FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Terranova Properties
DOCKET NO.: 07-24307.001-C-1 through 07-24307.016-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Terranova Properties, the appellant(s), by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-24307.001-C-1	08-08-207-012-0000	55,284	64,689	$119,973
07-24307.002-C-1	08-08-207-013-0000	32,307	84,895	$117,202
07-24307.003-C-1	08-08-207-014-0000	32,307	84,895	$117,202
07-24307.004-C-1	08-08-207-015-0000	55,284	64,689	$119,973
07-24307.005-C-1	08-08-207-016-0000	32,307	84,895	$117,202
07-24307.006-C-1	08-08-207-017-0000	32,307	84,895	$117,202
07-24307.007-C-1	08-08-207-018-0000	45,724	73,152	$118,876
07-24307.008-C-1	08-08-207-019-0000	34,485	134,574	$169,059
07-24307.009-C-1	08-08-207-020-0000	9,535	1,678	$11,213
07-24307.010-C-1	08-08-207-021-0000	24,260	129,586	$153,846
07-24307.011-C-1	08-08-207-022-0000	31,683	85,140	$116,823
07-24307.012-C-1	08-08-207-023-0000	26,392	127,186	$153,578
07-24307.013-C-1	08-08-207-024-0000	25,748	127,750	$153,498
07-24307.014-C-1	08-08-207-025-0000	30,571	86,113	$116,684
07-24307.015-C-1	08-08-207-026-0000	23,063	130,100	$153,163
07-24307.016-C-1	08-08-207-027-0000	30,492	130,669	$161,161

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 16 parcels of land totaling 431,204 square feet and improved with 15 two-story apartment buildings constructed between 1967 and 1970. One building contains 14 units, six buildings contain 20 units, and eight buildings contain 16 units. The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant submitted an economic analysis undertaken by David Conaghan, Harry M. Fishman, and Mitchell J. Perlow with Property Valuation Services. The report indicates Conaghan, Fishman, and Perlow are State of Illinois certified real estate appraisers and that Perlow holds the MAI designation. The analysis indicated the subject has an estimated market value of $8,305,000 as of January 1, 2007. The report utilized the income approach to value to estimate the market value for the subject property.

The analysis indicates the purpose of the report is to provide a consulting service and prepare an economic evaluation of the rental operation in order to establish an equitable ad valorem tax assessment. In addition, the report indicates the client will use the report in an effort to obtain a reduction in the assessment of the property. The report further indicates that the analysis is not a market valuation appraisal report, but rather an evaluation of an annual potential cash flow that could reasonably be anticipated from the business operation of the subject.

In the income analysis, the appraiser analyzed the actual rents of the subject property. The report indicates the gross potential income of the subject will be developed from the rental of the apartments. Based on the rental rates of the subject, the appraisers estimated a potential gross income at $2,498,820. Vacancy and collection were estimated at 10% based on the subject's vacancy to arrive at an effective gross income of $2,248,938. Stabilized expenses were estimated at $1,138,047 by looking at the market and industry reports. A net operating income of $1,110,891 was estimated. Using the band of investment method, a loaded capitalization rate of 13.38% was utilized to estimate a value based on the subject's income of $8,305,000, rounded.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment of $2,016,655 was disclosed. The subject's final assessment reflects a fair market value of $9,166,614 when using the Cook County Ordinance Level of Assessment for Class 3 property for 2007 of 22%.

In support of the subject's assessment, the board of review presented descriptions and assessment information on a total of six properties suggested as comparable and located within the subject's market. The data from the CoStar Comps service sheets reflect that the research was licensed to the assessor's office, but failed to indicate that there was any verification of the information or sources of data. The properties sold from November 2002 to January 2007 in an unadjusted range from $57,500 to $102,344 per unit. The properties contained apartment buildings that ranged: in number of units from 120 to 276; in size from 99,840 to 278,850 square feet; and in age from 18 to 40 years.

In addition, the board of review asserted the subject sold in October 2009 for $11,000,000. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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

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 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 PTAB concludes that the evidence indicates a reduction based on market value is not warranted.

The Board finds that the appellant's argument that the subject's assessment is excessive when applying an economic analysis based upon the subject's actual income is unconvincing and not supported by the evidence in the record.

In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill2d 428 (1970), the court stated:

> It 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. Id.

Actual income can be useful when shown that they are reflective of the market. The appellant failed to proffer any market data to demonstrate that the subject's actual rental and vacancy data was reflective of the market.

In addition, the Board also finds the appellant's economic analysis flawed in regards to its lack of market sales data. This report did not include any market sales or justify why sales were not included within the analysis. The court has held that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law." Cook Cnty. Bd. of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3d 472 at 484 (1st Dist. 2008). The Illinois Appellate Court recently revisited this issue in Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" case). In Sears, the court stated that, while the use of only one valuation method in an appraisal is not inadequate as a matter of law, the evidence must support such a practice and the appraiser must explain why the excluded valuation methods were not used in the appraisal for the Board to use such an appraisal. Id. at ¶ 29.

In this case, the appraisers provided no plausible reasons for excluding these valuation methods. Moreover, the cover letter indicates that the economic analysis was done based on the appellant's request for consultation. The appraisers specifically excluded these other methods and only focused on the potential cash flow that could be reasonably anticipated from the business operation. This is not a valuation of the real estate for ad valorem tax purposes even though the appraisers knew that the report would be used for such purposes.

The Board also finds the board of review presented sales not only for comparable properties, but for the subject itself.

Therefore, the Board finds that reliance on the appellant's economic analysis would be deficient as a matter of law, and, thus, no reduction is warranted based on the appellant's market value argument.

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: May 24, 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.