



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

APPELLANT: George Novogroder
DOCKET NO.: 15-36830.001-C-1 through 15-36830.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are George Novogroder, the appellant(s), by attorney Marie V. Mactal, of the Law Offices of Terrence Kennedy Jr. 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
15-36830.001-C-1	13-30-325-020-0000	36,752	58,873	\$95,625
15-36830.002-C-1	13-30-325-021-0000	55,384	36,491	\$91,875

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 two parcels of land totaling 23,400 square feet and improved with an approximately 87-year old, one-story, masonry, multi-tenant, commercial building containing approximately 11,150 square feet of building area. The property is located in Jefferson Township, Cook County and is a class 5 property 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 an appraisal undertaken by Ronda Sandic and Gary M. Skish with First Real Estate Services, Ltd. The appraisal utilized the three approaches to value to estimate a market value for the subject property of \$750,000 as of January 1, 2015.

The appellant also argued for an additional reduction to the appellant's appraised value based on the occupancy factor of the subject that was granted by the assessor. To support this, the appellant a letter from the assessor granting a reduction in the 2015 assessment as the result of a partial occupancy along with an income, market or cost analysis and a copy of the subject's property characteristic printout showing a 63.7% occupancy factor. The appellant requested a reduction to the appraisal value and then a 36.3% reduction for the vacancy on the building. The appellant's attorney argued that previous Board decisions have granted such relief.

Mr. Skish was the appellant's only witness. Skish testified he is a certified general real estate appraiser licensed in Illinois. He testified he has been appraising property for 21 years and involved in the real estate industry for 33 years. Skish testified has appraised thousands of properties during his career with most of the properties being commercial. He testified he has appeared before courts, counties, and the Property Tax Appeal Board as an expert witness. Mr. Skish was accepted as an expert in property valuation without objection from the parties.

Skish testified as to the procedure undertaken to estimate the value of the subject under the cost approach. The appraisers analyzed four land sales. To estimate a land value for the subject of \$16.00 per square foot or \$375,000, rounded.

Using Marshall & Swift Computerized Cost Estimate Program, the appraisers estimated a replacement cost new for the subject of \$1,321,553. The appraisers used the age-life method to estimate depreciation at 70%. They estimated the total depreciated value of the improvement at \$396,466 with site improvements at \$20,000. The site improvement value and the land value were added back in for a total estimated value under the cost approach of \$790,000, rounded.

Skish testified to the procedure undertaken to estimate the value of the subject under the income approach. The appraisers analyzed nine properties considered comparable to the subject. These properties ranged in rental size from 1,000 to 5,500 square feet of building area and have asking rental rates from \$12 to \$16.36 per square foot of rental area. The appraiser estimated a rental rate for the subject of \$15.00 per square foot of building area which resulted in a potential gross income of (PGI) \$167,250. The appraisal allows for tenant improvements for an adjusted PGI of \$160,114. Vacancy and collection loss were estimated at 10% for an effective net income (EGI) of \$144,103. Expenses were estimated at \$36,294 for an estimated net operating income (NOI) of \$107,809.

In determining the appropriate capitalization (CAP) rate, the appraisers analyzed survey and publication data and employed the band of investment methodology to develop an overall CAP rate of 9.75%. This CAP rate was then loaded for a rate of 14.39%. The NOI was divided by this rate to estimate the market value for the subject under this approach at \$750,000, rounded.

Skish testified to the procedure undertaken to estimate the value of the subject under the sales comparison approach. The appraisal analyzed five sales and made adjustments to these sales for pertinent factors. The properties sold from June 2013 to November 2014. They ranged in size from 6,800 to 28,000 square feet of building area and sold for prices ranging from \$23.93 to \$84.41 per square foot of building area. The appraisers estimated a value for the subject at \$65.00 per square foot of building area for a total estimated value under the sales comparison approach of \$725,000, rounded.

In reconciling the approaches to value, Skish testified he placed least weight on the cost approach because of the scarcity of land sales, the arbitrary depreciation placed on an aged building, and the fact that the market does not look this approach when buying a property. As to the sales comparison approach, Skish testified that the market is not as concerned with a sales price for these types of properties but looks to the income producing capability of the property. He testified he gave primary emphasis to the income approach because the rents come from the market, the expenses come from both actual and market expenses, the CAP rate is reliable, and most buyers would look to this approach for purchasing an income producing property. The final estimate of value for the subject as of January 1, 2015 is \$750,000.

On cross-examination by the board of review, Skish reiterated that primary emphasis was given to the income approach. He testified he selected nine rental comparables. He acknowledged that the comparables are all asking rates. He testified the comparables had an average rental rate just under \$15.00 per square foot of net rentable area. He acknowledged the subject had an average rental rate of \$17.99 per square foot of building area. He testified that the subject was 36.3% vacant as reported by the property owner. He estimated a rental rate of \$15.00 per square foot of rentable area. He acknowledged he used a vacancy/collection rate of 10%. He testified that in determining his rental rate, he factored in the vacancy of the subject and that the space was not being filled at the higher rental rate. He acknowledged that 74% of the subject is occupied.

Skish testified that the tenant improvement allowance was included as \$5.00 per square foot of rentable area for new leases and \$2.00 per square foot of rentable area for renewal leases. He testified that this value was arrived at by amortizing it over the life of the property based on other properties he has analyzed. He opined the need for this to get the space rented or continue renting at renewal time.

He testified he arrived at a base CAP rate of 9.75% which he determined through surveys and the band of investment technique. He opined the subject is a third-tier property because the subject's age, storefront characteristic, condition, and vacancy.

On redirect, Skish testified that the subject was partially vacant when he inspected the property. He testified that he used asking rental rates because the information is current data. He opined that using reported rental rates may not provide information as to lease dates or terms. He testified that most negotiations with asking rates leads to a rate that is lower. Skish testified the asking rate for the vacant portion of the subject was \$8.00 per square foot on a net basis which reflects \$13.00 per square foot on a gross basis.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment was \$199,934; yielding a market value of \$799,736 or \$71.73 per square foot of building area using the Cook County Real Property Classification Ordinance for Class 5 property of 25%.

The board also submitted raw sales information on four properties suggested as comparable. The properties range in size from 8,000 to 14,500 square feet of building area and sold for prices ranging from \$80.34 to \$149.69 per square foot of building area, including land. In addition, the board of review's memorandum discloses that the data is not intended to be an appraisal or

estimate of value and should not be construed as such. In addition, it discloses that the information is assumed factual, accurate, and reliable, but has not been verified and does not warrant its accuracy. The board of review did not present any witness at hearing.

As to the vacancy argument made by the appellant, the board of review's representative, Lena Henderson, testified that the Property Tax Code only allows for such relief when a building is uninhabitable due to a natural disaster. She argued that economic factors such as not having a renter is insufficient to grant vacancy relief. In addition, she argued that the appraisal establishes the vacancy of the subject based on the market. Finally, she argued that if this vacancy relief is granted it should be at a percentage that accounts for the vacancy percentage utilized by the appraiser in the income approach to value.

In rebuttal, the appellant recalled Gary Skish. Mr. Skish testified that he reviewed the sales presented in the board of review's evidence. He testified to each property and opined why these properties are not comparable to the subject in estimating the subject's market value.

Conclusion of Law

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

In determining the fair market value of the subject property, the Board examined the appellant's appraisal report and testimony and the board of review's evidence.

The Board finds the board of review's witnesses were not present or called to testify about their qualifications, identify their work, testify about the contents of the evidence and the conclusions, or be cross-examined by the appellant and the Property Tax Appeal Board. Without the ability to observe the demeanor of these individuals during the course of testimony, the Board gives this evidence from the board of review no weight.

In determining the fair market value of the subject property, the Board finds the best evidence to be the appellant's appraisal and testimony. The appellant's appraiser utilized the three traditional approaches to value in determining the subject's market value. The Board finds the appraisal and testimony to be persuasive for the appraiser: has experience in appraising; the subject was inspected; the appraiser used similar properties in the sales comparison approach while providing sufficient detail regarding each sale as well as adjustments that were necessary; and credibly testified as to why the income approach to value was given the most weight.

The Board gives little weight to the appellant's argument for an additional reduction based on the actual vacancy of the subject. 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.

The Board finds the appellant presented an appraisal which took the subject's vacancy into consideration and look at the market when estimating a value for the subject. In fact, Mr. Skish testified that he addressed the subject's vacancy when estimating a rental rate for the subject in the income approach to value and that this approach was given the most weight in estimating the subject's market value.

In addition, the Board does not find the prior Board decisions persuasive in granting additional relief to the subject. The courts have found that each Board decision is case specific and based on the particular record of each case. Board of Education of Ridgeland School District No. 122 v. Illinois Property Tax Appeal Board, 975 N.E. 2nd 263 (2012).

Therefore, the Board finds the subject had a market value of \$750,000 for the 2015 assessment year. Since the market value of this parcel has been established, the Cook County Real Property Classification Ordinance for Class 5 property of 25% will apply. Therefore, the Board finds that a reduction is warranted.

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 18, 2019



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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