



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

APPELLANT: Greg Sztejkowski
DOCKET NO.: 09-29794.001-R-1
PARCEL NO.: 17-06-220-006-0000

The parties of record before the Property Tax Appeal Board are Greg Sztejkowski, the appellant, by attorney Richard J. Caldarazzo, of Mar Cal Law, 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 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: \$ 11,542
IMPR.: \$ 94,107
TOTAL: \$ 105,649

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 two improvements. Improvement #1 is 131 years old, and consists of a three-story dwelling of masonry construction containing 7,002 square feet of living area. Features of Improvement #1 include a full basement. Improvement #2 is 131 years old, and consists of a two-story dwelling of masonry construction containing 1,056 square feet of living area. Features of Improvement #2 include central air conditioning. The subject property has a 2,430 square foot site and is located in West Chicago Township, Cook County. Improvement #1 is classified

as a Class 2-11 property, and Improvement #2 is classified as a Class 2-05 property, under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends over-valuation and assessment inequity as the bases of the appeal. In support of these arguments, the appellant submitted information on three suggested equity comparables for each improvement. The appellant submitted a brief contending that the subject is over-assessed based on an income-expense analysis, with an attorney developed capitalization rate applied to the actual income. Appended to the brief are: 1) Form 8825 (Rental Real Estate Income and Expenses of a Partnership or an S Corporation) tax return for 2008; 2) Schedule E (Supplemental Income and Loss) tax return for the year 2009; and 3) a two-page affidavit of the taxpayer.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$105,649. The subject property has an assessment for Improvement #1 of \$75,047 or \$10.72 per square foot of living area, and an assessment for Improvement #2 of \$19,060 or \$18.05 per square foot of living area. The total assessment for both improvements is \$94,107. In support of its contention of the correct assessment the board of review submitted information on four suggested equity comparables for each improvement.

The appellant did not proffer evidence in rebuttal.

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted documentation showing the income of the subject property. 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. Springfield Marine, supra, 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 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 this argument no weight and holds that a reduction based on market value is not warranted.

The appellant contends assessment inequity as a basis of the appeal. 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 for Improvement #1 to be appellant's comparables #1 and #3, and board of review's comparables #1 and #2. These comparables had improvement assessments that ranged from \$8.00 to \$11.73 per square foot of living area. The assessment for Improvement #1 of \$10.72 per square foot of living area falls within the range established by the best comparables in this record.

The Board further finds the best evidence of assessment equity for Improvement #2 to be board of review's comparables #1 through #4. These comparables had improvement assessments that ranged from \$25.30 to \$30.62 per square foot of living area. The assessment for Improvement #2 of \$18.05 per square foot of living area falls below 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 holds that a reduction in the subject's assessment is not appropriate.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Tracy A. Huff

Member

Marko M. Louie

Member

J. R.

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: February 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.