



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

APPELLANT: Diversey-Rockwell Partnership
DOCKET NO.: 09-31167.001-R-1
PARCEL NO.: 13-25-227-033-0000

The parties of record before the Property Tax Appeal Board are Diversey-Rockwell Partnership, the appellant, by attorney Leonard Schiller of Schiller Strauss & Lavin PC 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: \$10,057
IMPR.: \$4,512
TOTAL: \$14,569

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 masonry building with a commercial store front and one residential apartment containing 4,512 square feet of building area. The building was

constructed in 1917. The property has a 6,386 square foot site and is located in Chicago, West Chicago Township, Cook County. The subject is classified as a class 5-92 two or three story building containing part or all retail and/or commercial property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on a contention of law regarding the subject building's real estate assessment classification. The appellant also contends overvaluation and submitted the subject property's income and expense statements from 2007 through 2009.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$36,422. The subject's assessment reflects a market value of \$145,688 or \$32.29 per square foot of building area, including land, when applying the Cook County level of assessment for class 5 property of 25%.

In support of its contention of the correct assessment the board of review submitted limited information on five comparable sales.

The appellant submitted a rebuttal brief.

Conclusion of Law

The appellant argued that the subject property is a "mix-use" building containing one apartment and one commercial space and therefore is not classified correctly. The appellant submitted an affidavit from Peter Spyropoulos disclosing that, he inspected the subject property; it consists of a 1st floor commercial space and a 2nd floor apartment. The affidavit also states that the subject was vacant in 2009 and a 2010 tenant is being evicted due to nonpayment of rent. The board of review did not rebut the appellant's argument and submitted no evidence that supports their classification of the subject property. Therefore, the Board finds the subject is a class 2-12 mixed use commercial/residential building with apartment and commercial area totaling 6 units or less with a square foot area less than 20,000 square feet, any age. The Board further finds that based on the evidence in this record that a reduction in the subject's assessment commensurate with the appellant's request is warranted on grounds of changing the classification to class 2-12 and applying the 10% ordinance level.

The appellant also 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 further reduction in the subject's assessment based on overvaluation is not warranted in light of the reduction for classification change.

As an alternative argument the appellant contends the subject's assessment is excessive 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

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value; therefore, the Property Tax Appeal Board gives this argument no weight.

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: December 18, 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.