



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

APPELLANT: Alexandru Filimon
DOCKET NO.: 16-22667.001-R-1
PARCEL NO.: 10-36-424-006-0000

The parties of record before the Property Tax Appeal Board are Alexandru Filimon, the appellant, by attorney Glenn S. Guttman, of Rieff Schramm Kanter & Guttman 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: \$9,375
IMPR.: \$49,669
TOTAL: \$59,044

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 2016 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 with 9,691 square feet of living area. The building is approximately 88 years old. The property consists of two stores and four apartments and is situated on a 6,250 square foot site. The building is located in Chicago, Roger Park Township, Cook County. The subject is classified as a class 2-12 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant raised a contention of law as the basis of the appeal. In support of this argument counsel for the appellant submitted Federal Form Schedule E, Supplemental Income and Loss for 2013, 2014, and 2015, an Income and Expense Statement from January 1, 2016 to December 31, 2016 and a Vacancy/Occupancy Affidavit for 2016 in preparing an income analysis that was developed by legal counsel. In developing the income analysis, the appellant's counsel averaged

the subject's actual reported gross annual rental income from 2014, 2015, 2016 for a 3-year average of \$58,767. Counsel next deducted 24% operating expense ratio to arrive at a net operating income of \$44,407. Counsel next capitalized the net income by a rate of 10.83% to arrive at an indicated value under the income approach of \$410,037 at full occupancy.

The appellant next argued the subject property had been 33.5% vacant in 2016. To account for vacancy, the appellant calculated the subject's depreciated improvement value by deducting the market value of the land as reflected by the assessment of \$93,750 from the value under the income approach of \$410,037 to arrive at a depreciated improvement value of \$316,287. An occupancy factor of 66.5% was then applied to the depreciated cost and the land value was added back to arrive at an estimate of value for the subject property of \$304,080.

The appellant also submitted photographs of the subject's interior depicting missing dry wall, chipped and peeling paint, holes in walls, missing appliances, lack of doors and cracking wood and plaster throughout the interior of the dwelling.

Based on this evidence, the appellant requested a reduction in the subject's assessment to \$30,408.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$59,044. The subject property has an improvement assessment of \$49,669 or \$5.13 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 with the same neighborhood assessment code as the subject property. The comparables are improved with one, 3-story mixed-use building and three, 3-story apartment buildings that range in age from 7 to 91 years old. The comparables have full unfinished basements and 3-car or 3.5-car garages. Two of the comparables have central air conditioning. The buildings range in size from 7,250 to 8,622 square feet of living area and have improvement assessments ranging from \$38,844 to \$52,547 or from \$5.36 to \$6.31 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 appellant raised a contention of law that the subject property is not accurately assessed. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under the Illinois Administrative Procedure Act by an agency shall be the preponderance of the evidence. (5 ILCS 100/10-15). The rules of the Property Tax Appeal Board do not provide for the standard of proof when a contention of law is raised, therefore, the standard of proof is the preponderance of the evidence. The Board finds the appellant did not meet this burden of proof and a reduction in the assessment is not justified.

The Board 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 valuation 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.

More, 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.

Furthermore, the appellant cited no authority for the proposition that the subject's assessment should be reduced due to vacancy. As a result, the Property Tax Appeal Board gives this aspect of the appellant's argument no weight and finds no reduction is warranted on this basis.

The Board further finds the board of review provided assessment data that demonstrated the subject property was being equitably 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. 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: July 16, 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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