



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

APPELLANT: Towne Centre Equities, LLC & Kent Shodeen  
DOCKET NO.: 10-01947.001-C-3 through 10-01947.003-C-3  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Towne Centre Equities, LLC and Kent Shodeen, the appellants, by attorney Michael F. Baccash of Sarnoff & Baccash, Chicago; and the Kane County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Kane County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
10-01947.001-C-3	09-33-302-014	907,789	30,603	\$938,392
10-01947.002-C-3	09-33-302-015	136,691	0	\$136,691
10-01947.003-C-3	09-33-329-009	1,584,820	53,600	\$1,638,420

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property is composed of three parcels (PINs) consisting of 1,128,204 square feet or approximately 25.90 acres of land improved with 632,005 square feet of asphalt paving. The property is located in St. Charles, St. Charles Township, Kane County.

The appellants are challenging the assessment for the 2010 tax year on the basis that the market value of the subject property is not accurately reflected in the property's assessed valuation.

In support of the market value argument, the appellants submitted an appraisal prepared by Charles G. Argianas of Argianas & Associates, Inc., estimating the subject property had an "as is" market value of \$5,900,000 as of January 1, 2010. In

estimating the market value of the subject property the appraiser developed the sales comparison approach to value. The appellants called Mr. Argianas (hereinafter "Argianas") as their witness.

Argianas is self employed and owns the firm of Argianas & Associates, Inc. The witness is licensed as a Certified General Real Estate Appraiser with the State of Illinois and testified he is licensed in 20 states. He has been a commercial real estate appraiser for 35 years. The witness has appraised hundreds of properties in Kane County and has the Member of the Appraisal Institute (MAI) designation from the Appraisal Institute. Argianas identified Appellant's Exhibit #1 as the appraisal of the subject property he prepared. The witness was accepted as an expert in the field of real estate appraisal.

The witness testified the subject property was located east of Randall Road and the north side of Lincoln Highway or Route 38 in St. Charles. The main frontage is the portion on Route 38. He explained the subject property extends to Prairie Street which provides some additional frontage so as to allow dual access to the subject along Lincoln Highway and Prairie Street. The witness explained that to the east of the subject is an apartment complex and to the west is a Jewel/Osco. He further testified that Route 38 is an important east/west commercial arterial thoroughfare.

Argianas testified there were three or four things that are important about the subject property. First, it is located around the corner from the Randall Road corridor, a very important commercial thoroughfare. He asserted that Route 38 used to be more important but traffic patterns change. The witness was of the opinion that you are at a disadvantage when not on Randall Road.

The appellants' appraiser also testified that the real estate market in this area crashed around Halloween 2007 got worse through 2011 and bottomed out in 2012. The witness testified that he had prepared real estate appraisals of shopping centers on Randall Road and the rents were between \$28 and \$35 per square foot but current rents have declined to \$16.50 per square foot on average. The appraiser testified there is a correlation between rental rates and pricing.

Another issue with the subject property according to the appraiser was that it is too big by itself to be developed by a single development. He asserted that one would not sell this

property as of January 1, 2010 on a speculative basis; you would need to have somebody that would have an end user in mind. A final issue according to the witness is that the frontage part of the property would most likely be developed with commercial retail and the back portion of the site would be developed with some kind of multi-family residential.

Argianas testified the subject property is unimproved except for some leftover asphalt pavement from when the property had a retail facility. The appraiser concluded the highest and best use of the property as vacant was to hold as vacant for increased demand to support retail development. (Appellant's Ex. #1, page 39.) In estimating the market value of the subject property the appraiser developed only the sales comparison approach to value.

In developing the sales comparison approach the appraiser used four comparable sales located in Elgin and St. Charles. The comparables ranged in size from 344,560 to 2,178,000 square feet of land area. These properties sold from May 2008 to September 2008 for prices ranging from \$3,445,730 to \$11,895,500 or from \$5.46 to \$11.75 per square foot of land. The appraiser made a negative 30% adjustment to each sale for market conditions to arrive at adjusted prices ranging from \$3.82 to \$8.22 per square foot of land area. The appraiser also made a negative 10% adjustment to comparable #1 for location. Argianas also made negative adjustments of 20%, 20% and 15% for sales #1, #2 and #3 and a positive adjustment of 25% for sale #4, respectively, for size. The adjusted prices ranged from \$4.78 to \$6.99 per square foot of land area. The appraiser estimated the subject property had an indicated value of \$5.50 per square foot of land area or \$6,200,000, rounded. He then deducted \$316,003 as the cost to remove the 632,005 square feet of asphalt to arrive at an "as is" value of \$5,900,000. The appraiser was of the opinion that if someone purchased the subject property they would have to deal with the asphalt. According to Argianas a property that does not have asphalt is cheaper to develop and if someone is going to develop the subject property they are going to have to remove the asphalt.

The witness asserted that the negative adjustment for size is based on the market and economics that dictate that smaller lots sell for more per square foot than larger lots. Conversely, the positive adjustment for size for comparable #4 was based on concept that larger lots sell for less per square foot.

The appraiser was aware that the subject property was for sale for a price of approximately \$17,000,000. The witness was of the opinion the price is ridiculously high and the property will never sell for that price.

The appraiser also made reference on page 45 of the report to another land comparable composed of 37 acres that was listed in 2010 for a price of \$14,505,480 or \$9.00 per square foot of land area. At the time of the report the property was currently being listed for sale for a price of \$6,205,122 or \$3.85 per square foot. He was of the opinion that this reflects the significant decrease in demand for retail land in the area.

The appraiser also asserted it will take an extended period of time to market the subject property because it is too big and market conditions are tough at this time. He also testified all of the big boxes such as Costco, Wal-Mart and Target are already on Randall Road; therefore, there is no reason for the subject property to be developed with a big box. He also did not think this property lent itself to a car dealership due to its location. It was also his understanding that neighbors do not want the property to be developed with retail on the front and multifamily residential on the back end.

Based on this evidence the appellant requested the subject's assessment be reduced to reflect a market value of \$5,900,000.

Under cross-examination Argianas testified at the time he developed his opinion of value he concluded the subject's highest and best use was retail but his opinion changed to part retail use and part multifamily use. In selecting comparables the appraiser wanted to find sales that were two or three years from the valuation date, properties close to the Randall Road corridor, parcels that were 300,000 to 400,000 square feet and properties with utilities, site infrastructure service at least to the property line and properties with retail use. The witness testified he could not prove there would be an adjustment to the comparables for differences in zoning or uses. The witness testified did not know the exact zoning of the comparable sales; however, he thought the comparables were similar to the subject as commercial properties.

The appellants' appraiser was of the opinion there would be two potential buyers for the subject property. One would be a buyer who had a specific user and were ready to develop the property with an end development. The second type of buyer is one that would purchase the property for speculation. This buyer would

need to purchase the property at a cost-effective price because they would have to sit on this property for several years until the end user could be found or they could come up with a development concept that made economic sense.

The appraiser explained that page 29 of the appraisal contained graphs depicting 202 transactions of commercial properties between 200,000 and 3,000,000 square feet within a 20 mile radius of St. Charles that sold from January 1, 2005 and January 1, 2012. These graphs showed that overall prices were higher in 2007 through 2009 with strong declines thereafter.

The appraiser explained there were no building improvements on the subject property. The property was used as the former St. Charles auto mall, which was demolished prior to January 1, 2010. The appraiser indicated on page 20 of the report the subject property sold on September 1, 2008 for \$6,880,000 and sold again on September 15, 2008 for a price of \$3,770,000. He asserted in the report these transactions appeared to be between related entities or investors and not considered reflective of market value. The witness testified that he talked with someone at Shodeen, his client, and was told these were not arm's length transactions, which he accepted. The witness did not know the relationship between either of the parties in the respective transactions.

His report also disclosed the subject property along with two freestanding vacant restaurants, with a total land area of 27.02 acres, were being offered for sale at \$17.7 million or \$15.00 per square foot of land area. It was his opinion the asking price is substantially above the market level as of the effective date of value for the report as well as current market values. The appraiser indicated that he told Ms. Lisa Smith of Shodeen Management that the asking price was too high. According to the witness she agreed but indicated that was not her decision.

The appraiser agreed he adjusted the comparable sales downward by 51%, 44%, 40.5% and 12.5%, respectively. He agreed the comparables were not perfect considering the magnitude of the adjustments. His 30% downward adjustment for time was due to rental rates for office and for retail going down 20% to 30%.

Under re-direct, Argianas testified there is a correlation between rental values and land values.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$3,795,623 was disclosed. The subject's assessment reflects a market value of \$11,377,767 or \$10.08 per square foot of land area, including the improvements, using the 2010 three-year average median level of assessment for Kane County of 33.36%.

The Board of review called as its witness David Medlin, Deputy Assessor of St. Charles Township. Medlin prepared a letter dated April 1, 2013, which was included in Board of Review Group Exhibit #1. On page two of the letter Medlin provided information on five comparable sales located in St. Charles and Elgin that ranged in size from 63,104 to 2,195,511 square feet of land area. These properties sold from January 2007 to September 2008 for prices ranging from \$757,422 to \$11,895,212 or from \$5.42 to \$22.77 per square foot of land area. Medlin sale #1 was the same as Argianas sale #3, located on Randall Road and used to develop a Costco. Medlin testified sales #1 through #4 were used for retail purposes. The witness testified sale #5 was the site of an old industrial building that was torn down. This property is located in an office industrial park and was purchased for some speculative development. Sale #5 was the same comparable as Argianis sale #4. The witness testified that the market turned at the end of 2007 and property values had started to decrease.

Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under cross-examination Medlin agreed that values continued to go down generally in 2008. He testified that with respect to 2009, it depends on the type of property and he could not make a general statement that values continued to go down, although he thought values of commercial properties went down. He also noted his sale #5 was a "PUD" or a Planned Unit Development, which requires approval by the City or County with respect to what is going to be developed.

Medlin began working with the Township Assessor's Office in July 2009 and received his MAI designation in 2005. The witness agreed his report was not an appraisal. He also agreed his report includes no adjustments to the comparables with respect to time of sale or size.

Medlin also testified he did not supply the CoStar Comp sheets that were included as part of Board of Review Group Exhibit #1. He also testified the improvement assessment is attributable to

the asphalt, there were no building improvements. Medlin also explained that in subparagraph 2 on page two of his letter he identified a land comparable sale that was located adjacent to Argianis sale #1. This additional sale was a 5.906 acre site that sold in September 2010 for a price of \$3,087,120 or \$12.00 per square foot of land area. Medlin submitted a copy of the Illinois Real Estate Transfer Declaration (PTAX-203) associated with the sale that indicated the property was advertised for sale and the property was going to be used for auto sales. Medlin submitted this sale to demonstrate there was not necessarily a standard 30 percent downward adjustment for time. This property sold in September 2010 for a price of \$12.00 per square foot area of land while Argianis sale #1 sold in July 2008 for \$10.00 per square foot of land area.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); 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 market data submitted by the parties support a reduction in the subject's assessment.

The subject's assessment reflects a market value of \$11,377,767 or approximately \$10.08 per square foot of land area, including the improvements. The appellant submitted an appraisal and presented the testimony of the appraiser, who relied on the sales comparison approach, and estimated the subject property had an "as is" market value of \$5,900,000 as of January 1, 2010. In support of the assessment the board of review called as its witness the Deputy Township Assessor of St. Charles Township who provided information on five comparable sales, two of which were used by the appellant's appraiser.

The comparables contained in the appellants' appraisal sold from January 2008 to September 2008 for prices ranging from \$3,445,730 to \$11,895,500 or from \$5.46 to \$11.75 per square foot of land area. The five sales submitted by the board of review sold for prices ranging from \$757,422 to \$11,895,212 or

from \$5.42 to \$22.77 per square foot of land area. The Board gives little weight to board of review sales #2 and #3 due to size; as a result, the unadjusted range of the remaining sales prices is from \$5.42 to \$11.61 per square foot of land area.

Of the two witnesses only Argianas made adjustments to the comparable sales for time, location and size. The Board gives less weight to testimony of Medlin because no adjustments or consideration were made to his sales for time, location and size. A primary adjustment made by the appellants' appraiser was a negative 30% adjustment to each comparable for market conditions at the time of sale. Both witnesses agreed that the market reached a peak in approximately 2007 and subsequently declined. However, in this record the board of review's witness provided information on a vacant land sale that was located adjacent to the north of appellant's appraisers' sale #1. This sale, with 5.906 acres or 257,265 square feet of land area, sold in September 2012 for a price of \$12.00 per square foot of land area. Appellants' appraisers' sale #1, with 344,560 square feet of land area, sold in July 2008 for a price of \$10.00 per square foot of land area. The Board finds this comparison undermines the appellants' appraiser's conclusion that a 30% downward adjustment for market condition is justified.

The Board finds that excluding the market condition adjustment made by the appellants' appraiser, the adjusted prices for the comparable land sales ranged from \$6.83 to \$9.99 per square foot of land area, with an average price of \$8.01 per square foot and a median price of \$7.61 per square foot of land area. The subject's assessment reflects a market value above each of these figures on a square foot basis.

The Board further finds the appellants' appraiser's conclusion of value of \$5,900,000 was somewhat undermined due to the fact the property with two freestanding vacant restaurants was being marketed by the owner for \$17.7 million.

In conclusion, after considering the most probative sales in this record, the Property Tax Appeal Board finds that the subject property had a market value of \$7.50 per square foot of land area, or \$8,450,000, rounded. The Board further finds a \$316,000 deduction is appropriate for the removal of the asphalt to arrive at an "as is" market value of \$8,134,000. Since the market value of the subject has been established, the 2010 three-year average median level of assessment for Kane County of 33.36% shall apply.



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.



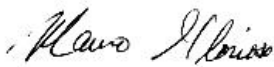
Chairman



Member



Member



Member



Member

DISSENTING:

C E R T I F I C A T I O N

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: March 21, 2014



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 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 the subsequent year 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.

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.