



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

APPELLANT: Emanuel Acino
DOCKET NO.: 10-36502.001-I-1
PARCEL NO.: 08-27-402-045-0000

The parties of record before the Property Tax Appeal Board are Emanuel Acino, the appellant(s), by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines; and the Cook County Board of Review.

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: \$46,750
IMPR.: \$73,250
TOTAL: \$120,000

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 three parcels of land totaling 44,000 and improved with a 32-year old, one-story, masonry, industrial building containing approximately 16,000 square feet of building area. The property is located in Elk Grove 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 has been a commercial real estate appraiser from 1985 to present and that he was one of the first people to be licensed in Illinois. He testified he appraised approximately 50 buildings within Elk Grove Village during the tax year 2010, but that he also appraised other buildings throughout the United States. He

testified he has been a presenter at many conferences and that he is a member of the Appraisal Institute and hold the designation of a MAI. He testified that he has testified at the Property Tax Appeal Board and other state and federal courts. Mr. O'Dwyer was admitted as an expert witness in property valuation without objection.

The appraisal indicated the subject has an estimated market value of \$480,000 as of 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 described the subject property as a 16,000 square foot industrial property built in 1978. He testified that the subject has 44 parking spaces. He testified that the subject is a class "D" building based on its construction, age and design. He opined it was a standard, small-time, industrial building within an industrial park.

O'Dwyer testified he inspected the subject on March 25, 2016 and prepared a retrospective appraisal as of January 1, 2010. He testified that he went back in time for leases and sales comparables and that during the inspection he had the owner with him to ask questions about the condition of the building in 2010. O'Dwyer testified that he did not observe any capital improvements during the inspection and, based on discussions with the owner, concluded that there were no capital improvements from 2010 to the time of the inspection.

As to the subject's environs, O'Dwyer testified that the subject is located in an average industrial park within the Village. He opined the ingress and egress is a little difficult with Landmeier being a busy road. O'Dwyer testified that the subject had functional obsolescence based on the ceiling heights, air conditioning, driving and parking configurations, lack of sprinklers, windows, and several other capital improvements. He opined that the conditions he observed at the time of the inspection also existed in 2010.

O'Dwyer testified that he did not use the cost approach because the subject is older and estimating depreciation is almost impossible and because buyers and sellers do not look to how much it cost to build the subject, but to how the market place would value the building. He testified that the market in 2010 was a tenant market in which leases were shorter and the tenants were dictating the terms. He testified that the real estate market had collapsed by 2010. O'Dwyer went on to describe the real estate market from 2006 to 2010.

Under the income approach, O'Dwyer testified he analyzed the 2010 rent from four comparables within one mile of the property. He briefly described the properties and estimated a gross rent of \$7.50 per square foot of building area. This resulted in a potential gross income of (PGI) \$114,000, stabilized. O'Dwyer testified concerning the subject's actual rents. Vacancy and collection loss was estimated at 10% of PGI for an effective gross income (EGI) of \$108,450. O'Dwyer testified he estimated stabilized expenses at \$33,945 for an estimated net operating income (NOI) at \$74,505.

In determining the appropriate capitalization (CAP) rate, the appraiser utilized market surveys to estimate a CAP rate of 10%. O'Dwyer testified he loaded this CAP rate to account for property taxes to arrive at a loaded CAP rate of 15.38%. He testified he applied this CAP rate to the NOI to estimate the market value for the subject under this approach at \$480,000, rounded.

Under the sales comparison approach, O'Dwyer testified that there were few sales during that time period, but that he analyzed four sales, three of which were located within Elk Grove Village. O'Dwyer again testified to the declining market from 2005 to 2010. He described how he chose these four comparables. He opined that these sales were the most comparable to the subject.

O'Dwyer testified he made adjustments to these comparables for pertinent factors. He described these adjustments. The comparables ranged in sale prices from \$28.24 to \$37.76 per square foot of net rentable building area. O'Dwyer estimated a value at \$30.00 per square foot of building area for a total estimated value under the sales comparison approach of \$480,000.

In reconciling the two approaches to value, O'Dwyer testified that both approaches were strong and gave equal weight to both approaches to arrive at a final estimate of value for the subject as of January 1, 2010 of \$480,000.

Under cross-examination by the board of review, acknowledged that he inspected the property for the first time in March 2016 and that the appraisal was a retrospective appraisal with a value date of January 1, 2010. He acknowledged that he did not have any direct knowledge of the property in 2010. O'Dwyer testified that the photographs from March 2016 which show water damage to the ceiling tiles and that he believed, based on conversations, that there was water damage in 2010. He testified that the settlement and cracks in the foundation did not look new, but were from a previous time period; he opined that it would not be unusual for these cracks to exist in 2010. He further testified that there were no capital improvements made in 2010, but that he has no personal knowledge as to what was done in 2010.

At to the income approach, O'Dwyer testified that the appraisal references a PwC 2015 Outlook when 2010 information was available, but opined that this information would not have as positive as the 2015. He also acknowledged that he used a data snapshot from 2014 to arrive at a vacancy rate, but again opined that this snapshot show that the 10% used is reasonable. O'Dwyer testified that he used industry standard expenses from 2010.

As to the capitalization rate, O'Dwyer acknowledged that he used surveys from 2013 and 2014, but opined that the market had improved by that time period and that the oversight was not critical. He testified more extensively on the capitalization rate.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment was \$312,498; yielding a market value of \$1,249,992 or \$84.04 per square foot of building area, including land, using the Cook County Real Property Classification Ordinance for Class 5 property of 25%.

As to the sales comparison approach, O'Dwyer acknowledged that the appraisal disclosed that there were nine sales in 2009 and 2010, but that he only used three of those sales. He testified that the remaining six sales were not similar to the subject.

On redirect, O'Dwyer testified that a retrospective is when the data used is past data and not current data. He testified that he has to make certain assumptions about a property when performing a retrospective appraisal, but that these assumptions are based on professional

expertise. He testified that his conversation with the owner did not show anything inconsistent with his property observations at the time of inspection.

The board of review submitted two "Board of Review Notes on Appeal" documents along with evidence. At hearing, the board of review's representative, Lester McCarroll, testified that he has both sets of documents, but that one set was provided to him from the appellant. The total assessment of the subject of \$183,939 which reflects a market value of \$735,756 using the Cook County Real Property Classification Ordinance level of assessment of 25% for class 5 property. In support of the assessment the board of review submitted a total of eight sales comparables from both packets of evidence. The board of review's memoranda disclose 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.

On cross-examination, the board of review's representative acknowledged that the evidence does not include any 2009 sales. He acknowledged that the market has changed from 2005 to 2010 and that values declined. He testified he did not personally gather the board of review's data.

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, 331 Ill.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 and the board of review's evidence.

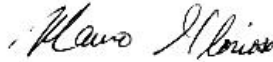
The Board finds the preparer of the board of review's evidence was not present or called to testify about his/her qualifications, identify his/her work, testify about the contents of the evidence, or be cross-examined by the appellant and the Property Tax Appeal Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Property Tax Appeal Board gives this evidence from the board of review 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. In addition, the witness's un rebutted testimony was that the subject had no capital improvements from 2010 to 2016 and was in similar condition during that time period. 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 \$480,000 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. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) the proceeding before the Property Tax Appeal Board is terminated when the decision is rendered. The Property Tax Appeal Board does not require any motion or request for reconsideration.



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: September 22, 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 or years of the same general assessment period, as provided in Sections 9-125 through 9-225, 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 such subsequent year or years 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 OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

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.

PARTIES OF RECORD

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