



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

APPELLANT: 114-118 South State Street, LLC
DOCKET NO.: 15-36469.001-C-1 through 15-36469.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are 114-118 South State Street, LLC, the appellant, by attorney Chris D. Sarris of Steven B. Pearlman & Associates 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 **A Reduction** 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
15-36469.001-C-1	17-16-213-006-0000	292,500	178,679	\$471,179
15-36469.002-C-1	17-16-213-007-0000	365,625	172,145	\$537,770

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 is described as being improved with a six story commercial building with basement containing 43,200 square feet of building area. The building is approximately 84 years old. The improvements are situated on a 5,850 square foot site and is located in Chicago, South Chicago Township, Cook County. The subject property is classified as a class 5-97, special commercial structure, under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on four comparable sales improved with commercial buildings that range in size from 34,954 to 50,000 square feet of building area. The buildings range in age from 94 to 135 years old. These properties sold from January 2012 to January 2015 for prices ranging from \$1,200,000 to \$4,200,000 or from \$32.79 to \$85.83 per square foot of building

area, including land. Using these sales, the appellant requested the subject's assessment be reduced to \$668,574 so as to reflect a market value of \$2,674,296 or approximately \$61.91 per square foot of building area.

The appellant's counsel also developed an income approach to value using the subject's actual gross income for 2015 of \$855,307. Counsel deducted \$299,358 for expenses and reserves to arrive at a net operating income of \$555,950. The appellant's attorney next capitalized the net income using a loaded capitalization rate of 15.14% to arrive at a market value of \$3,672,058 and a requested assessed value of \$918,015 using the income approach to value. To document the income approach to value the appellant submitted copies of IRS Form 8825, Rental Real Estate Income and Expenses of Partnership or an S Corporation for 2013 and 2014, and copies of expense sheets for 2013, 2014 and 2015.

In the brief the appellant's counsel asserted that for the past few years the building has had only one tenant that occupied the basement, ground floor and second floor with the remainder of the building vacant. The appellant's counsel contends the subject property was 63% vacant for the 2015 tax year and the Assessor's Office had granted a 37% occupancy factor. The appellant submitted a copy of a Vacancy/Occupancy Affidavit that was filed with the Cook County Board of Review to support the subject's occupancy level.

On the appeal form the appellant requested the subject's total assessment be reduced \$1,026,037. In the brief the appellant's counsel requested the subject's assessment be reduced to \$1,008,949.

The appellant also submitted a copy of the final decision issued by the board of review establishing a total assessment of \$1,108,089, which reflects a market value of \$4,432,356 or \$102.60 per square foot of building area, including land, when applying the level of assessment for class 5-97 property under the Cook County Real Property Assessment Classification Ordinance of 25%.

The board of review did not submit its "Board of Review Notes on Appeal" nor any evidence in support of its assessed valuation of the subject property.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the comparable sales provided by the appellant. The comparables sold for prices ranging from \$1,200,000 to \$4,200,000 or from \$32.79 to \$85.83 per square foot of building area, including land. Appellant's comparable sales #2 and #4 were given the most weight as these properties sold most proximate in time to the assessment date for prices of \$85.83 and \$84.00 per square foot of building area, including land. The subject's assessment reflects a market value of \$4,432,356 or \$102.60 per square foot of

building area, including land, which is above the range established by the appellant's comparable sales.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses unconvincing and not supported by objective market derived evidence in the record. 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 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 attempted, 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. 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 such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

Additionally, the Board finds problematic the fact that appellant's counsel developed the "income approach" 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 opinion testimony of value for that client's property.

The Board also finds the board of review did not submit any evidence in support of its assessment of the subject property as required by Section 1910.40(a) of the rules of the Property Tax Appeal Board and is found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §§1910.40(a) & 1910.69(a)).

Based on this evidence the Board finds a reduction in the subject's assessment is 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: December 19, 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

AGENCY

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