



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

APPELLANT: Mohammad Yafai
DOCKET NO.: 09-31148.001-C-1 through 09-31148.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Mohammad Yafai, the appellant(s), by attorney Stephanie Park, of Park & Longstreet, P.C. in Rolling Meadows; 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
09-31148.001-C-1	16-23-104-001-0000	16,005	41,243	\$57,248
09-31148.002-C-1	16-23-104-002-0000	14,004	16,248	\$30,252

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 one-story gas station building with 1,300 square feet of building area. The dwelling was constructed in 1959. The property has a 14,550 square foot

site and is located in Chicago, West Chicago Township, Cook County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$325,000 as of January 1, 2009.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$101,848. The subject's assessment reflects a market value of \$407,392 or \$313.38 per square foot of building area, land included, when using the 2009 level of assessment for Cook County of 25% as determined by the Cook County Ordinance.

In support of its contention of the correct assessment, the board of review submitted five sale comparables.

In rebuttal, the appellant stated that the board of review's evidence be stricken as it is unsigned and includes a disclosure stating that evidence "should not be construed as an appraisal or estimate of value."

The board of review analyst, Mr. Roland Lara, objected to the appraisal, as the appraiser was not present at hearing, and was not available for cross examination per Novicki v. Department of Finance, 373 Ill.342,26 N. E.2d 130 (1940). In response, Mr. Scott Longstreet, the appellant's attorney argued that the Novicki case is distinguished based on the fact Novicki deals with sale tax and not real estate tax cases. Specifically, sales tax cases involve facts but real estate cases involve opinions of value in which the Board has expertise to evaluate appraisals and make an estimation of value. Lastly, the appellant's attorney distinguished the board of review's evidence based on the large range of sale prices, prior sale dates, lease fee interests, and no brokers involved. The appellant's attorney stated that the board of review's evidence is not indicative of the market and not reliable.

Conclusion of Law

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

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 meet this burden of proof and a reduction in the subject's assessment is warranted.

The Board does not find the appraisal submitted by the appellant persuasive. At hearing, the board of review analyst argued that the appraisal was hearsay evidence because the appraiser was not able to testify. The Board finds this to be the case. For proceedings before the Board, "[t]he procedure, to the extent that the Board considers practicable, shall eliminate formal rules of pleading, practice and evidence,..."³⁵ ILCS 200/16180. However, in Novicki v. Department of Finance, 373 Ill.342,26 N. E.2d 130 (1940), the Supreme court of Illinois stated , [t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. At 344. Thus, while the Board's rules allow for informal rules of evidence, the Board cannot repeal a basic rule of evidence under Supreme Court's holding in Novicki. Therefore, the Board finds that the appraisal is hearsay evidence for which no exception exists, and that the appraisal shall not be considered as relevant evidence in this appeal.

In looking at the appraisal's raw sales data, the Board finds the appellant's comparables #2, #3 and #4 were most similar to the subject in sale date and use but differ in age, size and location. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$212.00 to \$246.31 per square foot of building area. The subject's improvement assessment of \$313.38 per square foot of building area is above the range established by the most similar comparables. However, based on the subject's age, size and location the Board finds that the comparables should be adjusted upward to account for these superior characteristics. After considering adjustments and the differences in the comparables, when compared to the subject, the Board finds the subject's per square foot improvement is not supported and a reduction in the subject's assessment 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



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: April 24, 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.