



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

APPELLANT: Autozone, Inc.
DOCKET NO.: 09-33777.001-C-2
PARCEL NO.: 25-05-108-034-0000

The parties of record before the Property Tax Appeal Board are Autozone, Inc., the appellant, by attorney Jack E. Boehm, Jr., of Fisk Kart Katz and Regan, Ltd. in Chicago; and the Cook County Board of Review by assistant state's attorney Christin Duffy.

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: \$ 56,343
IMPR.: \$146,196
TOTAL: \$202,539

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 2009 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 one-story, masonry, commercial building used for owner-occupied, retail purposes. The building was constructed in 2003. The property has a 27,318 square foot site and is located in Lake Township, Cook County. The subject is classified as a class 5A, commercial property under the Cook County Real Property Assessment Classification Ordinance.

For purposes of judicial economy, the subject property's 2009, 2010 and 2011 appeals were scheduled for hearing simultaneously. At hearing, the parties had no objection to the consolidation of the three tax years for hearing purposes, with the knowledge that distinct decisions would be rendered for each tax year under appeal.

Further at hearing, all parties appeared as well as the court reporter and witness after receiving due notice. Nevertheless, the board of review's representative requested that there be a 30-day continuance. After some discussion off the record, the Board ruled on the record that since all parties were present including the parties' sole witness and without good cause shown, that the hearing would proceed. Thereby, the Board denied the board of review's request.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal conducted by Joseph Ryan estimating the subject property had a market value of \$800,000 as of January 1, 2009. However, the appellant asserts that due to a building size discrepancy the appellant is requesting a market value of \$550,000 as of the 2009 assessment date.

Mr. Ryan testified that he is a commercial real estate appraiser who is licensed in the State of Illinois and holds the designation of Member of the Appraisal Institute (MAI) since June, 1992. He also stated that he worked for various appraisal agencies after departing from the Cook County Assessor's office in 1985. He indicated that he has completed several hundred appraisal assignments of retail properties. Ryan was offered as an expert in the appraisal of real estate without objection by the parties. Therefore, the Board accepted him as such.

Initially, Ryan testified that he completed an appraisal for the effective date of January 1, 2009 and a transmittal date of September 10, 2010, but that he then updated that appraisal report. He stated that he was given wrong information about the size of the building. He stated that he did not notice that the approximate size of 10,000 was unusual for an Autozone store because the size generally ranges from 7,000 to 10,000 square feet. He indicated that once he found the corrected information that he issued a new report. However, the appellant did not submit this 'updated' report into evidence in the 2009 tax appeal.

Under cross examination on this point, Ryan testified that he noticed the discrepancy before he initial appraisal issuance date of September 10, 2010. In addition, he stated that his 'updated' appraisal was actually submitted in the 2010 and 2011 appeals for this property. He also indicated that the only error in the 2009 report was the building's size which was altered in the later report. Ryan testified that he became aware of the square footage error when the appellant's attorney pointed it out to him. He also stated that the staff appraiser, Linehan inspected the subject property.

Ryan testified that he estimated the market value of the subject while developing two of the three traditional approaches to value. The value estimated in the income approach was \$800,000 and the value estimated in the sales comparison approach was \$800,000. He stated that the purpose of the appraisal was to estimate the retrospective market value of the fee simple estate of the property for ad valorem taxation. The property was inspected on July 15, 2010 which included an interior and exterior inspection. In addition, the subject was found to be in overall good condition.

Ryan stated that the 2009 market reflected a sales drop due to the economic collapse that began in October, 2008. He indicated that the economic collapse caused consumers to spend less and with the lack of available financing caused commercial real estate markets to drop. He indicated that the subject's neighborhood was the Auburn – Gresham neighborhood. Moreover, he stated

that in this neighborhood the real estate market came to a dead halt due to lack of available financing. He stated that this time period was called the greatest economic collapse since the Great Depression in 1929. The subject's highest and best use as vacant was for commercial use with a retail building, while the subject's highest and best use as improved was its continued use.

Ryan testified that he did not develop a cost approach because the real estate market was in a free fall from 2006 through 2009; therefore, he could not extract overall depreciation from properties. However, the Ryan appraisal stated that the cost approach was not undertaken due to the subject property's age.

As to the sales comparison approach, Ryan used four properties which were all single-tenant, retail stores which were the same comparables employed in his appraisal for all three tax years at issue during the hearing. These four properties sold from July, 2006, to December, 2009, for prices that ranged from \$300,000 to \$1,049,097, or from \$40.00 to \$116.39 per square foot of building area. The properties contained improvements that were built from 1985 to 2006. They ranged in building size from 7,009 to 14,050 square feet and in land size from 26,998 to 33,803 square feet of land.

At hearing, Ryan stated that all of the sales were fee simple sales and that he verified the sales data with public records including a real estate transfer declaration and/or CoStar Comps service. As to sale #1, he stated that the property was purchased and converted to an AutoZone store with a fee simple transaction in 2006; and thereafter, sold in a leased fee sale in 2007. In Ryan's adjustment section of the sales comparison approach, he stated that "commercial properties tend to have an inverse relationship between building size and value per-square-foot; as building size increases, the value of properties on a per square foot basis tends to decrease".

Under the sales comparison approach to value, Ryan concluded a market value in the 2009 appraisal of \$80.00 per square foot based upon 9,954 square feet, and in the 2010 appraisal of \$100.00 per square foot based upon 5,549 square feet. In addition, he stated that in using the correct square footage for the 2009 tax year would reflect a market value of \$550,000 under this approach to value.

The appraisal also developed the income approach to value by using four asking price rental properties that were either single-tenant or multi-tenant buildings. The Ryan appraisal in the 2009 tax year estimated a potential gross income of \$9.00 per square foot or \$89,586 while deducting 5% for vacancy and collection loss resulting in an effective gross income of \$85,107. Thereafter, he deducted operating expenses resulting in a net operating income of \$75,607 or \$7.60 per square foot. The appraisal indicated that the direct capitalization technique resulted in a 9.50% overall capitalization rate, while the band of investment method resulted in a 9.34% capitalization rate. Ryan applied 9.50% to the subject's net operating income resulting in a market value of \$800,000, rounded.

In reconciling the two approaches to value, Ryan's appraisal accorded primary consideration to the income approach stating that the rental information was considered to be reliable and the most comparable in the marketplace after adjustments with secondary consideration accorded the sales comparison approach for the sales were considered similar in most respects to the subject and the information considered highly reliable. Thereby, the appraisal indicated a final

indication of value for the subject of \$800,000 as of January 1, 2009. At hearing, Ryan testified that he generally gives most weight to the sales comparison approach to value especially where the subject is an owner-occupied building. Lastly, in two consecutive questions, Ryan testified that the subject's value as of January 1, 2009 was first, \$800,000 and then, \$550,000.

The board of review's representative requested an opportunity to review the work product of the appellant's appraiser, which was granted while according the appellant's attorney an opportunity to remove any 'privileged' documents from that file. After a recess, the hearing proceeded.

Under cross examination by the state's attorney, Ryan testified to the makeup of his office's staff, while stating that this appraisal assignment was given to staff appraiser, Linehan. Ryan stated that he had not worked on the appraisal, but had reviewed it. He also stated that when the appellant's attorney hired Ryan to perform this appraisal, that the attorney had given the square footage of the subject as 9,949 square feet to Ryan, which in turn was conveyed by Ryan to staff appraiser, Linehan. In addition, Ryan testified that he had conducted an exterior inspection of the subject in 2010 initially stating that the inspection was prior to the 2009 appraisal's transmittal, but later stating that he could not remember. He also stated that he has inspected the interior of other AutoZone stores when he is appraising them, but did not do so for this subject property. Moreover, Ryan testified that when Linehan conducted his interior inspection of the subject that Linehan did not measure out the property.

As to the appraisal, Ryan stated that the four rental properties were obtained from LoopNet and that he did not personally verify the rental data. Further, Ryan testified that he typically checks the accuracy of a property's square footage that has been inspected and signs off on appraisals as being true and accurate. He also stated that he used the same sale comparables for both the 2009 and 2010 appraisals, while testifying that he did not remember if Linehan or he reran the CoStar Comps inquiry after knowing that the subject's size was essentially diminished by half. Moreover, he stated that he made no adjustment for size to the sale comparables and that there was no specific or standard size for an AutoZone building.

At the conclusion of the appellant's case-in-chief, the state's attorney moved to strike Ryan's testimony. After hearing the parties' arguments on this point, the Board denied the motion while indicating that the argument actually speaks to the weight to be accorded Ryan's testimony not admissibility.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$438,752. The subject's assessment reflects a market value of \$1,755,008 or \$176.31 per square foot of living area, including land, when applying the level of assessment for class 5A, commercial property under the Cook County Real Property Assessment Classification Ordinance of 25%. The board of review's memorandum indicated that the subject's building contained 9,954 square feet located on a 27,318 square foot site.

In support of its contention of the correct assessment, the board of review submitted unadjusted sales information on four suggested comparable sales that were single-tenant or multi-tenant properties that sold from April, 2004, to March, 2007, for prices that ranged from \$92.25 to \$427.16 per square foot. The properties ranged in building size from 7,784 to 8,672 square feet of retail free-standing buildings.

Moreover, the board of review's memorandum stated that the data was not intended to be an appraisal or an estimate of value and should not be construed as such. This memorandum indicated that the information provided therein had been collected from various sources that were assumed to be factual and reliable; however, it further indicated that the writer hereto had not verified the information or sources and did not warrant its accuracy. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the state's attorney rested on the board of review's written evidence submission.

Conclusion of Law

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

The initial issue before the Board is the size of the subject's building. The Board finds that the best evidence of size was the appraiser's testimony supported by the appellant's and board of review's evidence in tax years 2010 and 2011 reflecting a building size of 5,549 square feet. Further at hearing regarding the 2009 tax year, the parties were in agreement that the incorrect square footage of 9,954 was reflected in the 2009 evidence submissions by both parties.

Next, the Board finds that the appellant's appraisal with the appraiser's testimony sheds considerable light on the multiple and significant flaws within this appraisal, such as: unverified rental data; inappropriate rental comparables which were asking prices and not actual rentals; lack of development of a cost approach for the subject due to the subject's age, when the subject's actual age was only six years; no building size adjustments in the sales comparison approach; misplaced primary reliance on a flawed income approach to value where this subject property is an owner-occupied, retail store; contradictory testimony at hearing; and admitted omissions in the methodology used to complete this 2009 appraisal.

Moreover, the pivotal flaw of an incorrect building size which was corrected in the 2010 and 2011 tax appeals by this appraiser was timely caught, but not changed prior to the transmittal date of the 2009 appraisal. This failure to explain why the square footage discrepancy was not corrected, coupled with the notice from appellant's attorney to the appraiser prior to the issuance of the 2009 appraisal greatly diminishes any weight to this document. Ryan testified that the subject property was inspected in July, 2010 while estimating a market value for January 1, 2009, but then he testified that the appellant's attorney notified him prior to the transmittal date of the incorrect building size of 9,954 square feet without any remedy prior to issuance. At hearing, he indicated that the actual building size was 5,549 square feet in a less than genuine manner. Overall, the Board finds that Ryan's lack of knowledge of the contents of the 2009 appraisal and/or his contradictory testimony appear that he had little involvement in this appraisal. Therefore, the Board finds that all of these significant errors or omissions taint the

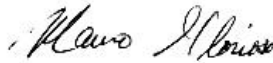
minimal adjustments and conclusions within this 2009 appraisal and the Board will give these conclusions of value no weight.

Therefore, the Board will look to the raw sales data submitted by the parties. The Board finds the best evidence of market value to be the appellant's sales comparables #1, #2 and #4. These comparable sales sold for unadjusted prices ranging from \$40.00 to \$116.39 per square foot of living area, including land. The subject's assessment reflects a market value of \$176.31 per square foot of living area, including land, which is above the unadjusted range established by the best comparable sales in the record. The Board accorded diminished weight to the remaining properties due to a disparity in: sales date, proximity to the subject; building age, building size and building usage or tenancy.

The Board further finds that Ryan testified that "commercial properties tend to have an inverse relationship between building size and value per-square-foot; as building size increases, the value of properties on a per square foot basis tends to decrease".

After making significant adjustments for building size as well as for other pertinent factors, the Board finds that the subject was overvalued and that 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.



Chairman



Member



Member



Member



Acting 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: March 24, 2017



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.