



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

APPELLANT: Midland Federal Savings & Loan Assoc. Tr. #1416
DOCKET NO.: 12-23282.001-R-1
PARCEL NO.: 23-01-116-014-0000

The parties of record before the Property Tax Appeal Board are Midland Federal Savings & Loan Assoc. #1416, the appellant, by attorney Richard J. Caldarazzo of Mar Cal Law, P.C. in Chicago; 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: \$4,270
IMPR.: \$24,080
TOTAL: \$28,350

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 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 a two-story mixed use building of masonry construction with 5,600 square feet of building area. The building is approximately 33 years old. Features of the building include a partial basement and central air conditioning. The property has a 10,676 square foot site and is located in Hickory Hills, Palos Township, Cook County.

The subject is classified as a class 2-12 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant marked assessment inequity and a contention of law as the bases of the appeal. In support of the assessment inequity argument the appellant submitted information on three equity comparables that had improvement assessments ranging from \$4.15 to \$4.46 per square foot of building area. The appellant indicated the subject property had an improvement assessment of \$27,547 or \$4.92 per square foot of building area.

With respect to the "contention of law" the appellant submitted a brief containing an income approach to value using the subject's actual income and expenses for 2010, 2011 and 2012. The appellant arrived at a stabilized net income of \$18,878, which was capitalized using an overall capitalization rate of 12.45% to arrive at an estimated market value of \$151,631. Based on this analysis the appellant requested the subject's assessment be reduced to \$15,163.

As an alternative argument the appellant requested the subject's assessment be reduced to account for the fact that one of the commercial suites was not rented resulting in a vacancy rate of 14%. Applying an occupancy rate of 86% to the subject's improvement assessment the appellant requested the subject's improvement assessment be reduced from \$27,547 to \$23,690.

The appellant submitted a copy of the final decision issued by the Cook County Board of Review disclosing a final total assessment of \$31,817. The subject's assessment reflects a market value of \$318,170 when applying the Cook County Real Property Assessment Classification Ordinance level of assessment for class 2-99 property of 10%.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property.

Conclusion of Law

The taxpayer contends in part 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 on this basis.

The Board finds the only evidence of assessment equity to be the appellant's comparables. These comparables had improvement assessments that ranged from \$4.15 to \$4.46 per square foot of building area. The subject's improvement assessment of \$4.92 per square foot of building area falls above the range established by the only 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 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 on this basis.

The Board further finds 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 is to be given little weight. 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 any market data or documentary evidence 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.

The Board further gives no weight to the appellant's argument that the subject's improvement assessment should be adjusted due to the subject's actual vacancy. As previously noted, an adjustment for vacancy is to be based on market data and be a market derived vacancy rate. Such data or analysis was not provided by the appellant.

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

Mark 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.