



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

APPELLANT: Krzysztof Pluta
DOCKET NO.: 10-27732.001-C-1
PARCEL NO.: 15-28-420-011-0000

The parties of record before the Property Tax Appeal Board are Krzysztof Pluta, the appellant, by attorney George N. Reveliotis of Reveliotis Law, P.C., 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 assessed valuation of the property is:

**LAND: \$4,186
IMPR.: \$29,821
TOTAL: \$34,007**

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a two-story multi-unit residential building with approximately 5,186 square feet of building area. The building is approximately 50 years old and has seven apartments. The property has a 5,600 square foot site and is located in LaGrange Park, Proviso Township, Cook County. The property is classified as a class 3-14 property under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance") with a level of assessment of 13% for the 2010 tax year.

The appellant marked on the appeal form "contention of law" as the basis of the appeal. In support of the "contention of law" the appellant submitted an income approach to value prepared by counsel using the subject's 2010 rent roll to establish a gross potential income of \$54,360. Counsel deducted 10% for

vacancy/collection loss and deducted 25% of the effective gross income for expenses to arrive at a putative net operating income of \$34,247. Counsel then developed a loaded capitalization rate of 12.858% which was used to capitalize the net income into an estimated value of \$266,348. Counsel then applied the Ordinance level of assessment of 13% to arrive at an assessment request of \$34,625. 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 of \$34,007, which reflects a market value of approximately \$261,592 using the Cook County Real Property Assessment Classification Ordinance level of assessments for class 3-14 property of 13%. Based on this evidence the appellant's counsel requested in the "brief" that the subject's assessment be set at \$34,625.

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 does not support a reduction in the subject's assessment.

The appellant marked a "contention of law" as the basis of the appeal; however, counsel actually developed an income approach to value challenging the market value of the subject property as reflected by the assessment. 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). Proof of the market value of the subject property may consist of an appraisal of the subject property as of the assessment date at issue. (86 Ill.Admin.Code 1910.65(c)(1)). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

Initially, 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 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 through an expert in the field of real estate appraisal that the subject's actual income was reflective of the market. Furthermore, the appellant provided no market derived evidence in support of the vacancy loss, expenses or the capitalization rate. To demonstrate or estimate the subject's market value using an income approach, as the appellant's counsel 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's counsel did not provide such evidence; therefore, the Property Tax Appeal Board gives this 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 opinion evidence of value for that client's property.

The Board also finds problematic the fact that counsel, in developing an estimate of value using the subject's actual income, calculated a market value that would result in an increase in the subject's assessment. This calculation should have put counsel on notice that the appeal was wholly without merit.

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Based on this record the Property Tax Appeal Board finds no change in the subject's assessment 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: March 21, 2014



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.