

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Thomas J. Baryl
DOCKET NOS.: 03-30668.001-C-3 and 03-30668.002-C-3 and
04-28280.001-C-3 and 04-28280.001-C-3
PARCEL NOS.: 17-16-404-017-0000 and 17-16-404-018-0000

The parties of record before the Property Tax Appeal Board are Thomas J. Baryl, the appellant, by attorney Patrick C. Doody of Chicago; the Cook County Board of Review by Assistant State's Attorney Joel Buikema; and the intervenor, the Chicago Board of Education, by attorneys Ares Dalianis and Scott Metcalf of Franczek Radelet & Rose, Chicago.

The subject property consists of a 15,000 square foot parcel improved with a 60,000 square foot four level valet parking garage built in 1960 of reinforced concrete construction. The structure contains 187 parking stalls; a 600 square foot office; a 5,000 pound passenger elevator; and ramps between floors.

The appellant through counsel appeared before the Property Tax Appeal Board claiming the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant submitted a summary appraisal report with an effective date of January 1, 2004, (Appellant's Exhibit #1) and presented the testimony of the appraisal's author, Neil J. Renzi. Renzi testified that he is a State of Illinois licensed real estate appraiser with a Member of the Appraisal Institute (MAI) designation; has been an appraiser for approximately 39 years; has taught courses on appraisal principles and practice in several venues; has appraised many properties similar to the subject; and has developed properties in the subject's immediate area. In addition, the witness testified, he has been qualified as an expert witness in the courts and before administrative agencies such as the Property Tax Appeal Board. The appraiser was accepted by the Property Tax Appeal Board as an expert witness.

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Based on the facts and exhibits presented, 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:

Table with 5 columns: DOCKET NO., PARCEL NO., LAND, IMPR., TOTAL. Rows for docket numbers 03-30668.001-C-3 and 03-30668.002-C-3.

Table with 5 columns: DOCKET NO., PARCEL NO., LAND, IMPR., TOTAL. Rows for docket numbers 04-28280.001-C-3 and 04-28280.002-C-3.

Subject only to the State multiplier as applicable.

Renzi testified that he did a full interior and exterior inspection of the subject on September 15, 2004. He also testified the subject was appraised fee simple for *ad valorem* tax purposes. After a brief description of the subject's environs, the appraiser rendered an opinion of the subject's highest and best use as improved would be to demolish the existing improvements and develop the site with a mixed-use commercial/residential structure. The highest and best use as vacant would be to develop the site with a commercial/residential structure.

In his research, Renzi discovered garages similar in design and vintage to the subject are becoming obsolete and sales were limited. Available sales indicated a range in price from \$12.07 to \$32.50 per square foot of building area, or from \$724,200 to \$1,950,000. From this data, the appraiser opined the difference in sales prices for the comparables is reflective of the age and location of the properties. He further opined that based on this information the subject's market value would likely be on the low end of the range.

To support his conclusion of highest and best use conclusion, Renzi included an abbreviated income approach to value based on the subject's average net operating income (NOI) from the years 2001, 2002 and 2003 of \$250,947. Relying on an analysis of the subject's general market and discussions with local area brokers, Renzi estimated that overall capitalization rates range from 8% to 10%, and the effective tax rate was 6.83%. Adding the components resulted in a range of capitalization rates from 14.83% to 16.83%. Capitalizing the average NOI resulted in a range of estimated values for the subject from \$1,491,070 to \$1,692,158. Due to the fact this estimated value was less than the value of the land as vacant; Renzi concluded the improvements did not contribute to the market value of the property.

Based on his opinion of the subject's highest and best use, Renzi prepared a sales comparison to estimate the market value for the subject's land. Six land sales located in the subject's general area were analyzed. The properties range in size from 11,674 to 65,340 square feet of land area. These comparables were sold from September 2000 to March 2004 for prices ranging from \$1,250,000 to \$10,135,000 or from \$94.12 to \$155.11 per square foot of land area. Two of the sites were improved with small commercial and industrial buildings that were subsequently demolished. Demolition costs were unknown by the appraiser. Two of the properties were surface parking lots and two were vacant at the time of sale. One of the vacant properties was an assemblage of parcels, which were acquired by a realty company and resold the same day; the realty company retained a right of first refusal. A sale in 1999 of a 16,200 square foot surface parking lot for a price of \$1,500,000, or \$92.59 per square foot was also considered but not emphasized due to the age of the

sale. The comparables' sales were adjusted for location, size, development potential, zoning, and other applicable items. Based on his research and analysis, the witness estimated an 'as if vacant' market value for the subject of \$135.00 per square foot, or \$2,025,000.

Next, utilizing *Marshall Valuation Service Cost Manual* and his research of the market area, the appellant's appraiser established \$225,000 as an estimated cost to demolish the subject's current improvement. The estimated demolition cost was subtracted from the land estimate resulting in an estimated value for the subject of \$1,800,000 as of January 1, 2004.

In the appraiser's reconciliation, Renzi indicated that the subject was appraised in accordance with his opinion of its highest and best use and neither the cost approach nor the income approach to value were presented in his summary appraisal. His final opinion to value for the subject's property was \$1,800,000 as of the assessment dates at issue.

Renzi testified that parking facility rates south of Congress Parkway (Eisenhower Expressway) were no more and probably less than half of parking facility rates north of Congress Parkway. This is due to a higher density commercial and office market north of Congress Parkway. In addition, he testified, that parking garages south of Congress Parkway do not commonly have first floor retail space.

When cross-examined by the Hearing Officer, Renzi reiterated that he appraised the subject 'as is' or as it stood as of the date of valuation.

During cross-examination, the appraiser stated the site had not been redeveloped as the date of his appraisal and as of the date of hearing was still operating as a parking facility. Renzi was questioned regarding the technique used to value parking facilities. He responded that both price per parking space and price per square foot are relevant techniques. With contemporary facilities, the price per stall tends to be more applicable while for older properties the price per square foot tends to be more appropriate. The appraiser testified that he was not aware of any sales of parking garages south of the Eisenhower Expressway (Congress Parkway) for more than \$32.50 per square foot.

In response to questions about the income approach, the appraiser indicated the income approach was not employed in the final value conclusion but it was part of the process to get to that value conclusion. Renzi acknowledged the map within the appraisal indicating the locations of his comparables was inaccurate.

Further cross-examination of the witness revealed the subject sold more than three and one-half years after the 2004 date of value.

During re-direct examination, the witness explained the differences between a summary appraisal, which was submitted into evidence for the subject, and a self-contained report. Pointing out that the summary report is a summary of the information utilized to conclude value and does not contain all the information of a self-contained report. He indicated that the vast majority of clients utilize the summary report.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's 2003 and 2004 final total assessments of \$1,044,831 were disclosed. This assessment reflects a fair market value of \$2,749,555 when the Cook County Real Property Assessment Ordinance level of assessments of 38% for Class 5a property, such as the subject, is applied. The subject's assessment equates to \$45.83 per square foot of building area or approximately \$14,704 per parking space. In addition a memorandum and sale summary reporting sheets for seven properties from *CoStar Comps* were proffered. These properties sold from July 2001 to October 2005 for prices ranging from \$7,250,000 to \$90,500,000. All of the properties are located either within Chicago's central business district (Loop) or north of the Loop. In addition to parking facilities, all appear to contain retail and/or office space and some of the board's comparables are sales of parts of larger facilities. The memorandum's author, Jeffrey M. Hortsch, suggested an analysis indicated the comparables had an unadjusted sales price range from \$29,000 to \$78,696 per parking space. Hortsch did not appear at the hearing to explain the similarities and/or differences between the comparables and the subject; the methodologies utilized to arrive at the range per parking space; or to be meaningfully cross-examined by the appellant's counsel and the Property Tax Appeal Board. Based on the foregoing the board of review requested confirmation of the subject's current assessment.

Next, the intervenor presented a summary appraisal report and the testimony of its author Kevin A. Byrnes of Byrnes, Houlihan & Walsh, LLC, Chicago. Byrnes testified he is a State of Illinois certified general appraiser and has been in practice for approximately 18 years. After a brief description of his credentials, Byrnes was accepted as an expert witness.

Byrnes testified the scope of his assignment was to appraise the subject property for ad valorem tax purposes. He testified he personally inspected the exterior areas of the subject and the subject was appraised as fee simple. He also testified that he prepared a summary appraisal report and this type of appraisal is common in the appraisal profession. The appraiser's opinion of

the subject's highest and best use as improved is its current use and as vacant would be for mixed commercial-residential use. The appraiser testified that in estimating a fair market value for the subject of \$2,800,000 as of January 1, 2004, he utilized the cost and the sales comparison approaches to value.

The first technique employed by the appraiser was the cost approach to value. The sales of seven properties were used to estimate the subject's land value. Four of these properties were also utilized by the appellant's appraiser. The properties range in size from 12,000 to 62,291 square feet of land area; were sold from September 2000 to August 2005 for prices ranging from \$1,250,000 to \$10,135,000, for from \$102.46 to \$293.70 per square foot. One of the properties was improved at the time of sale; one was a parking lot; and the remaining parcels were vacant. One of the vacant properties was an assemblage of parcels, which were acquired by a realty company and resold the same day; the realty company retained a right of first refusal. That same property was sold again in 2005 and the realty company quitclaimed its right of first refusal to the purchaser. The comparables' sale prices were adjusted for market conditions, location, size, zoning, and other applicable items.

Byrnes estimated that the subject's market value would be \$180.00 per square foot of land area, or \$2,700,000, slightly above the weighted average of the comparables.

In testimony, the appraiser discussed the floor area ratios (FAR) of his land comparables. FAR, he explained, is the ratio of floor area to a parcel's square footage; i.e. if the subject has a FAR of 12 the owner can develop a structure 12 times the gross land area. Byrnes described his sales comparables six and seven as paired sales illustrating the appreciation in values from 2000 to 2005 in the subject's general area.

In estimating the value of the improvements under the cost approach Byrnes used replacement cost new from the *Marshall Valuation Service* for Class B average quality parking structure of \$41.00 per square foot of floor area. Multiplying the subject's 15,000 square feet of land square footage by \$41.00 per square foot resulted in a cost new estimate of \$615,000. The appraiser then added \$8,610 for financing costs; \$50,000 for real estate taxes during construction; and 10% or \$67,361 for entrepreneurial profit, which includes other direct and indirect costs. These computations resulted in a total of \$740,000, rounded, as a replacement cost new for the subject's improvement. Byrnes estimated the subject suffered 88% depreciation based on an economic life of 50 years and an effective age of 44 years. Deducting \$654,200 for the depreciation resulted in an estimated depreciated value for the subject's improvement of \$88,000. The estimated depreciated improvement value was added to the

estimated land value to arrive at a market value through the cost approach for the subject of \$2,790,000, rounded.

Byrnes analyzed five sales in the sales comparison approach to value. The properties are all located north of Congress Parkway in Chicago's central business area. The sales occurred from May 1998 to April 2005 for prices ranging from \$2,200,000 to \$12,000,000. The comparables range in age from 18 to 45 years; in size from 23,000 to 90,000 square feet of building area; and contain from 260 to 250 parking spaces. The sale prices ranged from \$56.76 to \$158.35 per square foot of building area or from \$9,333 to \$55,814 per parking space. Byrnes testified that three of the five comparables contain retail/commercial space and one of the sales was a tax deferred sale. After adjusting the sales for conditions of sale, market conditions, location, size and other pertinent factors, the appraiser opined that a unit value of \$15,000 per parking space for the subject was reasonable. The witness testified that he did not make any specific adjustments for retail space within the comparables. Therefore the appraiser's estimated market value for the subject through the sales comparison approach was \$2,800,000, rounded.

Byrnes testified that both the cost approach and the sales comparison approach were given substantial consideration when reaching a final conclusion of value for the subject. His final opinion of the subject's market value as of January 1, 2004, was \$2,800,000, rounded.

During cross-examination by the Hearing Officer, the witness discussed the 2000 sale of comparable six of his land sales. The witness testified a developer assembled several parcels packaged them and sold them as a unit the same day. The purchaser then sold the assembled parcels in 2005.

Byrnes was questioned about parking rates and he testified that the daily parking rates for the subject might be 50% to 60% lower than the comparables located north of Congress Parkway. In addition, he testified that he did not recall if any of his sales comparables were offered on the open market. After viewing *CoStar Comps* sale summary sheets for his sales comparables (Appellant's Exhibits #10 through #14,) the witness testified that four of the comparables were not offered on the open market at the time of sale. The witness further acknowledged that the text under market conditions of the land sales in the appraisal there was a typo. In addition, the witness viewed *CoStar Comps* sale summary sheets for his land sales (Appellant's Exhibits #2 through #9) and testified that he did not know if these properties were offered on the open market.

In closing, the appellant's counsel requested that the Board find \$1,800,000 as a fair market value for the subject; counsel for the board of review, argued that the appellant's appraisal was

flawed because it did not address all three traditional approaches to value properly; and the intervenor argued the subject's assessment should be reflective of Byrnes testimony and appraisal or a fair market value of \$2,800,000.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value for ad valorem tax purposes.

When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> 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.Adm.Code §1910.65(c)).

The Property Tax Appeal Board finds that both appraisers' conclusions were similar with respect to the subject's highest and best use as vacant. As improved, Renzi concluded the subject's highest and best use is for demolition and redevelopment. Conversely, Byrnes concluded the subject's highest and best use as improved is its continued use as a parking facility, for the near future. Testimony also indicated that as of the hearing date the subject was still utilized as a parking facility.

The Property Tax Board finds that both appraisers agree the subject's value is primarily associated with the land value with the improvement having no or little value. The appellant's appraiser did not develop a cost approach to value but did estimate the land value to be \$135.00 per square foot or \$2,025,000. Under the cost approach Byrnes estimated the subject land value to be \$180.00 per square foot of land area, slightly above the weighted average of his comparables. The sales of eight properties were presented in the two appraisals. The Board places the most weight on the four sale properties that were analyzed by both appraisers. In its analysis, the Board will refer to these four properties number one through four. The Board places little weight on sale property number four as approximately quadruple the size of the subject. Testimony and evidence revealed that sale property number three was sold in September 2000 for a price of \$137.75 per square foot of land area and again in August 2005 for a price of \$293.70 per square foot of land area. Sale comparable one and two sold August 2001 and March 2004 for prices of \$107.07 and \$111.19 per square foot of land, respectively. The Board finds that sales comparables one through three are the most similar to the subject in terms of proximity to the subject, size, and zoning. The properties found

the most similar to the subject were sold from September 2000 to March 2004 for prices ranging from \$102.46 to \$137.75 per square foot of land area. The Board also finds that the second sale of sale comparable number three in August 2005 for a price of \$293.70 per square foot of land area illustrates the appreciation in values from 2000 to 2005 in the subject's general area. In light of the appreciation in land values, the Board finds the sales of the three properties found most similar to the subject support Byrnes' estimate of a value for the subject's land of \$180.000 per square foot of land area or \$2,700,000.

Renzi developed an income approach using the subject's actual income to demonstrate the subject's improvement contributes no value to the subject and that the subject is worth more vacant than as currently improved. The Board gives this little weight finding the appellant's appraiser should have used market derived income and expenses rather than income and expenses associated with the subject's business operations.

In the sales comparison approach Byrnes testified all of the sales analyzed are located north of the Congress Parkway which is considered a superior location. Byrnes testified that three of the five comparables contain retail/commercial space. The Board finds the photographs contained in the Byrnes appraisal clearly show four of the five contain commercial space. Byrnes testified adjustments were not made for that retail/commercial space. Further, during cross-examination he agreed that four of the five comparables were not offered on the open market. In addition, he testified that the parking rates for his comparables are probably 50% to 60% higher than the subject's rates. Further, the Board finds that these sales demonstrate the subject's assessment is not excessive due to the fact these superior properties have unit prices greater on both a per square foot basis and for the most part on a per parking space basis.

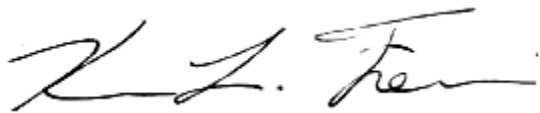
After hearing the testimony considering the evidence, the Property Tax Appeal Board finds that the land sales and the improved sales in the record demonstrate that the subject's assessments are reflective of the property's market value as of January 1, 2003 and January 1, 2004. Therefore, the Property Tax Appeal Board finds that no reduction in the assessment of the subject property is warranted for either of the assessment years in question.



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.



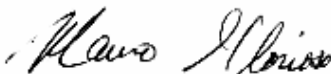
Chairman



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: December 19, 2008



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.