



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

APPELLANT: Sarju Nair
DOCKET NO.: 10-22870.001-C-2
PARCEL NO.: 11-18-302-031-0000

The parties of record before the Property Tax Appeal Board are Sarju Nair, the appellant(s), by attorney William J. Seitz, of the Law Offices of William J. Seitz, LLC in Chicago; the Cook County Board of Review by Jabari Jackson with the Cook County Board of Review; and Evanston- Skokie CCSD #65, the intervenor, by attorney Scott Metcalf of Franczek Radelet P.C. in Chicago.

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: \$57,380
IMPR.: \$27,620
TOTAL: \$85,000

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 2010 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 9,664 square foot parcel of land improved with an 85-year old, one-story, masonry, commercial building containing 5,635 square feet of building area. The property is located in Evanston Township, Cook County and is a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant's appeal is based on overvaluation. In support of the market value argument, the appellant submitted an appraisal undertaken by John O'Dwyer of JSO Valuation Group, Ltd. O'Dwyer was the appellant's only witness. O'Dwyer testified he is licensed in Illinois and holds the MAI designation from the Appraisal Institute and is a member of the Royal Institution of

Chart Surveyors. He testified he has appeared before courts and tribunal as an expert witness including before the Illinois Property Tax Appeal Board. Mr. O'Dwyer was accepted as an expert in property valuation without objection from the parties.

The appraisal indicated the subject has an estimated market value of \$340,000 as of January 1, 2009 and January 1, 2010. The appraisal report utilized the income and sales comparison approaches to value to estimate the market value for the subject property. O'Dwyer testified he appraised this property four years prior to this date of valuation and that he also prepared an appraisal with a 2013 valuation date. He testified the Metra and El tracks are the division for downtown and that the subject is located on the other side of the tracks from downtown.

O'Dwyer described the subject property and the market at the time of valuation. He testified to the banking industry in 2010 and how that affected the real estate market. O'Dwyer testified as to the subject's neighborhood and opined that the property was located on the peripheral of downtown Evanston on an exit street. O'Dwyer described the problems with the subject's layout and location. The appraisal finds the subject's highest and best use as improved is its existing interim use.

O'Dwyer testified he considered all three approaches to value and performed the income and sale comparison approaches. He testified he omitted the cost approach because of the difficulties in evaluating a building of this age.

Under the income approach, O'Dwyer testified he reviewed five rental comparables located in Evanston, Skokie, and one in Chicago. These properties ranged in size from 3,800 to 30,720 square feet of building area and have asking rates of \$6.00 to \$14.50 per square foot of building area. O'Dwyer testified he adjusted the rent to an effective net rent range of \$5.40 to \$13.28 per square foot of building area. He testified to how the market at the time of valuation would affect the rent and estimated a rent of \$10.00 per square foot of building area. This resulted in a potential gross income of (PGI) \$56,350. Vacancy and collection loss was estimated at 17.5% of PGI for an effective gross income (EGI) of \$46,489. Expenses were estimated at \$11,107 for an estimated effective net income (ENI) at \$35,382.

In determining the appropriate capitalization (CAP) rate, O'Dwyer testified he looked to PricewaterhouseCooper's CAP rates for national strip shopping centers for third quarter 2010. And opined this was the closest thing to determining CAP rates in the market. He testified the chart shows these rates ranged from 7% to 11.4% with an average of 8.38% for class A properties. The appraisal also includes data from Korpacz Real Estate Investor Survey. O'Dwyer testified he applied an overall CAP rate of 10.5% to the ENI to estimate the market value for the subject under this approach at \$340,000, rounded.

Under the sales comparison approach, the appraiser analyzed four sales and one listing. O'Dwyer testified he did include on REO sale as comparable #2. He testified as to the location of these comparables. He testified he inspected the comparable properties. The properties range in size from 1,932 to 5,250 square feet of net rentable building area for the properties that sold. The comparables sold from June 2010 to February 2011 for prices ranging from \$54.35 to \$82.86 per square foot of net rentable building area. O'Dwyer testified he made adjustments to the

comparables for pertinent factors and estimated a value at \$60.00 per square foot of building area for a total estimated value under the sales comparison approach of \$340,000.

O'Dwyer then testified to how he determined which comparables to use in his sales comparison approach.

In reconciling the two approaches to value, the appraisal discloses that the income approach was relied on as the indicator of value, but not solely. The appraisal also relies on the sales comparison approach to arrive at a final estimate of value for the subject as of January 1, 2010 of \$340,000.

Under cross-examination by the board of review, O'Dwyer testified he reviewed all the properties in the intervenor's evidence when he was determining which properties are most comparable to the subject for use in the appraisal.

Under cross-examination by the intervenor, O'Dwyer was show *Appellant's Exhibit #1*, the Board's copy of the appellant's appraisal. He testified that the writing on the front page "For John's read only, will remove" refers to him as John. He testified he writes this report with Jock Lowandowski and described own Mr. Lowandowski helps in writing the report. He did not know why that wording was still on the front page as it should have been removed once its approved by him.

O'Dwyer testified that the subject's location is a good commercial location. He acknowledged the appraisal discloses that the subject is located in downtown Evanston. He testified that the downtown area is made up of three spate commercial areas and that the subject is located in the peripheral area of the downtown. He clarified that the subject is located on the west side of the train tracks while the central business district is located on the east side.

As to the sales comparables, O'Dwyer testified that property values in 2010 and 2011 were decreasing, but that he did not take the sales comparables and knock 5% off them for an adjustment. He clarified that the portion of the appraisal that discusses the 5% to 10% downward adjustment was a way of disclosing that values were not increasing. He opined that while that statement concerning the 5% to 10% downward adjustment is stating in the transmittal letter, a review of the sales comparison approach shows that this did not occur.

O'Dwyer testified that the subject is leased. In response to questions, he described how the downtown area was becoming a new urban neighborhood. O'Dwyer described the buildings surrounding the subject as best he could. He confirmed that all the rental comparables are asking rents. He testified that he is barred from using actual contract rents due to privacy restrictions passed by congress.

O'Dwyer was asked about the traffic counts for every rental comparable. He testified that he did not look at any of the traffic counts for any other properties other than subject.

O'Dwyer was shown *Intervenor's Exhibit #1*, a printout advertising the lease of rental comparable #1. He acknowledged that the document showed asking rates between \$8.00 and \$14.00 per square of rental area. He testified that this document was created in September 2012

and that he would not have seen this document at the time he was valuing the subject. O'Dwyer was then shown *Intervenor's Exhibit #2*, a printout from Google Maps showing the distance from rental comparable #1 to the subject. He testified that he was not sure if the distance of this comparable as listed in the appraisal was more accurate than this map.

As to rental comparable #2, O'Dwyer described this property's environs. He was questioned as to the distance this comparable is to the subject and he testified that the distance is more than a mile. He opined that this is a minor error in the appraisal which lists the property as .61 miles away.

O'Dwyer confirmed that rental comparable #3 is also sales comparable #1. He testified the property was vacant at the time the report was written. He acknowledged that the appraisal also lists an incorrect distance for this comparable compared to the subject. He testified he was not familiar with the crime or gang statistics for this part of Chicago nor did he focus on high or low income housing.

As to rental comparable #4, O'Dwyer described this property as having a good location near train tracks. He then went on to testify about the location of the subject in relation to the railroad tracks. He opined that while the tracks had no bearing on the comparable, the tracks are a negative factor for the subject.

O'Dwyer was shown *Intervenor's Exhibit #3*, a printout regarding rental comparable #5. O'Dwyer acknowledged that this document disclosed that the comparable sold in January 2010 for \$490,000. O'Dwyer then testified to how he arrived at his estimate of rent for the subject and the adjustments made from gross rent to net rent.

O'Dwyer was then asked about the sales comparables. He testified that the buyer for sale comparable #1 was the City of Evanston. O'Dwyer was then shown *Intervenor's Exhibit #4*, a CoStar report for sale comparable #1. O'Dwyer acknowledged that report indicates the city used TIF funding to purchase the property and that it was formally used as a church. O'Dwyer opined that the funding would be irrelevant to the purchase price. He also testified he did not know the traffic count for the street this property was located on.

O'Dwyer described comparable #3 as being in a downtown shopping district. He did not know the traffic count for the street this property was located on, but testified it would exceed the subject's street. O'Dwyer was shown *Intervenor's Exhibit #5*, a CoStar report for sale comparables #3. He testified that the picture in the report is not the correct depiction of sale comparable #3. O'Dwyer was then shown *Intervenor's Exhibit #5a*, a CoStar report for sale comparable #4. O'Dwyer acknowledged that the buyer Seaman Loans. He testified that the name on the building for comparable #3 as listed in the appraisal indicates Seaman Loans. O'Dwyer then testified that he was positive the picture in appraisal was an accurate picture of comparable #3. He testified that he physically looked at the property and that the picture in the appraisal corresponds to comparable #3. O'Dwyer then looked at *Intervenor's Exhibit #5* and testified the photo is the appraisal for comparable #4 does not have a lamppost in front of the building while the CoStar report does.

The witness acknowledged that none of the sales comparables are as old as the subject and that three of the properties sold in 2011 after the lien date. O'Dwyer testified that he did not recall which properties were leased at the time of sale, but that in the market at the time of valuation having a tenant in place was not a guarantee that they would continue to lease the property and, he opined, this knowledge do not make a difference in the valuation. O'Dwyer described some of the adjustments made to the comparables.

O'Dwyer was shown *Intervenor's Exhibit #6*, a mortgage document for the subject property. O'Dwyer testified he does not look at mortgages, deeds or releases for a property he is valuing a property as the property is to be value without these encumbrances.

On re-direct, O'Dwyer confirmed that he did inspect the subject. He testified that he typically has an appraiser assisting with the valuation of a property, but that he is the signatory and the one responsible for the report. O'Dwyer further testified as to the location of the subject on the peripheral of downtown Evanston.

O'Dwyer testified that he knows the owner of the subject property as a client and that he believed the owner and tenant of the property were related. He testified that he knew the appellant owned other property, but did not know about any of the mortgages.

O'Dwyer opined that the sales in the sales comparison approach were the sales most similar to the subject. He acknowledged that he was shown a document, *Intervenor's Exhibit #3*, which disclosed a sale for rental comparable #3. He testified that he was not aware of this sale because it was recorded after he finished the appraisal. O'Dwyer testified that the sale may have been useful, but it may not have been based on more information.

As to the rental comparables, O'Dwyer testified that asking rents will vary from actual contract rents. He opined that asking rents give a picture of that moment in time and are very valid as they reflect what's going on in the market. He further opined that one sale does not make a market. Again O'Dwyer testified as to the subject's location versus the comparables.

Finally, O'Dwyer testified that there is a possibility that the pictures of the sales comparables were switched, but that the data for each comparable would be accurate.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment was \$211,312; yielding a market value of \$845,248 or \$150.00 per square foot of building area, including land, using the Cook County Real Property Classification Ordinance for Class 5 property of 25%.

The board also submitted raw sales information on five properties suggested as comparable. The properties range in size from 1,365 to 5,640 square feet of building area and sold for prices ranging from \$155.51 to \$303.23 per square foot of building area, including land. In addition, the board of review's memorandum discloses that the data is not intended to be an appraisal or estimate of value and should not be construed as such. In addition, it discloses that the information is assumed factual, accurate, and reliable, but has not been verified and does not warrant its accuracy. The board of review did not present any witness at hearing.

The intervenor, Evanston-Skokie Community Consolidated School District #65, submitted a brief and raw sales information on eight properties suggested as comparable. The properties range in size from 2,500 to 9,121 square feet of building area and sold for prices ranging from \$151.04 to \$363.64 per square foot of building area, including land. The intervenor did not present any witness at hearing.

Conclusion of Law

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd 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.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

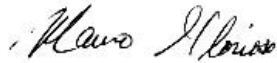
In determining the fair market value of the subject property, the Board examined the appellant's appraisal report and testimony, the board of review's evidence, and the intervenor's evidence.

The Board finds the board of review's and the intervenor's witnesses were not present or called to testify about their qualifications, identify their work, testify about the contents of the evidence, the conclusions or be cross-examined by the appellant and the Property Tax Appeal Board. Without the ability to observe the demeanor of these individuals during the course of testimony, the Property Tax Appeal Board gives this evidence from the board of review and the intervenor no weight.

In determining the fair market value of the subject property, the Board finds the best evidence to be the appellant's appraisal and testimony. The appellant's appraiser utilized the income and sales comparison approaches to value in determining the subject's market value. The witness credibly testified that the cost approach would not be appropriate for the subject property. The Board finds the appraisal and testimony to be persuasive for the appraiser: has experience in appraising; personally inspected the subject property and reviewed the property's history; and used similar properties in the sales comparison approach while providing sufficient detail regarding each sale as well as adjustments that were necessary.

Therefore, the Board finds the subject had a market value of \$340,000 for the 2010 assessment year. Since the market value of this parcel has been established, the Cook County Real Property Classification Ordinance for Class 5 property of 25% will apply. Therefore, the Board finds that a reduction is warranted.

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: _____

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 22, 2016



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.