



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

APPELLANT: Peter Troost
DOCKET NO.: 11-30398.001-C-1
PARCEL NO.: 10-10-406-017-0000

The parties of record before the Property Tax Appeal Board are Peter Troost, the appellant(s); 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: \$21,525
IMPR: \$81,975
TOTAL: \$103,500

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 2011 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 8,400 square foot parcel of land improved with a 33-year old, one-story, masonry, commercial building containing approximately 3,312 square feet of building area. The property is located in Niles Township, Cook County.

The property is a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

In support of the market value argument, the appellant submitted an appraisal undertaken by McCormick & Wagner, LLC. The appraisal indicated an estimated market value of \$250,000 as of January 1, 2011. The appraisal report utilized the income approach and sales comparison approach to value to estimate the market value for the subject property.

Under the sales comparison approach, the appraiser analyzed the sales of five properties described as one-story, commercial buildings between 26 and 59 years old and located within the subject's market. They sold from January 2010, to June 2012, for prices ranging from \$56.00 to \$94.38 per square foot of living area. Comparable #3's sale price per square foot was adjusted for excess land. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$75.00 per square foot of building area, or \$250,000, rounded.

The appraisal also developed the income approach to value which estimated the subject's value under this approach of \$250,000. In reconciling the approaches to value, the sales comparison approach was given the greatest weight.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$140,759 was disclosed. The subject's final assessment reflects a fair market value of \$563,036 or \$170.00 per square foot when the Cook County Real Property Assessment Classification Ordinance level of assessment of 25% for Cook County Class 5 properties is applied.

In support of the subject's assessment, the board of review presented sales data on five properties suggested as comparable. The properties are described as one or two-story, masonry, commercial buildings. The properties are 37 to 72 years old and contain between 2,650 to 5,500 square feet of living area. They sold from January 2006 and July 2011 for prices that ranged from \$180.88 to \$232.32 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the Board addressed a preliminary issue concerning questions regarding a certificate of error applied for by the appellant for the tax year in question. Mr. Troost stated that regardless of the outcome of the certificate of error at the county level, he is still seeking relief from the Property Tax Appeal Board under this appeal. The appellant did not know if the certificate of error was granted at the county level for tax year 2011. The Board denied the board of review's motion to dismiss the appeal because the appellant requested a certificate of error at the county level.

In addition, the board of review's representative, Gabriela Nicolau, asserted that the subject property's title is held in trust and not directly owned by the appellant, Peter Troost. She submitted the *Board of Review's Exhibit #2*, a copy of the record of deeds website printout listing the subject's property history. Mr. Troost then testified that he is the beneficiary of the trust. At the conclusion of the hearing, the board of review requested a copy of the trust to establish that Mr. Troost is the beneficiary. Mr. Troost quickly agreed to submit that document and timely submitted to the Board, after the close of hearing, the documentation showing that he is the beneficiary of the trust that title to the subject property is under.

As to the substantive issues of the appeal, Mr. Troost opined that the subject's assessed value does not reflect the subject's correct market value. He testified to the layout of the subject property and the rental capacity. He acknowledged that his appraiser was not present to testify. Mr. Troost testified he did not remember when the appraiser came to the property and was not present at that time. He opined that the subject and each unit is very small and it's difficult to find similar sized properties.

The board of review objected to the appraisal as the appraiser was not present to testify at hearing as to the conclusions of value within the appraisal.

Ms. Nicolau testified that the first sales within the appraisal were distressed sales and were not noted as such within the appraisal. She submitted into the record *Board of Review's Group Exhibit #1*, recorder of deeds website printouts for these properties showing their property history. She opined that the appraisal's sales comparables #4 and #5 are larger than the subject.

Ms. Nicolau opined that the board of review's sales are located in the subject's town, have a higher price per square foot than the subject, and are appropriate sales. The appellant argued that these comparables are in a better location. He testified the subject is located on a busy street and not within a shopping mall.

Conclusion of Law

As to Mr. Peter Troost's standing to appear at hearing, the Board finds Mr. Troost is the beneficiary of the trust that holds the title to the subject and, therefore, the Board finds Mr. Troost has standing to appear at hearing in regards to this property.

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 arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the market value evidence presented, the Board finds that the appellant did not meet this burden and that a reduction is not warranted.

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the Board. 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. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of

an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 objected to the appraisal as hearsay. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the Board will consider the raw sales data submitted by both parties.

The Board gives little weight to the board of review's argument that the appraisal's sales comparables #1 through #3 should not be used because they are distressed sales. The Illinois General Assembly provided very clear guidance for the Board with regards to compulsory sales. Section 16-183 of the Illinois Property Tax Code states as follows:

The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

35 ILCS 200/16-183. Therefore, the Board is statutorily required to consider compulsory sales of comparable properties.

In totality, the parties submitted sales data on 10 suggested comparables. The Board finds appellant's sales #1, #2, #4, and #5 and the board of review's comparable #1 the most probative. These sales occurred from June 2010 to June 2012 for unadjusted prices ranging from \$56.00 to \$180.88 per square foot of building area. In comparison, the appellant's assessment reflects a market value of \$170.00 per square foot of building area which is within the range established by the sales comparables. However, the Board finds the one sale comparable, the board of review's comparable #1, valued above the subject is located in a medical campus which is a superior location than the subject and this comparables should be adjusted downward to

account for this factor. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot assessment is not supported and a reduction 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

K. L. Ferr

Member

JR

Member

Mark Albino

Member

Jerry White

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: June 26, 2015

A. Portol

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.