



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

APPELLANT: Joe Marino
DOCKET NO.: 15-01624.001-R-1
PARCEL NO.: 06-13-182-014

The parties of record before the Property Tax Appeal Board are Joe Marino, the appellant, by attorney Richard J. Caldarazzo of Mar Cal Law, P.C., in Chicago; and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$11,169
IMPR.: \$70,251
TOTAL: \$81,420

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 2.5-story, six unit frame apartment building that has 4,956 square feet of building area. The building was constructed in 1900. Features include an unfinished basement. The building is situated on 16,988 square feet of land area. The subject property is located in Elgin Township, Kane County, Illinois.

The appellant argued the subject property was overvalued and inequitably assessed. In support of the inequity claim, the appellant submitted information for three assessment comparables located in close proximity to the subject property. The comparables consist of two or three-story buildings of masonry exterior construction that are 101 to 115 years old. The buildings have five or six apartment units. All the comparables have an unfinished basement and one comparable has a 1,120 square foot detached garage. The buildings range in size from 4,238 to 8,028 square

feet of building area and have improvement assessments ranging from \$53,705 to \$70,607 or from \$8.80 to \$12.67 per square foot of building area.

In support of the overvaluation claim, the appellant's legal counsel formulated an income approach to value using the subject's actual income and expenses. Using the subject's actual income and expenses from 2012 through 2014, as well as the estimated income and expenses for 2015, counsel calculated a stabilized net operating income of \$25,537. The appellant's counsel next applied a 13.24% loaded capitalization rate to the stabilized net operating income to arrive at an estimated market value for the subject property of \$192,878.

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 \$81,420. The subject's assessment reflects an estimated market value of \$244,284 or \$49.29 per square foot of building area including land or \$40,714 per rental unit including land. The subject property has an improvement assessment of \$70,251 or \$14.17 per square foot of building area or \$11,709 per rental unit.

In support of its assessment of the subject property, the board of review submitted a letter addressing the appeal and sales and assessment information for nine comparables. The evidence was prepared by the Elgin Township Assessor. The comparables consist of two-story; three-story; or part one, two and three-story brick or frame apartment buildings that were built from 1880 and 1957. The buildings contain from 4 to 12 apartment units. Features had varying degrees of similarity when compared to the subject. The buildings ranged in size from 2,750 to 6,219 square feet of building area and are situated on sites that contain from 3,920 to 26,136 square feet of land area. The comparables sold from June 2013 to August 2015 for prices ranging from \$200,000 to \$395,000 or from \$34.57 to \$72.73 per square foot of building area including land or from \$32,250 to \$72,500 per rental unit including land.

The comparables had improvement assessments ranging from \$50,301 to \$102,655 or from \$12.83 to \$23.01 per square foot of building area or from \$7,224 to 18,563 per rental unit.

The assessor also developed the income approach to value using the gross income multiplier (GIM) methodology. Based on the subject's 2014 gross annual income of \$49,241 as reported by the appellant and applying a gross income multiplier of 5 that was extracted from the comparable sales, the assessor calculated the subject property has an estimated market value under the income approach of \$246,205 or \$41,034 per rental unit.

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.

First, the Board gave little weight to the estimate of value under the income approach prepared by appellant's legal counsel as well as the value conclusion calculated by the township assessor on behalf of the board of review. 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 other credible market value data available.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach using only the subject's actual income and expenses unconvincing and not supported by any credible market evidence in the record. An income analysis using the subject's actual income and expenses is unpersuasive evidence of market value. 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. The appellant attempted to demonstrate that the subject's actual income and expenses are reflective of the market. However, in order to estimate the subject's market value using an income approach, as the appellant attempted, 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 comparable market rental rates, expenses, vacancy rates or a calculation of a market derived capitalization rate. Finally, the Board's finds it highly problematic the fact that appellant's legal 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.

The board of review submitted nine suggested comparable sales to support its assessment of the subject property. The Board gave less weight to comparables #1, #3, #7, #8 and #9. Comparables #1 and #3 are considerably smaller in overall building size when compared to the subject. Comparable #7 is newer in age and comparable #9 has considerably more rental units when compared to the subject. Comparables #3, #7 and #8 sold in 2013, which are dated and less indicative of market value as of the subject's January 1, 2015 assessment date. The Board

finds comparable sales #2, #4, #5, and #6 are more similar when compared to the subject in location, design, age, building size, rental units and features. These comparables sold from June 2014 to August 2015 for prices ranging from \$215,000 to \$292,500 or from \$34.57 to \$58.07 per square foot of building area including land or from \$35,071 to \$72,500 per rental unit. The subject's assessment reflects an estimated market value of \$244,284 or \$49.29 per square foot of building area including land or \$40,714 per rental unit 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 taxpayer alternatively argued 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). 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 did not meet this burden of proof.

The parties submitted 12 assessment comparables for the Board's consideration. The Board gave less weight to comparable #1 submitted by the appellant due to its larger building size when compared to the subject. The Board gave less weight to comparables #1, #3, #7 and #9 submitted by the board of review. Comparables #1 and #3 are smaller in building size; comparable #7 is newer in age; and comparable #9 has more rental units when compared to the subject. The Board finds the remaining seven assessment comparables are more similar to the subject in location, design, age, building size, number of rental units and features. These comparables have improvement assessments that ranged from \$53,705 to \$97,547 or from \$10.77 to \$17.43 per square foot of building area or from \$9,874 to \$18,563 per rental unit. The subject property has an improvement assessment of \$70,251 or \$14.17 per square foot of building area or \$11,709 per rental unit, which falls within the range established by the most similar comparables contained in this record. After considering any necessary adjustments to the comparables for differences to the subject, the Board finds no reduction in the subject's improvement assessment is justified.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed.

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:

August 19, 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.