



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

APPELLANT: HSBC Finance Corporation
DOCKET NO.: 10-27538.001-I-3
PARCEL NO.: 07-12-300-012-0000

The parties of record before the Property Tax Appeal Board are HSBC Finance Corporation, the appellant, by attorney Patrick C. Doody, of the Law Offices of Patrick C. Doody in Chicago; the Cook County Board of Review by assistant state's attorney Cristin Duffy with the Cook County State's attorneys office in Chicago; as well as the intervenors, Palatine T.H.S.D. #211 and Schaumburg C.C.S.D. 54, both by attorney Michael J. Hernandez 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: \$357,501
IMPR.: \$492,499
TOTAL: \$850,000

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 multiple parcels of land containing 260,001 square feet improved with a one-story, masonry, single-tenant, office building. The building was constructed in 1968. The property is located in Schaumburg Township, Cook County. The subject is classified as a class 5B, industrial property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating that the subject property had a market value of \$2,500,000 as of January 1, 2010. The appraisal developed two of the three traditional approaches to value: the income and sales comparison approaches. It indicated that an interior and exterior inspection was undertaken on March 1, 2011, while submitting exterior photographs. Moreover, the appraisal stated that the subject's building size has 50,400 square feet of net rentable area.

At hearing, the appellant called as its expert witness, Joseph Ryan, who prepared the appraisal. He stated that he holds a general certified appraisal license in Illinois, Indiana and Michigan as well as the Member of the Appraisal Institute (MAI) designation. He testified that he has appraised hundreds of properties similar to the subject. Ryan was offered as an expert in real estate appraisal theory and practice with an objection from the board of review, but was accepted as such by the Board for the board of review's objections related to the weight accorded this appraiser's report.

Ryan testified that in preparation of this 2010 appraisal: that he had previously and subsequently inspected the property without any substantial changes between those two inspections; that the co-signing staff appraiser conducted an inspection of the subject; and that Ryan also conducted an exterior inspection of the property.

As to the subject, Ryan testified that the subject is located in the northwest suburban office market sited amongst industrial properties or one-story office buildings to the west. He stated that the subject was in a poor economic market because of the economic collapse of 2009. He indicated that vacancy rates that were high for Class C office properties in 2010 became higher with vacancy rates around 27%. He also stated that the subject contains a single-tenant, office building constructed in 1968 with 50,400 square feet of net rentable area. The testified that the subject's building was originally industrial, but was renovated for the single tenant in 1990. As to office building classifications, Ryan testified that Class A office buildings are newer, modern office buildings of an institutional investment grade type that are less than 10 years old. He stated that Class B buildings are former Class A buildings that have aged, while Class C buildings are the rest of the buildings. He stated that this breakdown is determined by real estate brokers and market investors, while also indicating that the subject is a Class C office building.

As to the 2010 real estate market, Ryan testified that 2010 was the first year after the economic collapse of 2008 and 2009 where there was a great deal of uncertainty and perceived higher risk by real estate investors. In addition, he stated that the subject's market had seen a jump in vacancy rates from 13.6% in 2006 to 28.4% in 2010. Moreover, he indicated that market rents were also affected due to the increased supply of office space that lessens rents.

The subject's highest and best use as vacant was for commercial use, while as improved, was the continuation of its present use. Further, Ryan's appraisal indicated that the subject was purchased in June, 2006, for \$8,700,000 as part of a bulk transaction of 76 assets. At hearing, Ryan testified regarding the details of this transaction, while indicating that the sale price was considered an allocated value not reflective of the market.

As to the income approach, Ryan testified that his four rental comparables were all asking rents, not actual rentals. In addition, rentals #2 through #4 were multi-tenant buildings. The asking rates ranged from \$17.50 to \$21.00 per square foot. He stated that he reconciled a rental rate of \$18.25

per square foot for the subject for a potential gross income of \$919,800. He applied a 20% vacancy and collection loss resulting in an effective gross income of \$735,840. Total operating expenses of \$355,000 were deducted reflecting a net operating income of \$380,840. After using market data to develop an overall capitalization rate of 15.23%, Ryan's estimate of market value under this approach was \$2,500,000, rounded, for the subject.

In the sales comparison approach, Ryan testified that he used five sale comparables ranging from a one-story to six-story, multi-tenant office building. These sales occurred from November, 2007, to January, 2011, for prices that ranged from \$25.61 to \$57.63 per square foot. They ranged: in land size from 84,251 to 317,692 square feet; in building size from 43,338 to 100,287 square feet of building area; and in year of construction from 1969 to 1986.

Ryan testified that he verified each sale property which he characterized as Class C buildings with either party to the transaction. Based upon this data, Ryan stated that he estimated a market value for the subject of \$50.00 per square foot or \$2,500,000, rounded.

Ryan's appraisal indicated in summary that the sale properties were adjusted for market conditions, conditions of sales, location, size, occupancy, and other physical characteristics. Moreover, it stated that the sales ranged in date from November, 2007, to January, 2011, and that the overall office market had been declining since October, 2008, due to overall rising vacancy rates and decreasing rents. Thus, there has been a negative value trend in office properties. Furthermore, the appraisal indicated that office buildings are constructed to differing levels of quality finishes, amenities and layout, while the subject property is a good quality, single-tenant office building. Nevertheless, all of Ryan's sales required downward adjustments for their superior multi-tenant layout.

In reconciling the two approaches to value, Ryan's appraisal indicated that the cost approach was not employed as typically potential owners/investors do not rely on this approach when estimating value for income producing properties, such as the subject. Ryan stated that most weight was accorded the sales comparison approach with secondary consideration given the income approach to value resulting in a final market value for the subject of \$2,500,000.

On cross examination by the assistant state's attorney, Ryan testified that he had not developed a cost approach on this subject due to the inherent inaccuracies in estimating depreciation from a market that had recently collapsed. He stated that there were no recent land sales that reflected the current market value of the property and that economic obsolescence at that point would have been difficult to ascertain. He also acknowledged that the subject sold in August, 2011, for a price of \$5,427,806.

As to Ryan's rental properties, he testified that asking rents represent the high end of the market as they are negotiated downward from the asking price to a contract rent, which is the reason there was sufficient rental data in his report.

On cross examination by the intervenor's attorney, Ryan testified that he felt it appropriate for his uncertified, staff appraiser to also sign the subject's appraisal. Further, he indicated that his certification reflects that he had neither made a personal inspection of the subject property nor had anyone provided significant professional assistance to the person signing this report. Moreover, it

was noted that the Linehan certification stated that he had not made a personal inspection of the property that is the subject of this report, while also indicating that no one had provided Linehan with any professional assistance in this report. Ryan responded that this was a typographical error. He also admitted that he had been reprimanded and fined in 2015 for violating the Uniformed Standards of Professional Appraisal Practice (USPAP), but that Linehan's signature on the subject's appraisal was not a violation of USPAP in his opinion.

Under further cross examination, Ryan stated that: sale #1 was a foreclosure which he was unaware of at the time of the appraisal report; sale #2 was vacant at the time of sale which was an excellent example of a fee simple market value; sale #3 was only 30% occupied and was a short sale; sale #4 was only 14% occupied and could have been a foreclosure; and that sale #5 was only 70% occupied and was part of an auction sale.

Under re-direct examination, Ryan indicated that Linehan was in the process of completing hours to have sufficient hours to apply for his state license and was therefore in compliance with USPAP for he was under Ryan's direct supervision and control when the appraisal report was written. He also testified regarding the definitions of fee simple market value and a leased fee sale. In addition, he explained that the scope of his appraisal assignment was to appraise the subject on a fee simple basis under the conditions present in the market as of the assessment date of January 1, 2010; and therefore, actual income and expenses derived off a 2002 lease extension would have been of no assistance at arriving at a 2010 market value due to the completely different markets. Moreover, as to the subject's sale in 2011, Ryan stated that it was a leased fee sale substantially lower than the subject's 2006 sale.

Lastly, Ryan testified that he refers to various sources to obtain comparables that includes CoStar Comps printouts. He indicated further that this source can update information on a regular basis; therefore, data that was reviewed in preparing an appraisal could be altered in the future on this source. On the basis of this evidence and testimony, the appellant requested a reduction in market value.

At this point in the hearing, the assistant state's attorney requested a directed finding in this appeal based upon her earlier arguments. The motion was denied because the arguments related to the weight to be accorded the appellant's appraisal evidence.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$2,021,773. The subject's assessment reflects a market value of \$8,087,092 or \$160.46 per square foot of building area, when applying the level of assessment for class 5, commercial property under the Cook County Real Property Assessment Classification Ordinance of 25%. The board's memorandum indicated that the subject land size was 260,001 square feet while submitting copies of the property record cards.

In support of its contention of the correct assessment, the board of review submitted unadjusted, raw sales data on four suggested comparable sales. The properties were identified as class B office space which sold from May, 2007, to November, 2008. Sale #5 was a multi-tenant sale with the notation that large square footage was to be converted to office condominiums, while sales #1, #2, and #4 were leased fee transactions. They ranged in building size from 30,745 to 40,906 square feet and in sale price from \$74.48 to \$200.46 per square foot.

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 board of review did not call a witness, but rested on the written evidence submission.

The intervenor submitted an appraisal estimating that the subject property had a market value of \$4,500,000 as of January 1, 2007. The appraisal developed two of the three traditional approaches to value: the income and sales comparison approaches as well as a land value. It indicated that an exterior only inspection was undertaken on June 2, 2010, while submitting exterior photographs. Moreover, the appraisal stated that the subject's building size was 50,263 square feet of gross building area sited on 260,001 square feet of land.

At hearing, the appellant called as its expert witness, William Enright, who prepared the appraisal. He stated that he holds a general certified appraisal license as well as the Member of the Appraisal Institute (MAI) designation, the later since the early 1990s. He testified that he has appraised various properties, while in the last 20 years he has specialized in commercial and industrial properties located within the Chicago metropolitan area. He also stated that he has appraised approximately 200 to 300 office properties similar to the subject. Enright was offered as an expert in the appraisal of commercial, industrial and office properties without objection from the remaining parties and was accepted as such by the Board.

In his initial testimony, Enright explained that there were a few typographical errors in his appraisal report including the final market value that should have been \$4.4 million instead of the printed \$4.5 million throughout the report and incorrect market data for the overall capitalization rates. He indicated that the scope of his assignment was to inspect the subject, review comparable data and analysis of that data to form and opinion of market value for the property.

Enright also stated that the subject contains a 38-year old, single-tenant, office building. The subject's highest and best use as vacant was for industrial development in conformance of surrounding properties, while as improved, was for single-tenant use. Further, Enright's appraisal indicated that the subject was purchased in June, 2006, for \$8,650,000 as part of a bulk transaction of 76 assets as well as reference to the subject's 2004 sale.

Enright developed a land value for the subject using four sale comparables that sold from September, 2003, to June, 2005, for prices that ranged from \$4.50 to \$6.89 per square foot. The parcels ranged in size from 16,500 to 111,664 square feet of land. After making adjustments, he estimated a land value ranging from \$5.00 to \$5.50 per square foot resulting in a median value of \$1,350,000. He testified that the cost approach was not developed because it is not typically the best indicator of value for older property.

As to the income approach, Enright testified that his four rental comparables located in Schaumburg were all asking rents, not actual rentals. In addition, all of the rentals were one-story,

multi-tenant buildings. The asking rates ranged from \$16.50 to \$21.00 per square foot, while the properties ranged in size from 4,600 to 26,000 square feet. He stated that he reconciled a rental rate of \$18.50 per square foot for the subject for a potential gross income of \$929,866. He applied a 12.50% vacancy and collection loss based upon 2006 market data resulting in an effective gross income of \$813,633. Stabilized operating expenses were deducted reflecting a net operating income of \$662,910. Enright testified that an incorrect table of 2006 market data was submitted in his appraisal in developing his overall capitalization rate of 15.19% with an adjustment to the value estimate under this approach to \$4,400,000, rounded, for the subject.

In the sales comparison approach, Enright testified that he used six sale comparables ranging from a one-story to two-story, multi-tenant office building. All of these leased fee sales occurred from March, 2005, to February, 2007, for prices that ranged from \$72.17 to \$116.48 per square foot. They ranged in building size from 27,742 to 72,461 square feet of building area and in age from 20 to 35 years.

Enright's appraisal indicated that the sale properties were adjusted for property rights conveyed, financing terms, conditions of sale, market conditions, location, size, and other characteristics, in summary. In addition, the appraisal stated that each sale reflected a leased fee interest as encumbered by numerous leases having varying lease dates and terms. It also stated that given the lack of complete information concerning the nature of the tenant leases, that it was not possible to readily determine the precise adjustments for the property rights conveyed factor. As to market conditions, the appraisal stated that the date of sale is typically an important consideration in analyzing comparable sales, especially in an inflationary economy. Also, that adjustment for time is typically applied to the comparable sales to reflect the date of valuation for the subject and that sale prices for office properties increased during the mid-2000s. Further, the improved sales were transacted between March, 2005, and February, 2007. Therefore, upward adjustments for time were made to sales #2 through #6, while no other adjustments for this factor were made.

As to other adjustments, Enright's appraisal stated that functional utility of an office building is closely related to layout, finishing, amenities, age and condition and to the extent possible adjustments have been made for these reasons. However, in terms of age, the appraisal indicated that the subject is older than the comparables, but was extensively renovated for office occupancy in 1991; therefore, Enright made no significant adjustments for age.

In reconciling the two approaches to value, Enright's testified that due to the subject's use as an income producing office building, most weight would be given to the income approach. However, his appraisal indicated that strong consideration was accorded the sales comparison approach with a good indication was given the income approach to value resulting in a final market value for the subject of \$4,400,000 as of January 1, 2007.

On cross-examination, Enright testified that tax years 2007 and 2010 were each the beginning of new triennial assessment periods for the subject property. In addition, he stated that there were changes in the commercial-industrial market during that time period with the real estate market trending downward. He also stated that a market value of \$8 million for the subject as of January 1, 2007 was excessive, while indicating that he considered the subject's 2006 sale as not indicative of market value.

At the conclusion of the intervenor's case in chief, the intervenor requested that the Board take judicial notice of the subject property's 2011 Board decision. In support thereof, Intervenor's Hearing Exhibit #7 was admitted. This Exhibit was a courtesy copy of the Board's decision in Docket #11-31082-C-3 that reflected a reduction in the subject's assessment finding that the subject's market value as of January 1, 2011 was \$4,000,000.

In rebuttal, the appellant submitted a desk review undertaken by the appellant's appraiser, Joe Ryan, of the intervenor's appraisal. The Ryan review stated that the Enright appraisal reflected a valuation date of January 1, 2007 with an exterior inspection date of June 2, 2009 and a transmittal date of July 8, 2010. The review also indicated that the property rights considered in the Enright report were fee simple estate. As to the land value development, Ryan's review indicated that the land sale comparables were too small in size with sale dates too distant in time to the 2007 valuation date. As to the income approach, Ryan's review indicates that the four rental comparables were all multi-tenant buildings with leased area too small for a meaningful comparison to the subject property. In addition, Ryan indicated that there was neither discussion by Enright of the size differential nor any adjustments for location. Moreover, his review stated that incorrect sales were used to develop Enright's overall capitalization rate. As to Enright's sales comparison approach, Ryan indicated that all properties were leased fee sales with sale #2 as part of a bulk sale that was not advertised on the open market and sale #4 contained five tenants with part office area and part warehouse area. Lastly, he indicated that sales #1, #3, #5, and #6 were all multi-tenant properties. In summary, Ryan's review stated that the Enright appraisal did not meet the standards to produce a credible opinion of value. Specifically, Enright's use of five of six leased fee, multi-tenant sites does not meet the Enright report's scope which was to estimate the fee simple interest in a single-tenant building.

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.

In determining the fair market value of the subject property for tax year 2010, the Board examined the parties' two appraisal reports and supporting testimony as well as the board of review's written evidence submission.

The Board finds the board of review's witness was 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 parties and the Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Board gives the evidence from the board of review little weight.

Moreover, the Board finds that the appraisal evidence and expert testimony submitted by the remaining two parties, have common elements: that the subject's 2006 sale was not reflective of market value; that the subject's 2010 market value of \$8 million is excessive; that there was a downward trend in market values for real estate property from 2007 to 2010; and that a decrease in the subject's market value for the 2010 tax year is appropriate. The appraisal evidence for the appellant reflects an effective date of January 1, 2010; in contrast, the appraisal evidence for the intervenor contains an effective date of January 1, 2007.

Overall, the Board finds that the intervenor's appraisal is accorded diminished weight due to the aged land, rental and sale comparables with adjustments undertaken to develop an estimate of market value for the 2007 effective date, but no update was included in this evidence submission to reflect how the 2007 value estimate relates to the 2010 value which is the assessment date at issue for the subject property.

Nevertheless, the Board also finds that both appraisal experts agreed that the cost approach was less than applicable to an aged, single-tenant office building, such as the subject property. Moreover, reviewing the parties' evidence indicates that the experts each developed an income approach to value while employing asking rents instead of actual rental comparables. Therefore, the Board finds that these income approaches are given no weight due to the usage of speculative, non-negotiated asking rents. This defective income approach in each appraisal taints this approach to value as well as the final valuation estimate. Further, the Board notes that both experts accorded this approach to value secondary weight, while placing primary weight on the sales comparison approach.

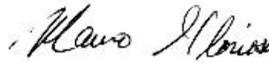
Moreover, the Board finds that the unspecified involvement of Linehan in preparing the appellant's appraisal taints the adjustments and value conclusions therein.

The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App. 3d 207 (2nd Dist. 1979). The Court further held that significant relevance should not be placed on the cost approach or the income approach especially when there is market data available. Id. Moreover, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989), the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach.

Therefore, the Board will look to the raw sales data submitted by the parties. The board of review's and the intervenor's sale properties as well as the appellant's sale #1 sold from March, 2005, through November, 2008, and are accorded no weight due to the disparity in time from the January 1, 2010 assessment date as well as occurring prior to the real estate market's downward trend that began in late 2008. The Board placed most weight on the appellant's sales #2 through #5 that sold from November, 2009, through January, 2011, for prices that ranged from \$25.61 to \$54.17 per square foot. They ranged in building size from 43,338 to 100,287 square feet and were constructed from 1969 to 1986. After making adjustments for pertinent factors such as market conditions, sales date, size, age, type of tenancy, and the nature of each sale transaction, the Board finds that a reduction is warranted. Further evidence supporting a reduction in the subject's assessment was the un rebutted testimony that the subject sold in the subsequent 2011 tax year for a price of \$5,427,806.

Based on this analysis, the Board finds that the market value for the subject property as of the assessment date of January 1, 2010 was \$3,400,000. The Board further finds that application of the Cook County Real Property Classification Ordinance level of assessment of 25% for class 5A, commercial property, such as the subject. This application reflects a total assessment of \$850,000, while the subject's assessment is \$2,021,773. Thereby, the Board finds 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



Acting 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 21, 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.