



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

APPELLANT: IPO, LLC
DOCKET NO.: 13-00391.001-R-1
PARCEL NO.: 16-08-377-005

The parties of record before the Property Tax Appeal Board are IPO, LLC, the appellant, by attorney Richard J. Caldarazzo of Mar Cal Law, P.C., in Chicago; and the Winnebago County Board of Review.

Based on the facts and exhibits presented in this matter, 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: \$ 8,751
IMPR.: \$81,916
TOTAL: \$90,667

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 2013 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, eight unit brick apartment building that has 9,288 square feet of building area. The building was constructed in 1979. The building is situated on 24,522 square feet of land area. The subject property is located in Cherry Valley Township, Winnebago County, Illinois.

The appellant argued the subject property was overvalued. In support of the overvaluation claim, the appellant submitted information for three comparable sales located from 20 blocks to 7 miles from the subject property. The comparables consist of two-story buildings of masonry or frame exterior construction that are 40 to 64 years old. The buildings have eight apartment units. One comparable has an unfinished basement and one comparable has a six-car garage. The buildings range in size from 5,568 to 7,096 square feet of building area. The comparables sold from May

2007 to December 2012 for prices ranging from \$125,500 to \$210,000 or from \$18.55 to \$29.59 per square foot of building area including land.

As an alternative market value argument, the appellant claimed the subject property had a vacancy rate of 11% for assessment year 2013 based on an affidavit signed by the property owner. The appellant's attorney argued that applying an 89% occupancy factor to the subject's improvement assessment results in a revised improvement assessment of \$73,138 and total assessment of \$81,889, which reflects an estimated market value of approximately \$245,667¹. 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 \$90,667. The subject's assessment reflects an estimated market value of \$272,028 or \$29.29 per square foot of building area including land using Winnebago County's 2013 three-year average median level of assessment of 33.33%.

In support of its assessment of the subject property, the board of review submitted a letter addressing the appeal and information on four comparable sales. This evidence was prepared by the township assessor on behalf of the board of review. With respect to the evidence submitted by the appellant, the assessor argued comparable #1 was an auction sale that is 10 years older than the subject. Comparable #2 sold in 2007 and should not be considered. Comparable #3 was a short sale. With regard to the vacancy argument, the assessor argued vacancy is addressed when using the income approach to value, in which market vacancy rates are applied. The assessor argued a building could have vacancy issues due to poor management.

The comparables consist of two-story brick apartment buildings that were built from 1967 to 1978 and are located from 2 to 11 miles from the subject property. The buildings contain 8 or 11 apartment units. Three comparables have unfinished basements, one comparable has a carport and one comparable has a four-car basement garage. All the comparables have air conditioning. The buildings range in size from 7,188 to 10,090 square feet of building area. The comparables sold from August 2010 to May 2012 for prices ranging from \$201,500 to \$330,000 or from \$28.03 to \$36.35 per square foot of building area including land. Comparable #1 was described as being in need of repair. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 meet this burden of proof and no reduction in the subject's assessment is warranted.

¹ These calculations are incorrect. The subject had an improvement assessment of \$81,916. Applying an 89% occupancy factor results in an improvement assessment of \$72,905 and a total assessment of \$81,656, which reflects an estimated market value of \$244,993.

The record contains seven comparable sales for the Board's consideration. The Board gave less weight to comparables #1 and #2 submitted by the appellant. Comparable #1 is smaller in building size when compared to the subject. Comparable #2 is smaller in building size; older in age and sold in 2007, which is dated and less indicative of market value in relation to the subject's January 1, 2013 assessment date. Likewise, the Board gave less weight to comparable #4 submitted by the board of review due to its 2010 sale date. The Board finds the remaining four comparable sales are more similar when compared to the subject in design, age, building size, and some features. These comparables sold from November 2011 to May 2012 for prices ranging from \$201,500 to \$330,000 or from \$28.03 to \$32.71 per square foot of building area including land. The subject's assessment reflects an estimated market value of \$272,028 or \$29.29 per square foot of building area including land, which falls within the range established by the most similar comparable sales contained in this record. After considering adjustments to the comparables for any differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction in the subject's assessment is warranted.

The Board gave no weight to the argument that the subject's assessment is excessive based on the subject property's actual purported vacancy. First, as pointed out by the assessor, vacancy is only one component used under the income approach to value and in and of itself is not a credible basis for a reduction in the subject's assessment. The appellant did not submit a complete income approach to value prepared by an independent valuation expert. Many factors may prevent a property owner from realizing an income stream 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 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. Further, 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 of this pertinent evidence. The Board finds the appellant's evidence consisted of a short brief written by counsel. Based on a vacancy rate of 11% on information from the appellant, the attorney simply stated an 89% occupancy factor should be applied to the subject's improvement assessment. This would result in a reduction in the improvement assessment from \$81,916 to \$72,905 based solely on the subject's actual purported vacancy rate. The Board finds it is impossible to know if the subject's vacancy rate is a result of location, economics, poor management practices, above market asking rents or any number of other relevant market factors. The Board finds the vacancy evidence is insufficient to support a reduction in the subject's assessment. More importantly, the Board finds the appellant cited no statutory authority within the Property Tax Code or case law that provides that real property in Illinois is entitled to an assessment based upon its actual vacancy rate. In fact, section 9-45(a) of the Property Tax Code provides:

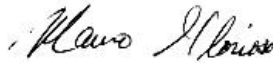
Each tract or lot of property shall be valued at 33 1/3% of its fair cash value. (35 ILCS 200/9-145(a)).

Section 1-50 of the Property Tax Code provides:

Fair cash value. The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50)

The Board finds the subject's assessment reflects 33 1/3% of its fair cash value based on the most similar comparables sales contained in this record, regardless of its actual vacancy rate. As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to demonstrate that the subject property was overvalued by a preponderance of the evidence 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: _____

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: September 23, 2016



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.