



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

APPELLANT: Rosemary Laurie
DOCKET NO.: 10-30011.001-C-1
PARCEL NO.: 12-26-407-011-0000

The parties of record before the Property Tax Appeal Board are Rosemary Laurie, the appellant, by attorney Edward P. Larkin, of Edward P. Larkin, Attorney at Law in Des Plaines; 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: \$ 16,843
IMPR.: \$ 63,143
TOTAL: \$ 79,986

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 2010 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 is 53 years old, and consists of a one and part two-story building of frame and masonry construction containing 2,634 square feet of interior area. The subject contains two residential rental apartments, which are Class 2-11 property under the Cook County Real Property Assessment Classification Ordinance, and one commercial rental unit, which is Class 5 property under the Cook County Real Property Assessment Classification Ordinance. The subject property has a

6,125 square foot site, is located in Leyden Township, Cook County.

The appellant contends overvaluation and a contention of law as the bases of the appeal. In support of these arguments, the appellant submitted an income analysis with Federal Tax Returns for 2008, 2009 and 2010, a black-and-white photograph of the subject, an office lease beginning 2001 through 2009, an apartment lease beginning 2008 through 2010, and an apartment lease beginning 2007 through 2009. The appellant also argued in his brief that the assessment of \$79,986 for 2010 must be reduced to the assessment of \$34,837 set by the board of review for 2011 and 2012.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$79,986, of which \$2,857 is the total assessment for the Class 2 residential portion of the subject and of which \$77,129 is the total assessment for the Class 5 commercial portion of the subject. The subject's assessment reflects a market value of \$340,473 when applying the 2010 blended level of assessment of 23.49% for the subject.

In rebuttal, the appellant argued that the board of review did not address the contention of law that the assessment for the current tax lien year of 2010 should be reduced because the assessments for the subsequent years of 2011 and 2012 were reduced.

At hearing, the appellant reaffirmed his contention of law and request for an assessment reduction.

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.

In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is clearly the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held by the owner... [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"... [M]any 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. at 430-31.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate 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. The Board further finds that the subject's assessment is supported by the board of review's comparables.

The taxpayer also contends a contention of law as the basis of the appeal. The Board finds the appellant's argument is without merit and a reduction in the subject's assessment is not warranted.

The Board finds that there is no merit to the appellant's contention of law. Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974) and The 400 Condominium Association, et al., v. Tully, 79 Ill.App.3d 686, 398 N.E.2d 951 (1st Dist. 1979), stand for the proposition that an assessment reduction in a subsequent year requires an assessment reduction in the tax year at issue absent a glaring error in calculation. The Supreme Court in Hoyne observed that that case presented unusual circumstances coupled with a grossly excessive assessment increase from \$9,510 in 1970 to \$246,810 in 1971. Consequently, it remanded the case for the lower court to ascertain the correct assessed valuation. Hoyne, 60 Ill.2d at 89-90, 322 N.E.2d at 836-37.

The appellant inverts the holdings in those cases. The Supreme Court in Hoyne never found the 1970 assessment to be in error; it found the 1971 assessment to be grossly excessive. In this case, the appellant argued the 2010 assessment was too high merely because the 2011 and 2012 assessments were reduced. The appellant failed to present any facts that suggest the board of review reduced the 2011 and 2012 assessments because they were already grossly excessive. Even if the appellant were to present such facts, there is no basis to conclude that the 2010 assessment should, therefore, be reduced. The Appellate Court in Moroney v. Illinois Property Tax Appeal Board, 2013 Ill.App. (1st) 120493, distinguished Hoyne and 400 Condominium as confined to their unique facts. The Court rejected that appellant's argument

that those prior cases stood for the proposition that "subsequent actions by assessing officials are fertile grounds to demonstrate a mistake in prior year's assessments." Moroney, 2013 Ill.App. 120493 at ¶46. There was no evidence in Moroney that there was any error in the calculation of the taxpayer's 2005 assessment. Moreover, as the Appellate Court observed, "just because factors warranting a reduction existed in 2006, does not mean they existed in 2005, or any other year for that matter (which is why property taxes are assessed every year)." Id.

Based on this record the Board finds that the appellant's contention of law is without merit. The Board further finds that the subject's assessment is supported by the board of review's comparables. Therefore, the Board holds that a reduction in the subject's assessment is not justified.

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.

Mario Albino

Chairman

K. L. Ferr

Member

JR

Member

Jerry White

Acting Member

Robert Hoffmann

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 22, 2016

A. Hertel

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.