



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

APPELLANT: Kevin Coogan
DOCKET NO.: 13-04216.001-R-1
PARCEL NO.: 06-08-216-023

The parties of record before the Property Tax Appeal Board are Kevin Coogan, the appellant, by attorney Richard J. Caldarazzo of Mar Cal Law, P.C., 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 appellant 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 two-story, four unit apartment building of masonry exterior construction that has 4,020 square feet of gross building area.¹ The building was constructed in 1965. The subject property is located in York Township, DuPage County, Illinois.

The appellant submitted evidence before the Property Tax Appeal Board claiming assessment inequity as the basis of the appeal. In support of the inequity claim, the appellant submitted limited information for three assessment comparables located in close proximity to the subject.² Based on the photographs submitted by the board of review, the comparables consist of two-story apartment buildings of masonry exterior construction that were built in 1959 or 1973. One

¹ The appellant described the subject dwelling as having 2,010 square feet of building area.

² The board of review submitted property record cards, photographs and an equity analysis of the appellant's comparables, which provided more detailed descriptive information for the subject and comparables.

comparable appears to have lower-level/basement apartment unit(s). The buildings contain 2,840 or 5,550 square feet of building area and contain from 2 to 7 rental units. The comparables have improvement assessments ranging from \$39,070 to \$111,640 or from \$13.76 to \$20.12 per square foot of building area.

As an alternative argument, the appellant's counsel submitted portions of the subject's 2011-2013 federal tax returns and developed an income approach to value. In developing the income approach to value, appellant's counsel utilized the subject's actual reported gross annual income from 2011 to 2013, deducted actual expenses for each year to arrive at a stabilized net operating income of \$25,401. Counsel next applied a loaded capitalization rate of 12.81% to the stabilized net operating income to arrive at an opinion of value under the income approach of \$198,341.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject property of \$93,900. The subject property has an improvement assessment of \$68,020 or \$16.92 per square foot of building area. In support of the subject's assessment, the board of review submitted an equity analysis of six assessment comparables located in same neighborhood code as the subject as defined by the township assessor. The comparables are improved with of two-story apartment buildings of masonry exterior construction that were built from 1957 to 1965. The buildings range in size from 3,584 to 4,056 square feet of building area and contain four rental units. The comparables have improvement assessments ranging from \$68,530 to \$70,950 or from \$17.05 to \$19.73 per square foot of building area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The taxpayer contends 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 appellant failed to meet this burden of proof and no reduction in the subject's assessment is warranted.

The record contains seven assessment comparables for the Board's consideration. The Board gave less weight to the comparables submitted by the appellant. Comparable #1 in considerably smaller in building size and contain fewer rental units than the subject. Comparables #2 and #3 are considerably larger in building size and contain more rental units than the subject. The Board finds the comparables submitted by the board of review were more similar when compared to the subject in location, age, design, building size and number of rental units. These comparables have improvement assessments ranging from \$68,530 to \$70,950 or from \$17.05 to \$19.73 per square foot of building area. The subject property has an improvement assessment of \$68,020 or \$16.92 per square foot of building area, which falls below the range established by

the most similar assessment comparables contained in the record. After considering adjustments to the comparables for any differences when compared to the subject, the Board finds the subject's improvement assessment is supported. Therefore, no reduction in the subject's assessment is warranted on the basis of assessment inequity.

As an alternative argument, the appellant argued the subject's assessment was excessive when applying an income approach to value based on the subject's actual income and expenses. The income approach to value was developed by appellant's legal counsel. The Board finds this argument unconvincing and not supported by any objective market value evidence. 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 an expert in the field of real estate valuation 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's counsel attempted, one must establish through the use of market comparables; market rent, market vacancy and collection losses, and market 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 any such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds it highly problematical the fact that appellant's counsel developed the income approach to value 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 develop unbiased, objective valuation evidence for that client's property.

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.