



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

APPELLANT: PLAZA 23 LLC
DOCKET NO.: 12-04120.001-C-2
PARCEL NO.: 10-06.0-301-005

The parties of record before the Property Tax Appeal Board are PLAZA 23 LLC, the appellant; the St. Clair County Board of Review; and Southwestern Illinois College, the intervenor, by attorney Garrett P. Hoerner of Becker, Paulson, Hoerner & Thompson, P.C., in Belleville.

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 **St. Clair** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 70,727
IMPR.: \$ 398,797
TOTAL: \$ 469,524

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the St. Clair 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 is improved with four, two-story apartment buildings of frame construction. The buildings have a total of

30,240 square feet of building area with 24 apartment units. The buildings were constructed in 2012. The property has a 38.44 acre site. The subject property is located in Mascoutah Township, St. Clair County, Illinois.

The appellant argued the subject property was overvalued and inequitably assessed.

In support of the overvaluation claim, the appellant formulated an income approach to value using the subject's purported actual income and expenses for business year 2012, including expenses for depreciation, political donations, interest, repairs and maintenance. The appellant indicated the subject property has a gross annual income of \$264,165 and expenses totaling \$346,407, resulting in a negative net operating income of \$82,242. The appellant next applied a 10% capitalization rate to the negative net operating income to estimate a market value for the subject property of \$822,420.

In support of the inequity claim, the appellant submitted three apartment building properties located 3 to 5 miles from the subject. The comparables contained from 1 to 6 buildings and were built from 2002 to 2008. Total building sizes ranged from 18,240 to 57,120 square feet of building area. The comparables had improvement assessments ranging from \$174,506 to \$506,624 or from \$8.87 to \$10.59 per square foot of building area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's final assessment of \$469,524. The subject's assessment reflects an estimated market value of \$1,403,240 when applying St. Clair County's 2012 three-year average median level of assessment of 33.46%. 86 Ill.Admin.Code §1910.50(c)(1). The subject property has an improvement assessment of \$398,797 or \$9.99 per square foot of building area.

To demonstrate the subject property was equitably assessed, the board of review submitted information on three apartment building properties located 5 to 12 miles from the subject. One comparable was also used by the appellant. The comparables contained from 1 to 6 buildings and were built from 1992 to 2005. Total building sizes ranged from 8,192 to 57,120 square feet of building area. The comparables had improvement assessments ranging from \$115,403 to \$506,624 or from \$8.87 to \$14.09 per square foot of building area. Based on this

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

The intervenor, Southwestern Illinois College, adopted the evidence of the board of review pursuant to Section 1910.99(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.99(a)).

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 submit any of the requisite evidence and did not meet the burden of moving forward. Therefore, this aspect of the appeal is hereby dismissed. In Commonwealth Edison Company v. Property Tax Appeal Board, 378 Ill.App.3d 901 (2nd Dist. 2008), the court held the appellant never carried its burden of production on such claim and never shifted the burden to the board of review to support its position on the value of the subject property, citing section 1910.63 of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.63(a)).

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach using only one year of the subject's purported 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 evidence of market value. 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 appellant attempted to demonstrate that the subject's actual income and expenses are reflective of the market. However, in order to estimate the subject's market value using an income approach, as the appellant attempted, the taxpayer must establish through the use of market derived comparable data, 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 appellant must establish through the use of market data a market derived capitalization rate to convert the net income into an estimate of market value. The appellant failed to provide any comparable market rental rates, expenses, vacancy rates or a calculation of a market derived capitalization rate. Additionally, the Board finds the appellant made deductions for depreciation, political donations and interest, which are not allowable expenses for ad valorem taxation purposes. Furthermore, the Board finds it highly suspect that the appellant deducted \$35,542 for repair and maintenance for new buildings. Finally, in terms of market value, the Board's finds it problematic the appellant did not provide the construction cost of the subject property given its new age.

The taxpayer also argued 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 did not meet this burden of proof.

The parties submitted five suggested assessment comparables for the Board's consideration. The Board gave less weight to comparables #1 and #3 submitted by appellant and comparable #3 submitted by the board of review due to their considerably smaller total building area when compared to the subject. The Board finds the two remaining comparables are more similar to the subject in location, design, total building area and

features, but are older in age and inferior to the subject. These comparables had improvement assessments of \$425,738 and \$506,624 or \$8.87 and \$11.31 per square foot of building area. The subject had an improvement assessment of \$398,797 or \$9.99 per square foot of building area, which is supported by the most similar comparables contained in this record. After considering any necessary adjustments to the comparables for differences to the subject, the Board finds no reduction in the subject's improvement assessment is justified.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's assessment as established by the board of review is correct and no 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.

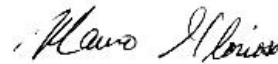
Chairman



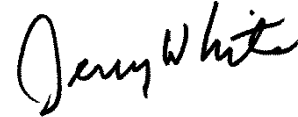
Member



Member



Member



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: September 18, 2015



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.