



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

APPELLANT: Carlos Halwaji
DOCKET NO.: 15-33624.001-C-2
PARCEL NO.: 16-26-122-043-0000

The parties of record before the Property Tax Appeal Board are Carlos Halwaji, the appellant(s); 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: \$9,750
IMPR.: \$146,500
TOTAL: \$156,250

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 contains a 36 year-old, two-story storefront/medical office building of masonry construction with 7,772 square feet of gross building area. The property has a 3,932 square foot site located in West Chicago Township, Cook County. The property is a Class 5-92 property under the Cook County Real Property Assessment Classification Ordinance. The subject is designated as Property Index Number (hereinafter, "PIN") 043. An adjacent parcel utilized as a parking lot only and owned by the appellant is designated PIN 021. This appeal was brought before the Board only for PIN 043.

The appellant contends overvaluation and assessment inequity as the bases of the appeal. In support of the overvaluation argument, the appellant submitted an appraisal report and three sale comparable properties independent of the appraisal report. The appraisal also used the income capitalization approach. The appraisal estimated the subject property had a reconciled market value of \$480,000 as of January 1, 2015. The appellant's three sales occurred from January 2013

through December 2015 and ranged from 1,800 to 2,500 square feet of gross building area, or from \$41.67 to \$141.41 per square foot of building area including land. In support of the assessment inequity argument, the appellant submitted three equity comparable properties. These comparables were for the same properties submitted as his three sale comparables. The equity comparables ranged from \$15.22 to \$15.43 per square foot of building area. The appellant requested a total assessment reduction to \$44,368.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$156,250. The subject property has an improvement assessment of \$140,768, or \$18.11 per square foot of building area. The subject's assessment reflects a market value of \$625,000, or \$80.42 per square foot of building area including land, when applying the 2015 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on five suggested sales comparables that sold from 2011 through 2015 and ranged from 3,000 to 6,200 square feet of building area, or from \$86.61 to \$106.33 square feet of building area including land. One of those sale comparables included assessment information for 2014; the other four sale comparables did not disclose assessment information.

The appellant submitted rebuttal evidence consisting of a brief reiterating his argument for an assessment reduction. The rebuttal evidence included a copy of the closing statement for the 2012 purchase of the subject.

At hearing, the appellant testified that he purchased the whole property of PINs 043 and 021 in 2012 for \$625,000 to house his chiropractic practice on the first floor with an adjacent parking lot and with the intention of renting the second floor. The building was 100% vacant when he purchased it. The second floor remained vacant to and including the 2015 lien year of the instant appeal, despite efforts to rent it by displaying a "for rent" sign and listing it as available for rent with Co-Star. The appellant argued that the current total assessment of \$156,250 translated into a suggested market value of \$625,000 based on a 25% level of assessment for a Class 5 property. Consequently, the current total assessment for the subject (PIN 043 only) is the same suggested market value as the entire two-parcel property (PINs 043 and 021) he purchased in 2012 for \$625,000. In support of his request for an assessment reduction, the appellant referenced his appraisal report. The report disclosed the subject contained "3,498 square-foot effective GBA" and had an estimated a market value of \$480,000 as of January 1, 2015. The appraisal report explained that the "effective building area is exclusive of the walk-up second floor." The appraiser was not present at hearing to testify in support of the appraisal report. The board of review representative objected to the admission of the report because it was hearsay without the testimony and cross-examination of the appraiser. The Board sustained the objection based on hearsay as to the appraiser's opinions and conclusions, but overruled the objection as to reliable raw data of comparable properties contained in the report. Those raw data consisted of seven comparable properties that sold from 2012 through 2015 and ranged from 1,637 to 4,000 square feet of gross building area, or from \$35.00 to \$144.04 per square foot of building area including land.

The board of review representative's testimony confirmed the board of review's evidence as setting the range of comparable properties to justify denying an assessment reduction.

In rebuttal, the appellant sought to admit new evidence of an additional comparable property. The Board sustained the board of review's objection that this was inadmissible new evidence submitted after the closing date for the submission of evidence.

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's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the report and opinions or conclusions drawn from them, and be subject to cross-examination. Therefore, the Board sustains the board of review's objection to the admission of the opinions and conclusions in the appraisal report based on both the sales comparison and income capitalization approaches as hearsay, and gives them no weight. *See Oak Lawn Trust & Savings Bank v. City of Palos Heights*, 115 Ill.App.3d 887, 450 N.E.2d 788 (1st Dist. 1983). However, the Board may consider the raw sales data submitted by the parties, including those contained in the appraisal report.

The appellant's overvaluation argument based on a partial vacancy of the subject building has no merit without evidence or testimony analyzing comparable vacant commercial properties and efforts to mitigate the vacancy. Whatever analyses and opinions the appraisal report may have contained were excluded from evidence as hearsay. The record is devoid of evidence to support the argument that the subject, even assuming a 50% vacancy factor, is overvalued at a total assessment of \$156,250. The raw unadjusted data of seven sale comparables in the report do not disclose vacancy information. The opinion that the subject building contained "3,498 square-foot effective GBA" rather than 7,772 square feet is not only without support, but does not take the place of proving overvaluation due to vacancy with admissible evidence of the market and efforts to mitigate the vacancy. *See Moroney v. Illinois Property Tax Appeal Board*, 2013 IL App. (1st) 120493, ¶¶41-42.

In *Springfield Marine Bank v. Property Tax Appeal Board*, 44 Ill.2d 428 (1970), the Illinois Supreme Court stated:

[I]t is clearly the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held by the owner... [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"... [M]any 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.

Springfield Marine, *supra* at 430-31.

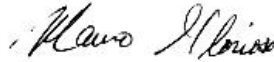
Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant's appraisal report included an income capitalization analysis and opinions, without these as admissible evidence the appellant did not demonstrate that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, 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 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. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified.

As for the comparison of the raw, unadjusted sale properties in the record, the Board finds the best evidence of market value to be the appellant's appraisal comparable sales #2 and #5, and the board of review comparable sales #1, #3 and #4. These sales occurred from 2012 through 2015, and sold for prices ranging from \$35.00 to \$106.33 per square foot of gross building area including land. The subject's assessment reflects a market value of \$80.42 per square foot of building area including land, which is within the range established by the best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment based on overvaluation is not justified.

The appellant also 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 Board finds the appellant did not submit not less than three comparable properties showing similarity to the subject. The subject contained 7,772 square feet of gross building area, but the appellant's comparables ranged from 1,800 to 2,500 square feet of building area. The appellant's three equity comparables ranged from 4.00 to 5.10 miles in proximity from the subject. The board of review's comparables lacked sufficient information of similarity and characteristics, as well as 2015 improvement assessment information. Consequently, the documentary and testimonial evidence failed to set a range of not less than three comparable properties as required by the Code. 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 holds that a reduction in the subject's assessment based on assessment inequity is not 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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) 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



Acting 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: October 20, 2017



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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