



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

APPELLANT: John Rigoni
DOCKET NO.: 13-01877.001-C-1
PARCEL NO.: 08-30-213-017

The parties of record before the Property Tax Appeal Board are John Rigoni, the appellant, by attorney Jerri K. Bush in Chicago, and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$89,085
IMPR: \$77,650
TOTAL: \$166,735

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Lake 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 one-story commercial building of brick construction with 7,560 square feet of building area. The building was constructed in 1984. The building features two store fronts. The property has approximately 74,000 square feet

of land area and is located in Waukegan, Waukegan Township, Lake County.

The appellant appeared through counsel before the Property Tax Appeal Board contending overvaluation as the basis of the appeal.

In support of this argument the appellant submitted an income approach to value as to the subject using the subject's actual income and expenses from 2010, 2011 and 2012. The subject's 2012 gross income of \$42,830, minus expenses totaling \$6,000, arrived at a net income of \$36,830. Using a loaded overall capitalization rate of 13.672%, the subject's concluded value under the income approach for 2012 was \$269,383.

The appellant also submitted Department of the Treasury Internal Revenue Service, Schedule E (Supplemental Income and Loss) forms for 2010, 2011 and 2012. The schedules disclose income in 2010 of \$63,424, 2011 of 73,545 and 2012 of \$59,379.

The appellant's counsel argued that there were no sales of similar "strip malls" that could be supplied as evidence, so an expense report was submitted.

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$89,991, which would reflect a market value of approximately \$269,973 or \$35.71 per square foot of building area including land.

At the hearing, the appellant's counsel was questioned by the Administrative Law Judge as to who prepared the subject's income approach. The appellant's counsel acknowledged that the income approach was prepared "in house" using the appellant's tax returns.

During cross examination by the board of review's representative, the appellant's counsel acknowledged that the income submitted by the appellant was from the restaurant located in the strip mall, but did not know if the second unit was vacant. The appellant's counsel also did not know what the asking rents were for the subject or the subject's vacancy rate.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$166,735. The subject's assessment reflects a market value of \$501,610 or \$66.35 per square foot of building area, land

included, when using the 2013 three year average median level of assessment for Lake County of 33.24% as determined by the Illinois Department of Revenue.

As to the appellant's evidence, the board of review's representative argued that the appellant failed to supply any lease information or comparable rental data in support of the income approach for the subject property.

In support of its contention of the correct assessment the board of review submitted information on one comparable sale and three listings. The sold property consists of a one-story commercial building of brick construction with 7,238 square feet of building area. The building was constructed in 1984. The building features one store front. The property has 72,745 square feet of land area and is located in Waukegan like the subject. The property sold in November 2008 for \$1,375,000 or \$189.97 per square foot of building area including land. The board of review also submitted information on three comparable listings that were being offered for prices of \$1,700,000, \$689,000 and \$1,900,000.

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

During cross examination, the board of review's representative acknowledged that the only sale presented by the board of review was from 2008, the listing information was from 2014 and the board of review's comparable #2 included an auto service center, unlike the subject.

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 a reduction in the subject's assessment is not warranted.

The appellant submitted an income approach to value the subject using the subject's actual income and expenses. 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 evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

it 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, which 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. Id.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses were 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. 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 follow this procedure in developing the income approach to value. The appellant also failed to disclose whether the income from the subject included rent from both units or only the restaurant; therefore, the Property Tax Appeal Board gives this argument no weight.

The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of real

estate taxes, the preferred method is the sales comparison approach. Since there is a credible market sale and listings contained in the record, the Board will place most weight on this evidence.

The board of review submitted a total of one sale and three listings for the Board's consideration. The Board gave less weight to the board of review's comparable #2 due to its dissimilar use as an auto service center. The Board finds comparable #3 was most similar to the subject in location, style, construction, size and features. Due to the similarities to the subject, this comparable received the most weight in the Board's analysis. The comparable sold in November 2008 for \$1,375,000 or \$189.97 per square foot of building area including land. The board of review's comparables #1 and #4 had asking prices of \$1,700,000 and \$1,900,000 or \$139.89 and \$158.36 per square foot of building area including land, respectively. The subject's assessment reflects a market value of \$501,610 or \$66.35 per square foot of building area, including land, which is below the value of the only comparable sale and the listings in terms of overall value and on a square foot basis. Therefore, the Board finds the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and no reduction in the subject's assessment is justified.

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.

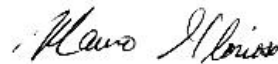
Chairman




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: June 26, 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.