



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

APPELLANT: Joseph Dombrowski
DOCKET NO.: 09-23269.001-C-2
PARCEL NO.: 14-08-116-014-0000

The parties of record before the Property Tax Appeal Board are Joseph Dombrowski, the appellant, by attorney Herbert B. Rosenberg, of Schoenberg Finkel Newman & Rosenberg LLC in Chicago; and the Cook County Board of Review, by Cook County Assistant State Attorneys Ben Bilton and Chris Shouldice.

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: \$ 67,500
IMPR.: \$ 210,163
TOTAL: \$ 277,663

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, 22,094 square foot, masonry constructed, apartment building. It contains four studio units, and 26 one-bedroom units. The subject is classified as a Class 3-15, and is assessed at 16% of market value under the Cook County Real Property Assessment Ordinance. The subject was built in 1922 and it is situated on an 11,250 square foot site in Lake View Township, Cook County.

The appellant, via attorney Gregory Mini of Schoenberg Finkel Newman & Rosenberg LLC, appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Charlie Hynes, MAI of Regional Real Estate Valuations. The valuation date of the appraisal is January 1, 2009 and the estimated market value of the subject is \$720,000.

Mr. Hynes appeared at the hearing and testified that he is a general real estate appraiser and that he holds the MAI designation. He testified that he has appraised approximately 60 multifamily apartments per year. He stated that he personally inspected the subject property and valued the subject property based on the cost, income, and sales comparison approaches to value. He stated that he placed the most emphasis on the income approach to value because it is the most reliable approach in valuing rental property. The appellant's attorney tendered Mr. Hynes as an expert in the valuation of real estate. The board of review's representative objected and stated that he would question the appraiser regarding his qualifications. The Administrative Law Judge reserved ruling on the objection.

Mr. Hynes testified that in determining the subject's value under the income approach, he used market rents and the subject's historical income and expense data. He also used "Chicago Rent Ranges" from Apartment Savvy Chicago. (See appraisal pages 55-56). Mr. Hynes testified that the subject is located in the Edgewater area of Chicago. After considering the subject's actual stabilized rent and rental data from the Edgewater area, Mr. Hynes testified that the subject's gross potential income was \$211,200. Mr. Hynes then determined the subject's vacancy and collection loss was 12% based on the subject's actual vacancy rate of 20% and income and expense data for conventional apartments with over 24 units from the Institute of Real Estate Management ("IREM") of 8.1%. After the 12% deduction for vacancy and collection loss, the subject's effective gross income is \$185,856. Laundry income in the amount of \$2,700 was added, resulting in an effective gross income from all sources of \$188,556.

Mr. Hynes considered the subject's historical expenses and IREM expense data to determine the subject's stabilized expenses, including replacement reserves and personalty expenses, is \$98,852, or 52.43% of the effective gross income. The expenses were deducted from the effective gross income, resulting in a net operating income of \$89,704. Mr. Hynes then stated that he selected a 10.25% capitalization rate after considering interest rates for apartments, with the lack of available credit, and included units on the market, in addition to considering data from the Real Estate Research Corporation and from the Korpacz Real Estate Investor Survey. A tax load of 2.38% was added to the capitalization rate of 10.25% resulting in a loaded capitalization rate of 12.50%. The net operating income of \$89,704 was divided by the loaded capitalization rate of 12.50% resulting in a market value of \$720,000, rounded.

Mr. Hynes also testified that he considered the sales comparison approach to value. He testified that he used sales or rental properties that were used as rental properties after the sale. He stated that he tried to avoid sales that were condominium conversions. Mr. Hynes testified that in selecting the sale comparables, he considered market conditions, age and condition of the building, location, and size, among other factors. Based on the sale comparables, Mr. Hynes opined the subject's value is \$720,000.

Mr. Hynes appraisal also used the cost approach to value. He used the Marshall and Swift Valuation Services as well as data from local builders, to determine the subject's total cost new of \$2,232,875. Total depreciation of 80% or \$1,786,300 was deducted based on the subject's actual physical depreciation and external obsolescence. The appraiser then added the Assessor's land value, resulting in a market value of the subject property under the cost approach to value of \$730,000.

Upon cross-examination by the assistant state's attorney Ben Bilton, Mr. Hynes stated that of the 60 appraisals he performs per year of apartment buildings, approximately 60% are done for ad valorem purposes and 40% are done for financing purposes. Upon further cross-examination, Mr. Hynes conceded that the subject is located within the Andersonville area of Edgewater and that none of his rental comparables are located in Andersonville.

After referring to page 56 of the appraisal, Mr. Hynes stated that rental rates in Andersonville are higher than rental rates in Edgewater. Mr. Hynes said that he stabilized the subject's studio rental rates at \$500 per month and stabilized one-bedroom rental rates at \$600 per month even though the chart listed on page 56 of the appraisal indicates Andersonville one-bedroom rental rates are \$750-\$1,300 per month. In addition, Mr. Hynes stated that his capitalization rate of 10.25% is above the Korpacz Investor Survey and the ACLI Survey rates.

Mr. Bilton then cross-examined Mr. Hynes regarding the sales comparison approach. Upon questioning, Mr. Hynes stated that sale comparables one through four are not located in Andersonville. Mr. Hynes also stated that sale comparable #5 is the most similar to the subject in site size, building size, and age. In addition, Mr. Hynes stated this comparables sold for a price of \$45,513 per unit while he valued the subject at \$24,000 per unit. The \$24,000 per unit was determined by doing an additional analysis based on the assessments of the comparables and the impact of the full tax load. (see appraisal, page 90.)

Mr. Bilton then cross-examined Mr. Hynes regarding the assessment classifications and assessment ratios of the subject and the appraiser's sale comparables. Mr. Hynes stated that he used the assessment ratios listed on the Multiple Listing Service. The appraiser testified that the he used: a 24% assessment ratio for

sale comparables #1 and #2; a 22% assessment ratio for comparable #3; and, a 20% assessment ratio for comparables #4 and #5.

Mr. Bilton then tendered copies of Assessor's office printouts showing the class of the comparable properties. These exhibits were accepted into evidence and marked "Exhibit B" and Exhibit C." Mr. Bilton also submitted an assessor's office printout for sale comparable #1. The printout listed assessment information for years 2014 and 2015. As the assessment year at hand is 2009, this printout was given no weight.

Mr. Hynes testified that sale comparables #1 through #4 should be based on an assessment ratio of 16%, and not 20%, 22%, or 24% as stated in the appraisal. When the proper levels of assessment are used, the comparables, with adjustments made for the impact of the full tax load, range in price per unit from \$31,622 to \$38,564, while he concluded the value of the subject was \$24,000 per unit. Mr. Hynes then stated that his sales comparison analysis was driven to confirm the value conclusion in the income approach. (see transcript page 60, lines six through 10.)

On redirect examination, Mr. Hynes stated that the rental comparables accurately reflected the subject property's economic earning potential. He also stated that he considered sources beyond the Chicago Rental Survey from Apartment savvy Chicago, such as the subject property's 2009 rent roll. In addition, Mr. Hynes stated that he gave primary consideration to the income approach to value and less emphasis on the sales comparison approach to value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of \$277,663 was disclosed. The subject's assessment reflects a fair market value of \$1,735,394, or \$78.55 per square foot, when the Cook County Real Property Assessment Ordinance Level of 16% for Class 3-18 property, such as the subject, is applied. To demonstrate the subject was correctly assessed, the board of review presented seven sale comparables. The comparables are multi-family apartment buildings that range in size from 18,000 to 20,850 square feet of building area. These properties sold from March 2004 to January 2009 for prices that range from \$1,500,000 to \$2,150,000, or from \$78.74 to \$117.07 per square foot of building area including land. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County Assessor's Office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further states that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

At hearing, the board of review did not present a witness and rested on their previously evidence.

In written rebuttal, the appellant's attorney stated that the board of review submitted insufficient evidence regarding the subject's income and that the board's seven sale comparables are unadjusted.

The appellant's attorney, Mr. Mini, requested that the Administrative Law Judge ("ALJ") rule on the board of review's previous objection regarding the appellant's request to tender Mr. Hynes as an expert. The ALJ overruled the board of review's objection. Mr. Mini stated that the board of review did not supply a witness to answer the appellant's questions regarding the differences in timing and characteristics between the data presented in the notes on appeal and the subject property. He also stated that the board of review did not submit any income information. In addition, Mr. Mini indicated that the board of review's evidence states that it has not been adjusted for market conditions, time, location, age, size, land-to-building ratio, parking, zoning, and other related factors. Mr. Mini then requested that the Property Tax Appeal Board reduce the subject's market value to \$720,000, or an assessment of \$115,200. Mr. Mini stated that the appellant is the only party that submitted evidence with respect to the subject property's income capacity and that the appraiser considered all relevant facts regarding the subject property.

In closing, the board of review's representative, Mr. Bilton, stated that the appellant has not established, by a preponderance of the evidence, the subject's market value is overstated. He stated that the appellant's appraisal is flawed since the subject is located in the higher rent Andersonville area of Edgewater while the rental comparables are not located in Andersonville. The appraiser did not make adjustments to account for the higher rents in Andersonville. In addition, Mr. Bilton stated that the appraiser concluded the subject's value is \$24,000 per unit under the sales comparison approach, while the unadjusted range of the sale comparables is \$38,455 to \$46,324 per unit. Mr. Bilton then stated that the appraiser's additional analysis of the comparables using the impact of the full tax load is flawed.

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). 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 appellant has not met the burden of proving the value of the property by a preponderance of the evidence and that a reduction is not warranted.

The Board finds the appraiser's conclusions of value are not credible. The appraiser's income approach is based on rental rates far below the Andersonville rental rates listed by the appraiser on page 56 of the appraisal. In addition, the Board is not persuaded by the appraiser's sale comparison approach. Sale comparables #1 through #4 are not located in Andersonville, nor were they adjusted to account for their location. Mr. Hynes stated that sale comparable #5 is the most similar to the subject in site size, building size, and age, and that this comparable sold for a price of \$45,513 per unit while he valued the subject at \$24,000 per unit. The \$24,000 per unit valuation for the subject property was determined by doing an additional analysis based on the assessments of the comparables and the impact of the full tax load. The Board does not find this analysis credible, due to the fact that the subject is an Assessor's Class 3 property while the appraiser's comparables #1 through #4 are Assessor's Class 9 properties and no adjustments were made to account for the difference in assessment ratios between the subject and comparables #1 through #4.

The PTAB gives little weight to the subject's actual income and expense data. Mr. Hynes testified that he considered the subject's actual historical income to determine the subject's gross potential income. 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" 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.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant's appraiser did not demonstrate that the subject's actual income and expenses are reflective of the market. The appellant did not provide such evidence and, therefore, the PTAB gives the appellant's appraiser's estimate of value under the income approach using the subject's actual income and expense data, little weight.

In addition, Mr. Hynes stated that the sales comparison analysis was driven to confirm his conclusions in the income approach. (Transcript page 60.) As such, the Board gives no weight to the appraiser's value conclusion using the sale comparison approach.

After comparing the appraiser's sale comparables to the subject, and considering the evidence and testimony presented, the Board finds that the appellant has not met the burden of proving, by a preponderance of the evidence, that the subject is overvalued. Therefore, the Property Tax Appeal Board finds the subject's assessment as established by the board of review is correct 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.

Mark Allison

Chairman

[Signature]

Member

Member

[Signature]

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 20, 2016

[Signature]

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.