



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

APPELLANT: Kevin & Linda Coogan
DOCKET NO.: 13-04213.001-R-1
PARCEL NO.: 06-08-216-024

The parties of record before the Property Tax Appeal Board are Kevin & Linda Coogan, the appellants, by attorney Katherine Amari O'Dell of Amari & Locallo in Chicago; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$25,880
IMPR.: \$68,020
TOTAL: \$93,900

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellants timely filed the appeal from a decision of the DuPage 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 multi-level apartment building of masonry exterior construction with 2,010 square feet of above grade building area. The apartment building was constructed in 1965. Features include a full finished basement used as apartments. The building contains four apartment units. The property is located in York Township, DuPage County, Illinois.

The appellants submitted evidence before the Property Tax Appeal Board contending assessment inequity as the basis of the appeal. In support of the inequity argument, the appellants submitted limited descriptive information for three equity comparables. The comparables have improvement assessments ranging from \$41,670 to \$111,640 or from \$14.67 to \$20.30 per square foot of building area.

As an alternative argument, appellants' counsel submitted portions of the subject's 2011-2013 federal tax returns and developed an income approach to value. Appellants' counsel utilized the subject's actual gross annual rental income from 2011 to 2013 and deducted expenses to arrive at a stabilized net operating income of \$25,401. Counsel next capitalized the net operating income by a rate of 12.81% to arrive at an indicated market value under the income approach of \$198,341. Based on this evidence, the appellants requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$93,900. The subject property has an improvement assessment of \$68,020 or \$33.84 per square foot of building area. In support of its contention of the correct assessment, the board of review submitted information on four assessment comparables. The comparables have varying degrees of similarity when compared to the subject. The comparables have improvement assessments ranging from \$68,530 to \$70,950 or from \$17.49 to \$34.10 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The taxpayers contend 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); Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). 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 appellants did not meet this burden of proof and no reduction in the subject's assessment is warranted.

The parties submitted seven suggested assessment comparables for the Board's consideration. The Board gave less weight to the comparables submitted by the appellants and comparables #3 and #4 submitted by the board of review due to their larger building size when compared to the subject. The Board finds the comparables #1 and #2 submitted by the board of review are more similar when compared to the subject in location, design, age, size and features. These comparables each have an improvement assessment of \$68,530 or \$34.10 per square foot of building area. The subject property has an improvement assessment of \$68,020 or \$33.84 per square foot of living area, which is less than the most similar assessment comparables contained in this record. The Board finds the appellant failed to demonstrate the subject property was inequitably assessed by clear and convincing evidence. Therefore, no reduction in the subject's assessment is warranted.

The Board finds the appellants' alternative argument that the subject's assessment is excessive when applying an income approach prepared by legal counsel when using the subject's actual income and expenses unconvincing and not supported by any credible market evidence in the record. Actual income and expenses can be useful when shown that they are reflective of the market. The appellants did not demonstrate through an expert in the field of real estate valuation

that the subject's actual income and expenses are reflective of the market. 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. In order to demonstrate or estimate the subject's market value using an income approach, as the appellants' counsel attempted, the taxpayer must establish through the use of market derived comparable data, the 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 appellants 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 appellants did not provide any such evidence. As a result, the Property Tax Appeal Board gives this argument no weight.

The Board further finds it highly problematic the fact that appellants' counsel developed the "income analysis" 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 prepare unbiased, objective value evidence for that client's property. Based on this analysis, the Property Tax Appeal Board finds the appellants failed to demonstrate the subject property's assessment was incorrect.

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: November 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.