



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

APPELLANT: Eva Kobrzak
DOCKET NO.: 12-28343.001-C-1
PARCEL NO.: 12-29-203-009-0000

The parties of record before the Property Tax Appeal Board are Eva Kobrzak, the appellant, by attorney Joe Lee Huang of the Law Offices of Terrence Kennedy Jr. 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: \$8,840
IMPR.: \$16,334
TOTAL: \$25,174**

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 apartment building with 5,616 square feet of building area. The building is approximately 48 years old and is of masonry construction. Features of the property include a basement and ten apartments. The property has an 11,051 square foot site and is located in Franklin Park, Leyden Township, Cook County. The subject is

classified as a class 3-14 apartment building under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends in part overvaluation as the basis of the appeal. In support of this argument the appellant submitted a brief prepared by counsel, which included an income analysis purportedly using the subject's income and expenses from 2009 through 2011 to arrive at net income of \$30,593. A capitalization rate of 14.37% was applied to the net income to arrive at a market value of \$212,895. Based on this analysis the appellant requested the subject's assessment be reduced to \$21,290.

As an alternative market value argument the appellant's counsel asserted in the brief that two identical apartment buildings sold in 2009, each for a price of \$200,000. Based on this evidence the appellant requested the subject's total assessment be reduced to \$20,000

As an alternative argument the appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant submitted information on five comparables improved with two-story apartment buildings with the same classification code and neighborhood code as the subject property. The comparables were improved with two-story buildings that ranged in size from 5,616 to 8,968 square feet of building area and had from 8 to 12 apartments. These comparables had total assessments ranging from \$25,166 to \$38,094 and improvement assessments ranging from \$16,334 to \$26,026 or from \$2.90 to \$2.94 per square foot of building area. Based on this evidence the appellant requested the subject's total assessment be reduced to \$25,239.

The appellant submitted a copy of the final decision disclosing the subject had a total assessment of \$36,345. The subject's assessment reflects a market value of \$363,450 when applying the Cook County Real Property Assessment Classification Ordinance level of assessment for class 3-14 property of 10%. The appellant also indicated the subject had an improvement assessment of \$27,505 or \$4.90 per square foot of building area.

The board of review did not timely submit its "Board of Review Notes on Appeal" or any evidence in support of its contention of the correct assessment.

Conclusion of Law

The appellant contends in part 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 a reduction in the subject's assessment is warranted on this basis.

In support of the market value argument the appellant's counsel prepared an income approach to value. The Board 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 unconvincing and not supported by objective evidence in the record. 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 documentation or objective market data 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 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 unbiased, objective opinion evidence of value for that client's property.

As an alternative market value argument the appellant's counsel made reference in the brief to two comparable sales that were purportedly identical to the subject property. The appellant's counsel asserted these comparables sold in 2009 each for a price of \$200,000. The Board finds the record contains no specific description of these properties and further finds the 2009 sale dates are somewhat dated with reference to the January 1, 2012 assessment date at issue. Therefore, the Board gives this evidence little weight.

The Board finds the appellant failed to submit sufficient evidence to demonstrate the subject property was overvalued for assessment purposes and a reduction in the assessment is not justified on this basis.

As an alternative argument the appellant contends assessment inequity as a basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. 86 Ill.Admin.Code 1910.63(e). After an analysis of the assessment data, the Board finds the appellant has met this burden and a reduction in the assessment is warranted on this basis.

The Board finds the only comparables in the record timely submitted were the appellant's comparables. These comparables have improvement assessments that ranged from \$2.90 to \$2.94 per square foot of building area. The subject's improvement assessment of \$4.90 per square foot of building area falls above the range established by the appellant's comparables. The board of review did not submit any evidence in support of its assessment of the subject property or to refute the appellant's argument 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.Section §1910.40(a) & §1910.69(a)). Based

on this record the Board finds the appellant demonstrated with clear and convincing evidence that the subject's improvement assessment was inequitable and a reduction in the subject's assessment is justified on this basis.

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. Fan

Klaus Albrecht

Member

Member

JR

Jerry White

Member

Acting Member

Robert Steffen

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: November 20, 2015

A. Proctor

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.