandates that the Property Tax Appeal Board (the "Board") take compulsory sales into consideration in making its decisions. Upon questioning from the Board, Mr. Macaluso was unable to indicate where in Senate Bill 3334 the Board was required to consider the compulsory sale of the subject. Mr. Macaluso was only able to show where the statute said the Board must consider compulsory sales of comparable properties. The Board then asked how Senate Bill 3334 was relevant. Mr. Macaluso responded that it was relevant because he had submitted comparable sales for the Board's consideration. The Board then asked where the comparable sales could be found in the evidence submitted by the appellant. Mr. Macaluso seemed surprised that the Board had not received the comparable sales submitted by the appellant, and searched for them in his own file, but to no avail, as the comparable sales information was not there either. Mr. Macaluso then admitted that Senate Bill 3334 was not relevant to this appeal.

The Board then asked Mr. Macaluso to cite his legal authority for requesting a reduction based on vacancy. Mr. Macaluso responded that he did not know because he did not have "all the rules in front of" him at that moment. The Board then asked Mr. Macaluso whether the appellant owned the subject as of January 1, 2010. He responded that the appellant did not own the property on the lien date.

Mr. Macaluso then questioned William P. Neberieza, S.R.A., the appraiser who completed the appellant's appraisal submitted in rebuttal. Mr. Neberieza's testimony was confined to his own personal knowledge and observations of the subject, and did not include any testimony regarding the subject's market value. Mr. Neberieza's testimony simply reaffirmed the descriptive information found in the appraisal. Mr. Neberieza did testify that the rear lot did not include any improvements on the date of his inspection, which was August 27, 2013.

The board of review rested on the evidence previously submitted.

In rebuttal, Mr. Macaluso argued that the board of review's comparables were not similar to the subject for various reasons.

After reviewing the record, considering the evidence, and hearing the testimony, the Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

Initially, the Board finds that appellant's appraisal submitted in rebuttal cannot be considered when valuing the subject in this appeal under the Official Rules of the Property Tax Appeal Board. 86 Ill. Admin. Code § 1910.66(c) ("Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence."). Therefore, the appraisal was given no weight in

making a value determination in this decision. The appraiser's observations, however, were considered in regards to the appellant's remaining arguments on appeal.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). "[A] contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, (citations) but would be practically conclusive on the issue of whether an assessment was at full value." People ex rel. Korzen v. Belt Ry. Co. of Chi., 37 Ill. 2d 158, 161 (1967).

In addressing the appellant's market value argument, the Board finds that the sale of the subject in October 2010 for \$52,500 was a "compulsory sale." A "compulsory sale" is defined as:

(i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Bd. of Educ. of Meridian Cmty. Unit Sch. Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 961 N.E. 2d 794, 802 (2d Dist. 2011) (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 211 (2d Dist. 1979)).

However, when there is a recent sale of the subject, and that sale is a compulsory sale, the Board may consider evidence which would show whether the sale price was representative of the

subject's fair cash value. Calumet Transfer, 401 Ill. App. 3d at 655-56. In this case, the appellant did not submit any such evidence to show that the sale of the subject in October 2010 for \$52,500 was at its fair cash value. Such evidence could have included the descriptive and sales information for recently sold properties that are similar to the subject. See id. at 656. Since there is no evidence that the sale price of the subject was at its fair cash value, the Board finds that the subject is not overvalued and a reduction is not warranted based on overvaluation.

In regards to the appellant's classification argument, the Board does not find the appellant's argument persuasive. The subject is currently classified as a commercial minor improvement. The appellant did not purchase the subject until October 2010, and, according to the appraiser, the appellant subsequently demolished the metal building on the rear parcel. Thus, the metal building was standing on the lien date of January 1, 2010. As such, it must be assessed. The appellant's photograph shows that the building was demolished as of May 2011. There is no evidence that the building was demolished sometime during tax year 2010. Even assuming it was demolished sometime in 2010, the appellant still would not be entitled to a reduction because of the requirements of Section 9-180 of the Property Tax Code, which is discussed in the following paragraph of this decision. Therefore, the subject is not entitled to a change in classification because the Board finds it was properly classified as of January 1, 2010.

Finally, the Board is not persuaded by the appellant's vacancy/uninhabitability argument. There is no legal authority which grants the Board the power to reduce a property's assessment because it is vacant. However, the Board can reduce a property's assessment if the improvements are demolished. 35 ILCS 200/9-180.

When, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), *the owner of the property on **January 1** shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use.*

Id. (emphasis added). As previously discussed, the appellant was not the owner of the subject on January 1, 2010. Therefore, this statute is not applicable to the appellant, and a reduction 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. Cuit

Chairman

K. L. Fern

Member

Frank 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: February 21, 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.