



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

APPELLANT: Mark Pogalz
DOCKET NO.: 20-26019.001-I-1
PARCEL NO.: 02-15-110-004-0000

The parties of record before the Property Tax Appeal Board are Mark Pogalz, the appellant; 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:

LAND: \$19,838
IMPR.: \$12,836
TOTAL: \$32,674

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 2020 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 two-story, masonry, four-unit industrial building. The subject has two units on the first floor and two units on the second floor. The property is located in Palatine Township, Cook County. The subject is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation and assessment inequity as the bases of the appeal. In support of these arguments the appellant submitted information on four suggested equity comparables with sales data on each one of those properties. Those properties can be characterized as brick, steel, or frame industrial/commercial properties located in Palatine that range: in size from 2,725 to 3,072 square feet of building area; in improvement assessment from \$0.83 to \$5.37 per square foot of building area; in sale date from February, 2019 to April, 2020; and in sale price from \$27.67 to \$106.06 per square foot of building area.

In support of his arguments, the appellant submitted a letter arguing that the subject was severely damaged by a fire that lowered its marketability. The appellant submitted a damage report from December 12, 2018 showing that there was a fire in one of the first-floor units. The appellant also submitted a letter by American Technologies, Inc. estimating the cost to repair at \$88,837.71.

The appellant also submitted a Vacancy/Occupancy affidavit, which shows that one month after the fire, one of the units was vacant on January 1, 2019. That affidavit also shows that five months after the fire in May 2019, another unit became vacant. Finally, the affidavit shows that a third unit became vacant in October, 2019, or 11 months after the fire. The appellant submitted no other evidence that the tenants moved out as a result of the fire or any evidence of the value of the building prior to the fire.

The appellant letter further argues that the subject should be classified as a 5-93 instead of as a 5-92 because the first-floor portion is used as a shop/warehouse and the second-floor offices are less desirable. No other evidence was submitted for this argument. Next, appellant's brief argued that the board of review's land and building square footage is incorrect. The appellant argues that the land square footage is 5,459 and the building square footage is 2,951. In support of this argument, the appellant submitted a plat of survey.

Next, the appellant's letter argues that the land value of the subject should be reduced because of village zoning ordinance set-off requirements would not allow for a building to be built on the subject land if the property were vacant. The appellant submitted portions of the zoning ordinance to support his propositions. The appellant submitted no evidence showing the subject, as it currently stands, is not allowed to continue to operate.

The appellant's letter also argues that the board of review used an incorrect rent factor of \$15 per square foot of building area. The appellant argues that the office space may be appraised at that price, but industrial workshop space should be appraised at \$4.61 per square foot. Appellant argues that the first floor is used as an industrial workshop, and only the second floor is office space. In support of this proposition, the appellant submitted printouts from Colliers International which listed market indicators for the Northwest Suburbs.

Next, the appellant's letter argues that the board of review used an incorrect expense ratio of 20%. The appellant argues that the board of review submitted no evidence to justify this figure. In addition, he argues that the actual expenses are around \$15,513, excluding expenses such as property taxes, debt service, depreciation, etc. In support of this proposition, the appellant submitted an income and expense statement for the subject.

The appellant also argued that the board of review and the assessor's office used incorrect vacancy rates of 10% and 15%, respectively. The appellant argues that the actual vacancy rate of 75% should have been used when valuing the property. In support of this proposition, the appellant submitted a rent roll statement showing the actual vacancy of the subject.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$51,818. The subject has an improvement assessment of \$31,980 or \$10.84 per square foot of building area. The subject's assessment reflects a market value of

\$207,272 or \$70.24 per square foot of building area, including land, when applying the level of assessment for class 5 property of 25% as determined by the Cook County Real Estate Classification Ordinance. The board of review did not submit any other evidence.

In written rebuttal, the appellant argued that the board of review failed to present any substantive evidence to support the subject's current assessment.

At hearing, the appellant reiterated the arguments he made in his brief. He testified that the whole subject was damaged by the fire. Upon questioning, he testified that only one of the units on the first floor was physically damaged. The rest of the units, he testified were damaged only by the smoke. He further testified that the smoke damage was so extensive and long lasting that even close to a year after the fire, tenants were leaving because of it.

Initially, the appellant testified that the subject's first floor was a bare brick workshop structure that cannot be valued for property tax purposes as an office. Conversely, the appellant later stated that the fire to that unit was so extensive that it had to be demolished to the brick. The appellant testified that the damage to the building was in excess of the \$88,837.71 and the value of the building should be reduced by at least that much. However, the appellant did not present any expert testimony as to the value of the subject prior to the fire, or of the building after the fire.

The appellant also argues that the subject's goodwill was damaged by the fire and prior year property tax issues related to an omitted tax bill from 2016. The appellant argues that the assessor's office erroneously reflects a past due omitted property tax bill on the subject of over \$100,000. The appellant did not submit any evidence that this omitted tax bill was made in error. The appellant did submit a tax bill letter reflecting the subject was assessed for a number of years as a class 1-00 property.

Finally, the appellant testified that based on the current zoning ordinance, most of the land is useless because it is unbuildable. The appellant testified that if something was to happen to the subject, based on the current zoning ordinance nothing else would be allowed to be built on the subject parcel. As a result, the appellant requested that the land be valued as similarly "unbuildable" parcels.

The board of review argued that the appellant's comparables should be given diminished weight because they are all different classifications than the subject. The board of review testified that comparable #1 is a class 5-93, comparable #2 is class 5-22, comparable #3 is class 2-12, and comparable #4 is class 5-17.

At rebuttal, the appellant argued that the classification of the building is not important, and the Board should look to the uses of those comparables. The appellant argued that the comparables he submitted have substantially similar uses as the subject.

Conclusion of Law

As to the subject's size, the Board finds the board of review did not submit any evidence as to the size of the subject's land and improvements and that the only evidence in the record was

submitted by the appellant. Therefore, the Board finds the subject contains 2,951 square feet of building area situated on 5,459 square feet of land. However, the Board gives no weight to the appellant's argument that the subject should be reclassified as no evidence was submitted as to these classifications and how their differences affect the subject's assessment or market value.

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 that the appellant submitted no evidence or expert testimony regarding the subject's marketability, buildability, or desirability. The appellant is not an expert in the field of construction, zoning, or property valuation. Furthermore, the Board finds appellant testimony lacks credibility, is embellished, and self-serving. For that reason, the Board gives no weight to the appellant's testimony regarding the desirability, buildability, or marketability of the subject.

As to the land, the Board also gives appellant's land value argument no weight as the subject is improved with a two-story building. The assessment is based on the current condition of the subject and not a future hypothetical misfortune. The Board also finds that the appellant failed to present any expert testimony as to value of the land or building, or as to what is the highest and best use of the subject. The comparables have land assessment from \$0.35 to \$3.75 per square foot. In comparison, the subject has a land assessment of 3.63 per square foot, which is within the range of the comparables.

The Board finds the best evidence of market value to be appellant's comparable sales #1, #2, #3, and #4. These comparables sold for prices ranging from \$27.67 to \$106.06 per square foot of living area, including land. The subject's assessment reflects a market value of \$70.24 per square foot of building area, including land, which is within the range established by the best comparable sales in this record. The Board finds the appellant failed to submit sufficient evidence as to how the fire affected the market value of the subject. The appellant did submit an estimate of costs to repair but did not submit any evidence of the subject's market value prior to the fire to establish the subject's market value. The appellant's evidence shows that only one unit became vacant directly after the fire and the subject was never completely vacant during the assessment year.

In addition, the Board gives no weight to the appellant's argument that the board of review's rent, vacancy rate, and expense ratio calculations are incorrect. There is no evidence of what the board of review took into consideration in valuing the subject and an appraisal was not submitted nor is the appellant an expert in property valuation. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

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

The Board finds the best evidence of assessment equity to be all of the appellant's comparables. These comparables had improvement assessments that ranged from \$.83 to \$5.37 per square foot of building area. The subject's improvement assessment of \$7.59 per square foot of building area falls above the range of best comparables in the record. Based on this record, the Board finds the appellant did demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and 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(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: February 20, 2024



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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