



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

APPELLANT: Isidore Ryzak
DOCKET NO.: 10-26729.001-I-1
PARCEL NO.: 13-22-430-011-0000

The parties of record before the Property Tax Appeal Board are Isidore Ryzak, the appellant(s); 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: \$ 25,748
IMPR: \$ 5,633
TOTAL: \$ 31,381**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject has 8,078 square feet of land, which is improved with a five year old, one-story, metal constructed, industrial building. The subject's improvement size is 2,400 square feet of building area, which equates to an improvement assessment of \$2.35 per square foot of building area. The appellant argued that there was unequal treatment in the assessment process of the subject's improvement as the basis of this appeal.

The appellant did not provide any evidence in support of the equity argument. The only evidence submitted by the appellant was the appellant's Schedule E from the appellant's 2010 federal income tax return. This document showed the subject generated no income, and lost \$1,605 due to taxes. The appellant also submitted a plat of survey, an overhead map of the subject, and a vacancy affidavit. The vacancy affidavit was undated, but stated that the subject was 100% vacant for the entirety of at least one calendar year. In the appellant's letter requesting relief, he stated that the subject consists of two adjacent properties, but that only the back property was being appealed. The appellant stated that the front property consisted of a building, but no further description was provided. Based on this submission, the appellant requested a reduction in the subject's improvement assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$31,381 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 six industrial warehouse or industrial manufacturing buildings located within seven 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 one-story, masonry, industrial warehouse or industrial manufacturing buildings. Additionally, the comparables are from 41 to 83 years old, and have from 2,340 to 3,125 square feet of building area. The comparables sold between December 2006 and March 2010 for \$180,000 to \$352,000, or \$57.60 to \$140.80 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 argued that the comparables submitted by the board of review were not similar to the subject for several reasons. The appellant also stated that the "[s]ubject property is a part of [the] primary building and is a storage area."

At hearing, the appellant argued reaffirmed the evidence previously submitted. Mr. Ryzak also stated that the subject remains vacant, despite efforts to lease it. Furthermore, Mr. Ryzak argued that the subject is a unique property because it is located next to the railroad tracks, and is only accessible via an alley. However, the appellant then asserted that the subject is used for storage for the adjacent building. At the close of the hearing, the parties agreed to allow additional time for the submission of evidence regarding the subject's land equity. The appellant was granted until August 16, 2013 to submit additional evidence to support this argument. The board of review was granted until September 20, 2013 to respond to the appellant's submission.

The Property Tax Appeal Board (the "Board") timely received eight additional comparables from the appellant. These comparables are described as either vacant land, a minor improvement on vacant land, an industrial building, or an industrial property with a minor improvement. The assessments for these properties were also submitted, but the assessments were not for tax year 2010, the tax year at issue in this appeal. Instead, the board of review's final 2012 assessment, and the Cook County Assessor's

first pass assessment were both included for all eight properties. The appellant also submitted cursory descriptive information for the adjacent building to the subject, which is described as an industrial building.

The Board also timely received a response from the board of review, wherein it expressly waived any right to submit any further evidence for consideration.

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 the subject is not a "unique property," or, in the parlance of the appellate courts, a "special-purpose property." A special-purpose property is a "property of such a nature and applied to such a special use that it cannot have a market value." Bd. of Educ. of Meridian Comm. Unit School Dist. No. 223 v. Ill. Prop. Tax Appeal Bd., 2011 IL App (2d) 100068, ¶ 36 (citing Chrysler Corp. v. Ill. Prop. Tax Appeal Bd., 69 Ill. App. 3d 207, 212 (2d Dist. 1979)). The subject does not fit within the confines of this definition. As admitted by the appellant, and described below, the subject is used for storage. It cannot be said that property used for storage has *no* market whatsoever. Therefore, the Board is not persuaded that the subject is a special-use property.

The appellant contends unequal treatment in the subject's land and improvement assessments as one of the bases of this 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. Walsh v. Prop. Tax Appeal Bd., 181 Ill. 2d 228, 234 (1998) (citing Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989)); 86 Ill. Admin. Code § 1910.63(e). To succeed in an appeal based on lack of uniformity, the appellant must submit documentation "showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d 139, 145 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(b). "[T]he critical consideration is not the number of allegedly similar properties, but whether they are in fact 'comparable' to the subject property." Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 403 Ill. App. 3d at 145 (citing DuPage Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 284 Ill. App. 3d 649, 654-55 (2d Dist. 1996)). After an analysis of the assessment data, the Board finds that the appellant has not met this burden.

The Board finds that none of the parties submitted assessment information for their comparables for tax year 2010, the tax year at issue. Moreover, without making a ruling as to whether the appellant's additional comparables were similar to the subject, there was a reassessment of these comparables and the subject in 2012. The triennial reassessment of these properties brings into

questions the validity of the 2012/2013 assessment data submitted by the appellant. As such, the Board finds that the appellant has not met the burden of clear and convincing evidence, as there is no range of equity comparables with which to compare the subject. Therefore, the Board finds the subject's land and improvement assessments are equitable.

The appellant also appears to contend that the subject should be classified as vacant land, and not as industrial property with an industrial improvement. The Board is not persuaded by this argument.

"Subject to such limitations as the General Assembly may hereafter prescribe by law, counties with a population of more than 200,000 may classify or continue to classify real property for purposes of taxation. Any such classification shall be reasonable and assessments shall be uniform within each class." Ill. Const. of 1970 art. IX, § 4(b). "Classification refers to the categorizing of real property according to its use, for the purpose of determining at which percentage of fair market value the property should be assessed." People ex rel. Costello v. Lerner, 53 Ill. App. 3d 245, 250 (5th Dist. 1977) (citing People ex rel. Jones v. Adams, 40 Ill. App. 3d 189, 195 (5th Dist. 1976)). Based on the evidence submitted by the parties, the Board finds that the appellant has not shown that the subject's classification should be changed.

In accordance with Section 4(b) of Article IX of the Illinois Constitution, Cook County classifies property within it, and applies different assessment levels to different classes of properties. The Illinois Constitution states that the classifications "shall be uniform within each class." The Illinois Appellate Court interpreted this state constitutional provision to mean that real property could be classified according to use. Costello, 53 Ill. App. 3d at 250. As detailed above, the subject was classified as an industrial property with an industrial improvement for tax year 2010 (class 5-93). The appellant asserts that the subject is vacant land with a minor improvement (class 1-90). Thus, the Board's decision rests on whether the subject is used for industrial purposes, or whether it is vacant land.

According to the Cook County Code of Ordinances "[r]eal estate used for industrial purposes" means:

[A]ny real estate used primarily in manufacturing, as defined in this section, or in the extraction or processing of raw materials unserviceable in their natural state to create new physical products or materials, or in the processing of materials for recycling, or in the transportation or *storage* of raw *materials* or finished physical goods in the wholesale distribution of such materials or goods for sale or leasing.

Cook County Code § 74-62(b) (emphasis added). Using this definition, the Board finds that the subject is used for industrial purposes. The building adjacent to the subject is an industrial building, as the appellant admitted when the additional evidence was submitted. Previously, in rebuttal, the appellant stated that the subject is used for storage. In essence, the subject is used for storing materials for use in an adjacent industrial building. This clearly fits the definition of "industrial purpose" under the Cook County Code. Therefore, the Board finds that the subject is properly classified as a class 5-93 property, with an assessment level of 25%.

The appellant submitted documentation and provided testimony concerning the income of the subject property. The Board gives the appellant's argument little weight. In Springfield Marine Bank v. Prop. Tax Appeal Bd., 44 Ill. 2d 428 (1970), the Illinois Supreme Court stated:

[I]t is clearly 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".

[m]any factors may prevent a property owner from realizing an income from property which 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 430-31.

As the Court stated, actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate, through an expert in real estate valuation, that the subject's actual income and expenses 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. The appellant did not provide such evidence and, therefore, the Board gives this argument no weight.

Next, the appellant argues that a reduction should be granted based on the subject being vacant for the entirety of tax year 2010. The Board is not persuaded by this argument. The Board is charged with determining the correct assessment of property appealed to it based upon equity and the weight of evidence and not upon constructive fraud. 35 ILCS 200/16-180; 35 ILCS

200/16-185. There is no statutory authority for the Board to grant vacancy relief to any property that is habitable, and, therefore, the Board cannot grant the subject vacancy relief. Thus, the Board finds that the subject is properly assessed, and no reduction is 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.



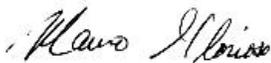
Chairman



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: November 22, 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.