



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

APPELLANT: Frank Ingram
DOCKET NO.: 09-27065.001-R-1
PARCEL NO.: 16-15-121-039-0000

The parties of record before the Property Tax Appeal Board are Frank Ingram, the appellant(s), by attorney Donald L. Schramm, of Rieff Schramm Kanter & Guttman 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: \$ 8,722
IMPR.: \$ 15,757
TOTAL: \$ 24,479

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 two-story mixed-use building of masonry construction. It was constructed in 1916. Features include two units, a partial basement, and three and one-half baths. The property has a 6,230 square foot site and is located in West Chicago Township, Cook County. The property is a class 2-12 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant made a contention of law argument as the basis of the appeal. In support of this argument, the appellant submitted four equity comparables, the subject's vacancy information, and a legal brief asserting that the board of review must uniformly apply a policy to all taxpayers. The appellant asserts that the assessor and the board of review have a policy of applying partial assessments to properties based on the vacancy of that property and that the subject is inequitably assessed because a vacancy factor was not applied to the subject resulting in an overvaluation of the subject property. The appellant submitted Exhibits A through GG, which consist of copies of a Property Tax Appeal Board decision docket 01-27601.001-R-1 regarding a different property, in addition to assessor and board of review pleadings and decisions for other properties. The appellant also submitted a copy of the assessor's office vacancy forms and a 2009 "Reason Code" sheet which lists the various reasons for assessment decreases or no change decisions. Additionally, the appellant submitted a copy of the board of review rules and vacancy forms.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$24,479. The subject's improvement assessment of \$15,757 reflects an improvement price of \$5.33 per square foot of building area. In support of its contention of the correct assessment the board of review submitted four suggested equity comparables.

In written rebuttal, the appellant's attorney restated his bases for appeal. He also stated that the board of review's evidence does not address the contention of law made by the taxpayer.

Conclusion of Law

The taxpayer made a contention of law argument and stated that the subject is overvalued because the subject property is entitled to a vacancy factor based on inequity in the county's application of vacancy factors. When unequal treatment in the

assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of assessment equity to be appellant's comparable #1 and the board of review's comparables #1, #2, and #3. These comparables had improvement assessments that ranged from \$2.80 to \$5.82 per square foot of living area. The subject's improvement assessment of \$5.33 per square foot of living area falls within the range established by the best comparables in this record. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

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 arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Adm.Code §1910.65(c). Having considered the evidence, the Board finds the appellant has not satisfied this burden.

As to the appellant's market value argument, the Board finds no evidence in the record that the subject's assessment is incorrect when vacancy is considered. The mere assertion that vacancies in a property exist, does not constitute proof that the assessment is incorrect or that the fair market value of a property is negatively impacted. There was no showing that the subject's market value was impacted by its vacancy during 2009.

The appellant submitted documentation showing the subject was vacant during 2009. The Board gives the appellant's argument

little weight. 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 based on vacancy can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant did not demonstrate through an expert in real estate valuation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, 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. The appellant did not provide such evidence and, therefore, the Board gives no weight to this evidence and finds that a reduction based on market value is not warranted. As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to adequately demonstrate that the subject's improvement was overvalued and a reduction in the subject's improvement assessment is not warranted.

As to the appellant's assertion that the assessor and the board of review have a policy of applying partial assessments to properties based on vacancy and that the policy must be uniformly applied to all taxpayers, the Board relies on Section 16-180 of the Property Tax Code (Rule Section 1910.50 of the Official Rules of the Property Tax Appeal Board) which states in pertinent part, "All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will consider only the evidence, exhibits and briefs submitted to it,

and will not give any weight or consideration to prior actions by a local board of review ..." (35 ILCS 200/16-180)

In addition, The Board notes that under the Illinois Property Tax Code, the Board is charged with making a decision on an appeal that "shall be based upon equity and the weight of evidence and not upon constructive fraud, and shall be binding upon appellant and officials of government." 35 ILCS 200/16-185 (West 2010). Under this standard of review and authority, each decision by the Board is necessarily fact specific and based upon the particular record of each case. The Board of Education of Ridgeland School Dist. No 122 v. The Property Tax Appeal Board, South Cook County Mosquito Abatement District, and Sears, Roebuck and Company 975 N.E.2d 263, 363 Ill.Dec. 461. Although the Board took judicial notice of its findings in its previous decisions, cited by the appellant, regarding other properties, the decision in the case at hand is based on the specific facts and evidence of the instant appeal.

Lastly, the Board relies on John J. Moroney & Co. v. Illinois Property Tax Appeal Board 2013 IL App (1st) 120493. In that appeal, the petitioner argued that the board of review has a policy of granting reductions for vacant property without requiring further evidence concerning market value and condition of the property. The court found that the appellant failed to show a policy of granting reductions based on vacancy alone and failed to offer any evidence as to why the subject property was vacant, and as such, the appellant failed to meet his burden of proof. Id. The Board, in the instant case, finds the appellant failed to establish the policies and procedures of the assessor board of review through competent evidence regarding how relief for vacancy is granted. Moreover, the appellant failed to show the criteria used by the assessor and the board of review to grant a reduction in assessed value based on vacancy or that the subject property met any of these criteria.

As to the appellant's assertion, in rebuttal, that the board of review did not submit evidence regarding the appellant's contention of law argument, the Board relies on Kraft Foods, Inc. v. Illinois Property Tax Appeal Board, 2013 IL App (2d) 121031.

In Kraft, the appellant argued that the Property Tax Appeal Board must accept certain testimony just because it was unrebutted. The court stated, "Indeed, if Kraft's argument were valid, it would remove some of the discretion from the trier of fact as to

how much weight should be afforded various evidence. That we decline to do." Id.

As such, the Board finds no reduction in the subject's assessment, based on the appellant's contention of law argument, is 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.

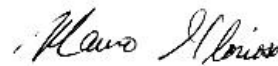
Chairman




Member



Member



Member



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: September 18, 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.