



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

APPELLANT: Michael Zucker, Receiver
DOCKET NO.: 11-35043.001-C-1 through 11-35043.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Michael Zucker, Receiver, the appellant, by attorney Edwin M. Wittenstein of Worssek & Vihon in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented in this matter, 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
11-35043.001-C-1	16-05-427-018-0000	3,150	10,381	\$13,531
11-35043.002-C-1	16-05-427-019-0000	3,150	10,380	\$13,530

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from an administrative decision of the Property Tax Appeal Board pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185) 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 two parcels each improved with a three-story building of masonry construction with 4,290 square feet of building area. The building on parcel number 16-05-427-018-0000 (PIN 018) is approximately 84 years old area with a full basement with a formal recreation room and central air conditioning. PIN 018 also has a two-car detached garage. The building on parcel number 16-05-427-019-0000 (PIN 019) is approximately 81 years old with a partial unfinished basement and central air conditioning. PIN 019 also has a 1½-car detached garage. Each parcel has 3,000 square feet of land area and is located in Chicago, West Chicago Township, Cook County. The subject parcels are classified as class 2-12 properties under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant submitted information on four equity comparables for each of the parcels.

Each comparable was improved with a two-story building of masonry construction that ranged in size from 4,800 to 4,996 square feet of building area that ranged in age from 74 to 118 years old. Each comparable has a partial unfinished basement and central air conditioning. Two comparables have a 1½-car detached garage. The comparables have the same neighborhood code and classification code as the subject property. These properties have improvement assessments ranging from \$11,882 to \$16,427 or from \$2.48 to \$3.29 per square foot of building area. Each of the subject buildings has an improvement assessment of \$14,907 or \$3.47 per square foot of building area.

The appellant's submission also included a brief in which counsel explained that on or about February 17, 2009, First Chicago Bank & Trust filed a bankruptcy action against the owners and all entities having an interest in the subject property. On June 2, 2009, Judge Mathias Delort of the Circuit Court of Cook County entered an Order appointing Michael Zucker as the Receiver.

The brief also included an income approach to value prepared by counsel using the subject's actual income and expenses to arrive at a fair market value of \$241,371. Counsel then applied the 10% level of assessment for class 2 property and a 50% vacancy and foreclosure factor to arrive at an assessment of \$12,068.

The appellant also submitted a copy of the final decision of the Property Tax Appeal Board for the prior tax year under Docket Number 10-36479.001-C-1 through 10-36479.002-C-1 in which the total assessment of the property was reduced to \$27,061, based on an agreement of the parties. On the petition the appellant requested the subject's total assessment be reduced to \$27,061.

The board of review did not submit its "Board of Review Notes on Appeal" nor any evidence in support of its assessed valuation of the subject property.

Conclusion of Law

The taxpayer contends assessment inequity as the 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the only evidence of assessment equity to be appellant's comparables. These comparables had improvement assessments that ranged from \$2.48 to \$3.29 per square foot of building area. Each of the subject buildings has an improvement assessment of \$3.47 per square foot of building area, which falls above the range established by the comparables in this record. The board of review did not submit any evidence in support of its assessment of the subject property as required by section 1910.40(a) of the rules of the Property Tax Appeal Board and is found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. 86 Ill.Admin.Code §1910.40(a) & §1910.69(a). The Board has examined the

information submitted by the appellant and finds that it supports a reduction in the assessed valuation of the subject property based on assessment inequity.

The Board gives little weight to the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

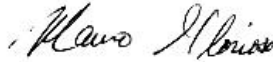
[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value 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 Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate through a submission provided by an expert in the field of real-estate appraisal that the subject's actual income and expenses are 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 reflective of the market and the property's capacity for earning 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 provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight. Additionally, the Board finds there was no support for the appellant's deduction of 50% for a vacancy and foreclosure factor.

The Board further finds problematic the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide an unbiased, objective opinion of fair cash value for that client's property.

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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member



Member



Member

DISSENTING: _____

CERTIFICATION

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 17, 2018



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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