FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Nick Gutu
DOCKET NO.: 06-28942.001-R-1
PARCEL NO.: 17-06-220-006-0000

The parties of record before the Property Tax Appeal Board are Nick Gutu, the appellant, by attorney Lisa A. Marino, of Marino & Assoc., PC in 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 correct assessed valuation of the property is:

LAND:	$ 11,664
IMPR.:	$ 90,694
TOTAL:	$ 102,358

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 2,430 square foot parcel improved with two dwellings. One dwelling consists of a three-story, four-unit, 128-year-old, multi-family dwelling of masonry construction containing 7,002 square feet of living area with four full bathrooms and a full-finished basement apartment. The second dwelling consists of a two-story, 128-year-old, single-family dwelling of masonry construction containing 1,056 square feet of living area with one full bathroom. The subject is located in West Chicago Township, Cook County.

The appellant, through counsel, raised two arguments: first, that there was unequal treatment in the assessment process of the improvements; and second, that the fair market value of the subject is not accurately reflected in its assessed value as the bases for this appeal. In support of the equity claim, the appellant submitted assessment data and descriptive information on three properties suggested as comparable to the subject. Based on the appellant's documents, the three suggested comparables consist of three-story, multi-family dwellings of masonry construction located within one mile of the subject. The improvements range in size from 5,642 to 6,774 square feet of living area and range in age from 108 to 118 years old. The comparables contain four, five or six full bathrooms and a full-finished or unfinished basement. One comparable has a two-car detached garage. The improvement assessments range from $9.08 to $11.03 per square foot of living area.

As to the market value argument, the appellant's attorney prepared and submitted an "income approach", using the subject's actual income and expenses. Based on the evidence submitted, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final total assessment of $102,358 was disclosed. The subject's multi-family dwelling has an improvement assessment of $72,788 or $10.40 per square foot of living area and the single-family dwelling has an improvement assessment of $17,906 or $16.96 per square foot.

In support of the subject dwellings' improvement assessments, the board of review submitted property characteristic printouts and descriptive data on eight suggested comparable properties. Four comparables are improved with three-story, multi-family dwellings of masonry construction with the same neighborhood code as the subject. The improvements range in size from 5,901 to 6,224 square feet of living area and range in age from nine to 109 years old. The comparables contain three or six full bathrooms and a full-finished or unfinished basement. The improvement assessments range from $11.77 to $14.69 per square foot of living area. The four remaining comparables offered by the board of review are improved with two-story, single-family dwellings of masonry, frame or frame and masonry construction with the same neighborhood code as the subject. The improvements range in size from 1,406 to 2,162 square feet of living area and range in age from 116 to 128 years old. The comparables contain one or two full bathrooms. Three comparables have a full-finished or unfinished basement and three comparables have a two-car detached garage. The improvement assessments range from $22.33 to $25.38 per square foot of building area. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

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 appellant's argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that 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. <u>Kankakee County Board of Review V. Property Tax Appeal Board</u>, 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 the appellant has not overcome this burden.

Regarding the multi-family dwelling, the Board finds the appellant's comparable two and the board of review's comparables one and three to be the most similar properties to the subject in the record. These three properties have improvement assessments ranging from $10.45 to $12.60 per square foot of living area. The subject's multi-family dwelling has an improvement assessment of $10.40 per square foot which falls below the range established by these properties. The Board finds the four remaining comparables less similar to the subject in improvement size and/or age and accorded less weight. After considering adjustments and the differences in both parties' suggested comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is supported by the most similar properties contained in the record.

Regarding the single-family dwelling, the Board finds the board of review's comparables one, two and three to be the most similar properties to the subject in the record. These three properties are similar to the subject in size, age, amenities and location and have improvement assessments ranging from $22.33 to $25.38 per square foot of living area. The subject's single-family dwelling has an improvement assessment of $16.96 per square foot which falls below the range established by these properties. The Board finds the board of review's one remaining comparable differs significantly from the subject in size and is accorded less weight. After considering adjustments and the differences in the board's suggested comparables when compared to the subject, the Board finds the evidence submitted is insufficient to effect a change in the subject's 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, 331 Ill.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 arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Adm.Code §1910.65(c). Having considered the evidence, the Board finds the appellant has not satisfied this burden.

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 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" 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, 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." Springfield Marine Bank v. Property Tax Appeal Board 44 Ill.2d 428 at 430-431.

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 were 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. 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 failed to follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument no weight.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the subject dwelling was inequitably assessed or overvalued 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.

Donald R. Crit

Chairman

K. L. Fern

Member

Richard A. Huff

Member

Mauro Glorioso

Member

Walter R. Gorski

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: October 22, 2010

Eileen 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.