



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

APPELLANT: 1027 David Street, LLC
DOCKET NO.: 09-20383.001-C-1
PARCEL NO.: 11-18-302-018-0000

The parties of record before the Property Tax Appeal Board are 1027 David Street, LLC, the appellant, by attorney Michael E. Crane, of Crane and Norcross 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: \$ 46,732
IMPR.: \$ 105,346
TOTAL: \$ 152,078

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2009 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a one-story, 3,480 square foot storefront building built in 1946. It is situated on an 8,040 square foot site located in Evanston, Evanston Township, Cook

County. The subject is classified as a class 5-17 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an income and expense analysis, in the form of a memorandum, estimating the subject property had a market value of \$374,530. Additional evidence included: 2006 through 2008 tax returns; a 2009 profit & loss statements from January through June; and a brief letter, signed by appraiser Joseph T. Thouvenell, MAI, indicating the income, expenses and capitalization rate in the memorandum are accurate.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$152,078. The subject's assessment reflects a market value of \$608,312, or \$174.80 per square foot of building area, including land, when applying the 2009 statutory level of assessment under the Cook County Real Property Assessment Classification Ordinance of 25%.

In support of its contention of the correct assessment, the board of review submitted information on four sale comparables of retail buildings, located within a two-mile radius of the subject. The sales range: in size from 2,510 to 4,640 square feet of building area; in sale date from 2005 to 2008; and in sale price from \$745,000 to \$1,130,000, or from \$177.78 to \$303.23 per square foot, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). 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 has not met this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted documentation showing the income, expenses and vacancy level 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". 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.

Id. at 431.

As the Court stated, actual income and expenses can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate effectively that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income and expenses 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. As the appraiser's three-sentence letter contained no market data whatsoever, the appellant did not provide such evidence and, therefore, the Board gives this argument no weight. Thus, the Board finds that a reduction is not warranted based on the appellant's income analysis.

Accordingly, the Board finds that the appellant has not met its burden by a preponderance of the evidence and that the subject does not warrant a reduction based upon the market data submitted into evidence.

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 22, 2015



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.