



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

APPELLANT: Marino Realty, LLC
DOCKET NO.: 12-00050.001-R-1
PARCEL NO.: 12-08-126-027

The parties of record before the Property Tax Appeal Board are Marino Realty, LLC, the appellant, by attorney Ryan Schaeffges of Mar Cal Law, P.C. in Chicago; and the Winnebago 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 **Winnebago** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$10,089
IMPR.: \$75,911
TOTAL: \$86,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Winnebago County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2012 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, six unit, multi-family building of frame construction with 7,220 square feet of

building area. The building was constructed in 1974. The property has a 17,040 square foot site and is located in Rockford, Rockford Township, Winnebago County.

The appellant appeared through counsel arguing assessment inequity and a contention of law as the bases of the appeal. In support of these arguments the appellant submitted information on three equity comparables that have six apartment units and have improvement assessments ranging from \$10,407 to \$12,686 per apartment unit or from \$8.67 to \$9.50 per square foot of building area.

As to the contention of law argument, the appellant argued the subject property was overvalued and submitted an income approach to value derived by using the subject's actual income and expenses from 2010 and 2011. The 2012 income and expenses were prorated. The analysis provided three alternative values for the subject property. Using an analysis of the assessed value per square foot of the improvements of comparable properties indicated the subject's fair market value was \$249,175. Using a stabilized gross income and expense analysis, the subject's indicated fair market value was \$230,623 and using the vacancy factor applied to the improvement of the subject property indicated the subject's fair market value was \$249,175.

At the hearing, the appellant's attorney acknowledged that the author of the income approach analysis was Andrew Dzuik, who was not present at the hearing to provide testimony and/or be cross-examined with regard to the analysis.

Based on this evidence the appellant requested the subject's improvement assessment be reduced to \$66,521 or \$11,087 per apartment unit or \$9.21 per square foot of building area. Based on the appellant's evidence of overvaluation, the appellant requested the subject's total assessment be reduced to \$76,610, which would reflect a market value of \$229,853 using the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$86,000. The subject property has an improvement assessment of \$75,911 or \$12,652 per apartment unit or \$10.51 per square foot of living area. The subject's assessment reflects a market value of \$258,026 or \$43,004 per apartment unit, land included, when using the statutory level of assessment of 33.33%.

In support of its contention of the correct assessment the board of review submitted information on four equity comparables that have six apartment units. The buildings were constructed from 1969 to 1994. The comparables have improvement assessments ranging from \$11,422 to \$13,292 per apartment unit or from \$9.27 to \$11.24 per square foot of building area.

As to the appellant's overvaluation argument, the board of review submitted four sales that occurred from April 2011 to July 2012 for prices ranging from \$145,000 to \$300,000 or from \$33,333 to \$60,000 per apartment unit, including land. The board of review did not disclose the lot size of the comparables. The board of review also submitted an income approach to value the subject property derived by using the subject's actual rent roll indicating the subject's market value was \$294,437.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination, the board of review's witness, Mike Smith, acknowledged that the board of review's equity comparable #4 had an improvement assessment that based on its newer age should be increased.

Conclusion of Law

The taxpayer contends in part improvement assessment inequity as a 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 did not meet this burden of proof and no reduction in the subject's improvement assessment is warranted on this basis.

The Board finds the parties submitted seven improvement equity comparables for the Board's consideration. The Board gave less weight to the board of review's comparable #4 due to its considerably newer age, when compared to the subject. The Board finds the remaining comparables had the same number of apartment units and were relatively similar in size when compared to the

subject. These comparables had improvement assessments ranging from \$10,407 to \$13,292 per apartment unit or from \$8.67 to \$11.24 per square foot of building area. The subject's improvement assessment of \$12,652 per apartment unit or \$10.51 per square foot of building area falls within the range established by the best comparables in this record. The Board finds the record demonstrates with clear and convincing evidence that the subject's improvement was equitably assessed and no reduction in the subject's improvement assessment is justified.

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 no reduction in the subject's assessment is warranted on this basis.

As an initial matter, the Property Tax Appeal Board gave no weight to the parties' income approach analyses. The Board finds the parties estimation of the subject's market value when applying the subject's actual income and expenses unconvincing and not supported by any credible market evidence in the record. An income analysis using the subject's actual income and expenses is unpersuasive. 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. The parties attempted to

demonstrate through an income approach analysis that the subject's actual income and expenses are reflective of the market. However, in order to demonstrate or estimate the subject's market value using an income approach, as the parties attempted, the parties must establish through the use of market derived comparable data, the market rent, vacancy and collection losses and expenses used to arrive at a net operating income reflective of the market and the property's capacity for earning income. The Board finds the parties' rental income evidence is lacking any market data to support the opinion and is therefore not credible. As a result, the Property Tax Appeal Board gives the parties' income approach no weight.

In addition, the Board finds the appellant's income approach is hearsay. The Board finds that in the absence of the author of the analysis at the hearing to address questions as to the value conclusions set forth by the income approach, the Board will give no weight to the final value conclusion made by the author of the analysis. The Board finds the appellant's income approach analysis is tantamount to hearsay. Illinois courts have held that where hearsay evidence appears in the record, a factual determination based on such evidence and unsupported by other sufficient evidence in the record must be reversed. LaGrange Bank #1713 v. DuPage County Board of Review, 79 Ill. App. 3d 474 (2nd Dist. 1979); Russell v. License Appeal Comm., 133 Ill. App. 2d 594 (1st Dist. 1971). In the absence of the author being available and subject to cross-examination regarding methods used and conclusion(s) drawn, the Board finds that the weight and credibility of the evidence and the value conclusions have been significantly diminished.

Lastly, the record contains four sales from the board of review for the Board's consideration. The Board gave less weight to the board of review's comparable #4 due to its considerably newer age, when compared to the subject. The Board finds the remaining comparable sales in this record are somewhat similar to the subject in location, size, age and number of apartments. The comparables sold from November 2011 to July 2012 for prices ranging from \$145,000 to \$280,000 or from \$33,333 to \$46,667 per apartment unit, including land. The subject's assessment reflects a market value of \$258,026 or \$43,004 per apartment unit, land included, which is within the range established by the best comparables in this record on both a total market value basis and on a per apartment basis. After considering adjustments to the comparables for differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is

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supported by the sales in the record and no reduction in the subject's assessment is warranted due to overvaluation.

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

Klaus Albino

Member

[Signature]

Member

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: July 24, 2015

[Signature]

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.