FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Robert Weinstein
DOCKET NO.: 08-20304.001-C-1
PARCEL NO.: 14-07-414-013-0000

The parties of record before the Property Tax Appeal Board are Robert Weinstein, the appellant, by attorney Scott Shudnow of Shudnow & Shudnow, Ltd., Chicago, Illinois; 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:	$82,500
IMPR.:	$205,500
TOTAL:	$288,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a three-story, with a full English basement, masonry constructed apartment building with 33,874 square feet of gross building area. The subject building was constructed in 1928 and has 38 apartment units with a total of 27,943 square feet of net rentable area. The subject property has one studio apartment, 31 one-bedroom apartments and 6 two-bedroom apartments. The subject has one laundry room in the basement and storage rooms, which are also located in the basement area, are available to all tenants. The subject building is in a U-shaped configuration. Site improvements include landscaping, sidewalks and fences. The subject has a 16,500 square foot site and is located in Chicago, Lake View Township, Cook County. The property is classified as a class 3-15 property under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance") and is to be assessed at 20% of market value.[1]

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[1] The Property Tax Appeal Board takes notice the property was the subject matter of appeals before the Board the 2006 and 2007 tax years under Docket Nos. 06-22933.001-R-1 and 07-23252.001-C-1. In each of those appeals the Property Tax Appeal Board found the subject property had a market value of $1,440,000 based on the appraisal submitted by the appellant. The evidence submitted by the parties in this appeal is substantially the same as that

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted a narrative appraisal prepared by real estate appraisers Arthur Murphy and Genadi Dvorkin. Both Murphy and Dvorkin are State of Illinois Certified General Real Estate Appraisers. Additionally, Murphy has the MAI appraisal designation from the Appraisal Institute. The appraisers, utilizing the three approaches to value, estimated the subject property had a market value of $1,440,000 as of January 1, 2006.

The report indicated the appraisers inspected the subject property on July 12, 2006. The purpose of the appraisal was to estimate the retrospective market value of the fee simple interest in the subject property. The property rights appraised are the rights of fee simple ownership, free and clear of all encumbrances and indebtedness subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat. The use of the appraisal is to estimate the market value of the subject property to provide documentation for the assessment placed against the property for ad valorem taxation purposes. The appraisers determined the highest and best use of the site as if vacant was for development of a modern multiple unit residential building or a possibility of commercial development which is permitted under current zoning. The appraisers determined the highest and best use of the property as improved was the current improvements.

In developing the cost approach to value the appraisers first estimated the subject's land value through the use of six land sales. The comparables were located in Chicago and ranged in size from 5,450 to 8,250 square feet of land area. The sales occurred from March 2005 to June 2006 for prices ranging from $535,000 to $930,000 or from $87.03 to $113.36 per square foot of land area. The report indicated that on visiting land comparable #1 an older house was present and on visiting land comparable #2 a two-flat building was present. The sites on land comparable sales #3, #4 and #5 had new single family dwellings under construction on the dates they were visited. The appraisers were of the opinion each of the comparables were overall similar to the subject site. However, they noted the land assessment established by the assessor reflects a market value of $412,500 or $25.00 per square foot of land area, which is significantly below the range established by the comparables on a square foot basis. Nevertheless, the appraisers stated they believed the assessor's land value is indicative of a property such as the subject which is not vacant and being used in an interim highest and best use. Thus the appellant's appraisers concluded the subject site had a market value of $410,000, rounded.

In estimating the replacement cost new of the improvements the appraisers used the *Marshall Valuation Computerized Cost Service*.

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submitted in the 2006 and 2007 appeals, which will be fully discussed herein. (86 Ill.Admin.Code 1910.90(i)).

The appraisers estimated the replacement cost new of the building to be $88.09 per square foot of building area or $3,090,801. The appraisers estimated indirect costs at 3% of direct costs and estimated entrepreneurial profit at 10% of both direct and indirect costs to arrive at a total replacement cost new of $3,501,878. Physical depreciation was estimated to be 46.7% or $1,635,377 using the age-life method with the subject having an effective age of 35 years and an economic life of 75 years. The appraisers did not attribute any loss in value due to functional obsolescence. External obsolescence was calculated by capitalizing the loss in income. To do this the appraisers multiplied by the estimated total land value and the depreciated improvements by the loaded capitalization rate to estimate the income necessary to support this value. This income is then compared to the stabilized net operating income from the income approach to value and any deficiency is then capitalized by the loaded capitalization rate to determine the amount of economic obsolescence. The appraisers determined the income necessary to support the depreciated value of the improvements was $318,710. The subject was estimated to have a stabilized net income of $202,145, resulting in a difference of $116,565. Capitalizing this difference resulted in an estimate of economic obsolescence of $832,607.[2] Deducting depreciation from the replacement cost new resulted in a depreciated value of the improvements of $1,033,897. Adding the value of the site improvements of $8,250 and the land value of $410,000 resulted in an estimated value of the subject under the cost approach of $1,450,000, rounded.

The appraisers used five rental comparables to estimate the subject's potential gross income under the income capitalization approach to value. The rental comparables were improved with 3-story and 4-story apartment buildings constructed from 1905 to 1925. These properties had from 22 to 85 apartments. These comparables had one-bedroom apartments that rented from $595 to $1,163 per month. The subject had one-bedroom apartments that rented from $740 to $940 per month. One comparable had two-bedroom apartments that rented from $1,500 to $1,865 per month. The subject's two-bedroom apartments rented from $1,000 to $1,175 per month. The comparables had studio apartments that rented from $500 to $825 per month. The subject has a studio apartment that rented for $550 per month. The report also contained a rental survey prepared by The Apartment People, which displayed rental rate ranges for various unit types in many of Chicago's neighborhoods. Based this data the appraisers estimated the subject's studio apartment would have a market rent of $550 per month, the 31 one-bedroom apartments had a market rent of $865 per month and the six two-bedroom units would have a market rent of $1,100 per month. The appraisers estimated the subject property would have a monthly income of $33,695 and an annual income of $407,580. To this the appraisers added $2,300 for other income associated with the laundry facilities and concluded the subject would have a total potential income of $409,880.

[2] In the cost approach the appraisers in error deducted $832,604 in economic obsolescence.

Vacancy and collection loss was estimated to be 5% of potential gross income using rental income and statistics from the Institute of Real Estate Management (IREM) resulting in an effective gross income of $389,501. The appraisers indicated that in using historical income and expenses for the subject, the subject property had historical effective gross incomes of $393,922 in 2003; $381,469 in 2004; and $405,167 in 2005.

In estimating expenses the appraisers used the subject's historical income and expenses, IREM market data and comparable rental data. Total stabilized expenses were estimated to be $187,356, which included $10,048 for personalty expenses, resulting in a net operating income of $202,145. Within the report the appraisers noted that the stabilized expenses amounted to 43.52% of effective gross income, which is supported by IREM data. This is higher than the subject's reported expense ratios from 2003 to 2005 ranging from 18.03% to 27.60% of effective gross income, which is due to the owner managing the property himself and the actual expenditures do not reflect real market expense ratios.

The final step in the income capitalization approach was to estimate the capitalization rate to be applied to the subject's net operating income. Using the market extraction method based on the 6 sales contained in the sales comparison approach the capitalization rates ranged from 7.0% to 10.7%. Using a mortgage-equity/band of investment analysis the appraisers estimated a capitalization rate of 10.07%. The appraisers also referenced published sources as quoting overall rates averaging from 7.0% to 9.2%. The appraisers determined that an overall capitalization rate of 10.7% was reasonable. To this they added an effective tax rate of 3.882% to arrive at a loaded capitalization rate of 14.00%. Capitalizing the net income of $202,145 resulted in an estimated value under the income approach of $1,440,000.

The final estimate of value was developed through the use of the sales comparison approach. One pages 111 and 112 of the report the appraisers had listed 59 sales of garden apartments that occurred in 2003 to 2006. The comparables had from 13 to 82 units with prices ranging from $23,611 to $144,193 per unit with an average price of $73,120 per unit. The appraisers discussed the overall market of apartment sales and concluded that condominium conversion sales or portfolio sales do not reflect the value of rental apartment properties. They further stated within the report that when properties such as the subject are purchased as income properties, a property's net operating income is the primary factor in determining a sales price that does not have an add-on value over and above the intrinsic value of the real estate.

The report contained six sales that the appraisers utilized in developing an estimate of value under the sales comparison approach. The comparables sales included two that were composed of two buildings. Overall the six comparables had story heights of 3, 6, 4, 8, 12 and 7½, respectively. These properties had from 40 to 155 units and ranged in age from 38 to 87 years old. The report also described the unit mix of four of the six comparables. Comparable sale #2 was composed of one-bedroom units; comparable sale #3 was composed of all studio apartments; comparable sale #4 had 60 studio apartment, 13 one-bedroom apartments, and 2 two-bedroom apartments; and comparable #5 had 143 studio apartments, 10 one-bedroom apartments and 2 commercial units. The subject property had 38 units composed of one studio apartment, 31 one-bedroom apartments and 6 two-bedroom apartments. The sales occurred from November 2004 to May 2006 for prices ranging from $2,300,000 to $10,975,000 or from $38,675 to $84,476 per unit and from $51.74 to $178.30 per square foot of per square foot of building area, including land. Within the sales comparison approach the appraisers asserted that they did not place a great deal of weight on this approach under current market conditions. Nevertheless, the appraisers estimated the subject had an estimated value under the sales comparison approach of $38,000 per unit and $43.00 per square foot of building area, resulting in a total estimated value of $1,445,000, rounded.

In reconciling the three approaches to value the appraisers gave the least weight to the cost approach to value, minimal consideration to the sales comparison approach to value and primary emphasis to the income approach to value. The appraisers estimated the subject property had a market value of $1,440,000 as of January 1, 2006. Based on this estimate of value, the appellant requested the subject's total assessment be reduced to $316,800 to reflect the appraised value and the application of the 22% Ordinance level of assessment for class 3 property.

The board of review submitted its "Board of Review Notes on Appeal" wherein it stated the subject's final assessment was $348,153. However, as indicated on the copy of the Cook County Board of Review decision submitted by the appellant the subject's total assessment for the 2008 tax year was $316,503. The subject's total assessment reflects a market value of $1,582,515 or $41,645 per unit and $46.72 per square foot of building area, land included.

In support of the assessment the board of review submitted a memo dated March 3, 2009, from Ralph F. DiFebo Jr. to Tom Jaconetty discussing the 2007 assessment and referencing a 2006 valuation memo that was also submitted regarding the subject property. The 2006 valuation memo was dated March 12, 2008, and explained that the market area was surveyed for comparable sales. Included with the memo was a copy of the subject's property record card and information on 14 comparable sales improved with apartment buildings that contained from 31 to 45 units. The buildings were constructed from 1898 to 1968 and were composed of 3-story to 5-story buildings. The comparables were located in Chicago. The sales occurred from January 2001 to March 2006 for prices ranging from $1,400,000 to $4,920,000 or from $36,842 to $149,091 per unit. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal appellant's counsel asserted the board of review did not refute the appraisers' estimate of value computed using the income approach to value. Counsel also argued the board of review did not refute any of the sales in the appraisal's sales comparison approach to value. The appellant's attorney argued the memo submitted by the board of review did not resemble an appraisal and the sales comparables submitted by the board of review had no adjustments for condition, financing, market conditions, location, age, building size, parking/amenities or unit size. The appellant's attorney also critiqued twelve of the sales submitted by the board of review. He stated that comparables 1, 2, 7, 9, and 12 were purchased for condominium conversion. The attorney stated comparables 3, 4, 5, 6 and 11 had the same broker on both sides of the transaction calling the value into question. Finally, the attorney argued that sales 8 and 10 were 1031 exchange transactions where the purchaser has 45 days to identify the property and 180 days to close the transaction so as to get substantial tax benefits causing the buyer to overpay.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds a reduction in the subject's assessment is supported by the evidence in the record.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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 market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of value in this record is the appraisal of the subject property submitted by the appellant in which the appraisers estimated the subject property had a market value of $1,440,000 as of January 1, 2006. The appraisers developed the three traditional approaches to value in support of their ultimate conclusion of value, each of which was considered and reconciled into a final estimate of value. The Board finds the appraisers' analysis followed standard appraisal practice and the estimate of value was supported.

The Board gave less weight to the sales submitted by the board of review. The March 12, 2008 memo submitted by the board of review summarizing the raw sales specifically stated that the "sales have not been adjusted for market conditions: time, location, age, size, land to building ratio, parking, zoning and other related factors." Conversely the appellant's appraisers did consider many of these factors in comparing the sales to the subject property. (Appraisal, pages 130-132.) Furthermore, the Board finds 9 of the sales submitted by the board of review were somewhat dated occurring from 2001 to 2003.

The Property Tax Appeal Board also takes notice that the property in this appeal was the subject matter of appeals for tax years 2006 and 2007 in which the Board found the same appraisal that was submitted by the appellant for this appeal was the best evidence of value. Additionally, the Board takes notice tax years 2006 through 2008 are within the same general assessment period for Lake View Township. 86 Ill.Admin.Code 1910.90(i)).

In conclusion the Board finds the most credible estimate of market value in this record is the appraisal of the subject property submitted by the appellant. The Board finds the subject property had a market value of $1,440,000 as of January 1, 2008 and the Ordinance level of assessment for class 3 property of 20% shall apply. (86 Ill.Admin.Code 1910.50(c)(3)).

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 30, 2012

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.