



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

APPELLANT: 1346 West Henderson Street Corp.
DOCKET NO.: 09-22147.001-R-1
PARCEL NO.: 14-20-318-043-0000

The parties of record before the Property Tax Appeal Board are 1346 West Henderson Street Corp., the appellant, by attorney Brian P. Liston of the Law Offices of Liston & Tsantilis, 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 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: \$14,997
IMPR.: \$68,909
TOTAL: \$83,906

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 property consists of a three-story multi-family dwelling of frame and masonry construction with 5,018 square feet of living area. The building is 121 years old. The

building has central air conditioning and three fireplaces. The property has a 1,829 square foot site and is located in Chicago, Lake View Township, Cook County. The subject is classified as a class 2-11 apartment building under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of the overvaluation argument the appellant submitted limited information on four comparable sales and an income approach to value the subject property using the subject's actual income and expenses. The income approach arrived at a market value for the subject property of \$566,289.

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$56,629.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$90,769. The subject's assessment reflects a market value of \$907,690 or \$180.89 per square foot of living area, land included, when using the Cook County level of assessments for class 2 property of 10%.

In support of its contention of the correct assessment the board of review submitted information on four equity comparables.

The board of review also submitted a list of 19 sales that occurred from April 1990 to September 2009 for prices ranging from \$120,000 to \$1,116,500. No other information regarding the characteristics of the properties was submitted for analysis.

Conclusion of Law

The appellant contends that 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 met this burden of proof and a reduction in the subject's assessment is warranted on grounds of overvaluation.

The Board finds the best evidence of market value to be the appellant's comparable sales #2 and #3. These comparables had

various similarities to the subject, based on the limited information submitted by the appellant and also sold more proximate in time from the January 1, 2009 assessment date. The Board gave less weight to the appellant's comparable sales #1 and #4 due to their sale dates occurring greater than 17 months prior to the assessment date at issue. The Board gave less weight to the equity comparables presented by the board of review. The Board finds this evidence is not responsive to the overvaluation argument made by the appellant. The Board also gave less weight to the board of review's list of 19 sale properties, as the information submitted did not include property characteristics necessary when analyzing these properties' comparability to the subject. The best sales occurred in February and November 2008 for prices of \$762,500 and \$620,000 or \$167.21 and \$126.63 per square foot of living area including land, respectively. The subject's assessment reflects a market value of \$907,690 or \$180.89 per square foot of living area including land, which falls above the market values established by the best comparables in this record. Based on this evidence the Board finds a reduction in the subject's assessment is warranted.

As an alternative argument the appellant contends the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses. The Board finds the appellant's argument 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:

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 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 did not follow this procedure in developing the income approach to value; 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.

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

K. L. Fan

Klaus Albrecht

Member

Member

JR

Jerry White

Member

Acting Member

Robert Steffen

Acting 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 20, 2015

A. Proctor

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.