



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

APPELLANT: Barry Greenburg
DOCKET NO.: 15-31244.001-R-1
PARCEL NO.: 14-33-110-037-0000

The parties of record before the Property Tax Appeal Board are Barry Greenburg, the appellant, by attorney Timothy E. Moran, of Schmidt Salzman & Moran, Ltd. in Chicago; and the Cook 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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$41,355
IMPR.: \$135,845
TOTAL: \$177,200

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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 three-story mixed-use building of masonry exterior construction. The building is approximately 128 years old and has 9,462 square feet of living area. Features include a full unfinished basement and central air conditioning. The property has a 4,595-square foot site and is located in Chicago, North Chicago Township, Cook County. The subject is classified as a class 2-12 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument the appellant submitted limited information on five equity comparables. Two of the comparables are located within the same neighborhood code as the subject property. The comparables consist of two, 2-story and three, 3-story mixed-use buildings that range in age from 78 to 127 years old. The comparables had features with varying degrees of similarity when

compared to the subject. The buildings range in size from 7,900 to 10,886 square feet of living area and have improvement assessments ranging from \$78,457 to \$115,679 or from \$8.63 to \$14.03 per square foot of living area.

In addition to the equity argument, the appellant's attorney submitted a brief containing an income analysis. In developing the income analysis, the appellant's counsel utilized the subject's actual reported gross annual income from 2014 of \$227,005. Counsel deducted 25% or \$56,579 for allowable expenses to arrive at a net operating income of \$170,426. Counsel next capitalized the net income by a rate of 11.92% which included a tax load factor of 1.92% to arrive at a market value of \$1,429,748. In support of this claim, the appellant submitted a copy of the 2015 Rent Roll and portions of the subject's 2012-2013 federal tax returns.

Based upon this evidence, the appellant requested a reduction in the subject's assessment to reflect the market value derived from the income analysis.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$177,200. This subject property has an improvement assessment of \$135,845 or \$14.36 per square foot of living area. In support of its contention of the correct assessment the board of review submitted information on four equity comparables located within the same assessment code as the subject property. The comparables consist of one, 2-story and three, 3-story mixed-use buildings that range in age from 8 to 124 years old. The comparables had features with varying degrees of similarity when compared to the subject. The buildings range in size from 7,380 to 8,280 square feet of living area and have improvement assessments ranging from \$107,792 to \$142,911 or from \$14.36 to \$17.26 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 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). 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 and a reduction in the subject's assessment is not warranted.

The parties submitted information on a total of nine suggested equity comparables for the Board's consideration. The Board finds the appellant's comparable #2 and the board of review's comparable #4 are similar when compared to the subject in location, age, size, design and features. These comparables had improvement assessments of \$14.03 and \$17.26 per square foot of living area. The subject's improvement assessment of \$14.36 per square foot of living area falls between the best comparables established in this record. The Board gave less weight to the appellant's comparables #1 and #3 through #5 due to their difference in dwelling design and/or distant location when compared to the subject property. The Board also gave less weight to the board of review's comparables #1 through #3 due to their newer age or difference in dwelling design and/or size when compared to the subject property.

Based on this record, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

The Board also finds the appellant's argument that the subject's assessment is excessive when applying an income approach prepared by legal counsel using the subject's actual income and expenses unconvincing and not supported by any credible market evidence in the record. 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 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. Id. at 431.

In order to demonstrate or estimate the subject's market value using an income approach, as the appellant's counsel attempted, the taxpayer must establish, through the use of market data, the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The appellant did not provide such evidence and, therefore, the Board gives this argument no weight. As a result, the Board finds that a reduction is not warranted based on the appellant's income analysis.

Furthermore, the Board finds it problematic the fact that the appellant's 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 provide unbiased, objective value evidence for the 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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



Chairman



Member



Member

Member



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: June 19, 2018



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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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