



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

APPELLANT: Terry & Jeanette Marchelya
DOCKET NO.: 10-23922.001-R-1
PARCEL NO.: 18-01-323-041-0000

The parties of record before the Property Tax Appeal Board are Terry & Jeanette Marchelya, the appellant(s), by attorney David Platek in Downers Grove, 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: \$7,127
IMPR.: \$35,785
TOTAL: \$42,912

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 10,857 square feet of land improved with an 23-year old, one and part two-story, concrete building. The appellant argues that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

The appellant first contends the subject is misclassified by the county as solely a commercial building when the subject is a mixed-use, residential and commercial building. He argues the subject should be assessed in accordance with a mixed-use property. He also asserts the county has incorrectly listed the size of the building and that the subject actually contains 6,000 square feet of building area. To support this, the appellant included a plat of survey for the subject and copies of building permits for 40' x 50' second story. In addition, the appellant included a property characteristic printout for the subject printed on April 22, 2011 that indicates the subject is classified as a 2-12, mixed-use residential property.

In support of the market value argument, the appellant submitted a summary appraisal report undertaken by Leslie A. Allan and Mitchell J. Perlow of Property Valuation Services. The report indicates Allan and Perlow are State of Illinois certified real estate appraisers and that Perlow holds the MAI designation. The appraisers estimated a market value of \$240,000 as of January 1, 2008. The appraisal report utilized the sales comparison approach to value to estimate the market value for the subject property. The appraisal found the subject's highest and best use as improved to be its existing use with repair of any deferred maintenance if any.

The appraisal lists the subject contains 5,600 square feet of building area. The appraisal indicated the plat of survey was requested, but not provided by the client and that the size of the building was based on data deemed reliable.

Under the sales comparison approach, the appraisers analyzed the sales of four properties described as one-story or one and part two-story, masonry warehouse buildings located within the subject's market. The properties range in age from 28 to 89 years and in size from 6,190 to 11,756 square feet of building area. They sold from August 2006 to November 2007 for prices ranging from \$270,000 to \$450,000 or from \$27.12 to \$45.83 per square foot of building area. The appraisers adjusted each of the comparables for pertinent factors. The appraisal indicates no adjustments were made for time of sale, downward adjustments were made the mixed-use nature of the subject, and upward adjustments were made to sales #3 and #4 for size. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$43.00 per square foot of building area or \$240,000, rounded.

Finally, the appellant argues that the subject is 33% vacant and the assessment should be reduced to account for this vacancy. To support this, the appellant argues that one commercial unit is vacant and has been advertised for rent.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$60,085. These notes indicate the subject is classified as a commercial property. The subject's assessment reflects a market value of \$240,340 using the Cook County 2010 Ordinance level of assessment for class 5 property of 25%.

The board of review lists the subject as containing 5,600 square feet of building area. To support this, the board of review has included a copy of the property record card with a drawing of the subject's building showing a 40' x 40' 2nd floor owner apartment addition in 1989. The property record card also indicates that 68% of the land is assessed as commercial and 32% is assessed as residential. Moreover, a portion of the improvement is assessed as residential and a portion of the improvement is assessed as commercial.

In addition, the board of review submitted descriptive and assessment data on seven suggested comparables described as one-story, commercial or warehouse buildings. The properties range in age from 16 to 76 years and in size from 3,010 to 6,000 square feet of building area. They sold from February 2006 to June 2009 for prices ranging from \$178,000 to \$575,000 or from \$44.53 to \$95.83 per square foot of building area. Based upon this evidence, the board requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a letter reasserting the appellant's claims within the appeal. The appellant included a copy of the assessor's website printout showing the subject's classification has been changed by the county to reflect a mixed-use, residential classification. The new classification reflects a new market value of \$672,092 using the Illinois Department of Revenues 2010 three-year median level of assessment of 8.94% for class 2, residential property. The appellant also included a copy of the appraisal, a copy of a vacancy affidavit indicating one commercial unit was vacant for 2010, and a copy of the plat of survey with writing on it indicating the second floor is 40' x 50 or 2,000 square feet.

At hearing, the appellant's attorney asserted that the classification has been corrected, but that the market value is excessive based on the appraisal. In addition, he asserts that one of the commercial units was vacant in 2010 and continues to be vacant. He requested an additional reduction from the appraisal value based on the reduction.

The board of review rested on the evidence presented. The board of review's representative, Israel Smith, testified that the subject has a dual classification and a portion of the property is assessed as a commercial and a portion of the property is assessed as residential. Mr. Smith had no personal knowledge as any changes in the subject's classification.

After considering the arguments and reviewing 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 subject's size, the PTAB finds the appellant submitted sufficient evidence to establish the subject's size at 6,000 square feet of building area. In addition, the PTAB finds the subject meets the characteristics of a mixed-use property which has been acknowledged by the assessor in classifying the property as a mixed-use, residential property. Therefore, the PTAB finds the subject's 2010 assessment should reflect the lower residential level of assessment.

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, 331Ill.App.3d 1038 (3rd Dist. 2002);

Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd 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 appellant has met this burden and that a reduction is warranted.

The PTAB finds that the appraisal failed to make adjustments for a valuation date of January, 1, 2008. The PTAB further finds this failure is compounded in attempting to use the appraisal to value the subject as of January 1, 2010. In addition, the PTAB finds the appraisal incorrectly listed the subject's size as 5,600 square feet of building area and adjusted the comparables for this incorrect size. Therefore, the PTAB finds the adjustments are not reliable as to the lien date and gives the adjustments and conclusions of value within the appraisal no weight. However, the PTAB will consider the raw sales data from both parties.

The parties submitted 11 sales comparables. The PTAB finds the appellant's sale comparables #1 and #2 and the board of review's sale comparables #2 through #7 most similar to the subject and most probative in determining the subject's market value as of the lien date. These sales occurred from July 2007 to June 2009 for prices ranging from \$178,000 to \$575,000 or from \$43.62 to \$95.83 per square foot of building area. In comparison, the appellant's assessment reflects a market value of \$112.02 per square foot of building area which is above the range established by the sales comparables. After considering adjustments and the differences in the comparables when compared to the subject, the PTAB finds the subject's per square foot assessment is not supported and a reduction is warranted.

The appellant then requests an additional reduction based on the vacancy of the subject. The PTAB 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. To demonstrate or estimate the subject's market value using income, 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. Although the appellant submitted an appraisal, it excluded the income approach to value which would have looked to the market to determine rent, vacancy and collection and net operating income to develop a market value for the subject. Therefore, the PTAB gives this argument no weight and finds that an additional reduction based on vacancy 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.

Donald 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: September 20, 2013

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.