



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

APPELLANT: BMO Harris NA
DOCKET NO.: 12-24161.001-C-2
PARCEL NO.: 02-15-200-032-0000

The parties of record before the Property Tax Appeal Board are BMO Harris NA, the appellant(s), by attorney Patrick C. Doody, of the Law Offices of Patrick C. Doody in Chicago; the Cook County Board of Review; the Palatine C.C.S.D. #15, and Palatine Twp. H.S.D. #211, intervenors, 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: \$103,449
IMPR.: \$71,551
TOTAL: \$175,000

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 2012 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 48,682 square foot parcel of land improved with a 20-year old, one-story, masonry, commercial building. The property is located in Palatine 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 Terrence P. McCormick of McCormick & Wagner, LLC. McCormick was the appellant's only witness. McCormick testified he is certified general real estate appraiser licensed in Illinois and holds the MAI and General Review Specialist designations from the Appraisal Institute. He testified he has been appraising property for 37 years and has appraised in excess of a hundred bank type buildings similar to the subject.

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

The appraisal indicated the subject has an estimated market value of \$700,000 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. McCormick testified that the Cook County Assessor did not reassess property located within the subject's assessment district in 2011 or 2012.

McCormick testified he personally inspected the subject property on several occasions and measured the building from the exterior. He described the subject property and its environs. McCormick testified that the real estate market at the time of valuation was suffering from the "Great Recession" and that there was a lot of uncertainty for retail properties. He testified that the subject's economic life was estimated at 60 years with an effective age of 20 years and a remaining economic life of 40 years. The appraisal finds the subject's highest and best use as improved is continuation of its existing use. McCormick testified he performed the income and sale comparison approaches.

Under the income approach, McCormick credibly testified as to why he did not use the subject's actual contract rent, but instead analyzed the asking rents of six properties considered comparable to the subject. These properties ranged in size from 800 to 4,000 square feet of building area and have asking rental rates from \$10.00 to \$22.00 per square foot of building area. McCormick testified he estimated a rent of \$18.00 per square foot of building area. This resulted in a potential gross income of (PGI) \$80,712. Vacancy and collection loss was estimated at 10% of PGI for an effective net income (ENI) of \$72,641. Expenses for management and reserves for replacements were estimated at 2% each for an estimated net income (NOI) at \$69,735.

In determining the appropriate capitalization (CAP) rate, McCormick testified he analyzed the sales from the sales comparison approach and employed the band of investment methodology to develop an overall CAP rate of 10%. The ENI was divided by this rate to estimate the market value for the subject under this approach at \$700,000, rounded.

Under the sales comparison approach, McCormick testified he analyzed six sales. He testified they were all properties located in the northwest suburbs of Cook County and sold from February 2009 to March 2010. They ranged in size from 2,460 to 120,000 square feet of building area and sold for prices ranging from \$108.33 to \$157.89 per square foot of building area. McCormick testified he made adjustments to the comparables for pertinent factors and estimated a value at \$155.00 per square foot of building area for a total estimated value under the sales comparison approach of \$700,000, rounded.

In reconciling the two approaches to value, McCormick testified the income approach received secondary emphasis and that primary consideration or emphasis was given to the sales comparison approach for a final estimate of value for the subject as of January 1, 2010 of \$700,000.

Under cross-examination by the board of review, McCormick testified that the subject's building ratio is 10.86:1. He testified he did not consider the subject to contain any excess land. He further testified he excluded the cost approach because the cost approach is considered less relevant by market participants for older buildings which the subject is considered to be. He reiterated again that the subject does not have any excess land.

McCormick testified that no sales within the sales comparison approach were bank type building sales because banks were not selling at the time of the valuation date. He testified that banks were failing at that time, not selling.

Under cross-examination by the intervenor, McCormick testified he has appraised the subject for a valuation date in 2008, 2013 and 2016. He did not recall the valuation conclusions for these appraisals. McCormick acknowledged that the subject sold in 2012, but testified he was not aware of that sale prior to writing this appraisal report. He was show *Intervenors' Exhibit #1*, a copy of a warranty deed for the subject and *Intervenors' Exhibit #2*, a copy of the Real Property Transfer Tax Declaration, PTAX-203. McCormick read from exhibit #2 in which the signatory of the document opined that the net consideration was a fair reflection of the market value on the sale date. McCormick was then show *Intervenors' Exhibit #3*, a CoStar printout for the subject listing the subject for sale as of July 2016.

McCormick testified that the bank did exercise their option for two lease extensions and that they are still currently located at the property. He acknowledged that their contract rent is \$9.00 over market rent, but he testified he has no personal knowledge as to why they continued to pay this higher rent.

McCormick then testified as to the location of the subject on Northwest Highway and opined that this was a good location for a bank. He testified to the traffic count on Northwest Highway at approximately 30,000 cars per day.

McCormick testified that he did not perform the cost approach to value, but did estimate the land value which he did not include in the report. He opined it was not necessary to include the land value within the report to determine the highest and best use of the site as vacant. He further testified that he reviewed comparable sales and are listed in his working file. McCormick testified he valued the land in line with the assessor's office at \$8.00 per square foot.

Turning to the income approach to value, McCormick was shown *Intervenors' Exhibit #4*, a CoStar printout for comparable rental #1. He acknowledged that one of the units for rent within this building is a medical office and that the building has no drive-thru lanes as the subject does. He testified that the traffic count for this property is 23,000 cars per day. It also has a lower land to building ratio than the subject has.

McCormick was shown *Intervenors' Exhibits #5, #6, #7 and #8*, CoStar printouts for the remaining four rental comparables. He testified that none of these properties have any drive-thru lanes and the traffic counts numbers for the roads these properties are located on.

McCormick acknowledged that the rental comparables were all current listings and asking rents at the time of the appraisal. He testified that rental rates are hard to find because brokers do not want to share the amount of rent being paid.

As to the CAP rate, McCormick opined that the best way to develop a CAP rate is the market derived method if the property being bought is leased on a long term lease at the time of the sale. He acknowledged the subject was leased at the time of its sale in 2012 and that its leased fee CAP rate was 6.5% or 7%. He acknowledged that he did not know the net income of the comparable properties and estimated the NOI to develop the CAP rate based on this method.

As to the sales comparison approach, McCormick was shown *Intervenors' Exhibit #9*, a CoStar printout for sale comparable #1. McCormick acknowledged comments in the printout about the seller's motivation and opined that most sellers are motivated by some reason to sell. He acknowledged that this property does not have a drive-thru and that the land to building ratio is lower than the subject. He described the area around this comparable.

McCormick testified that sale comparable #2 is also the sale of a medical office condominium unit and that its access to Dundee Road was off a side street.

McCormick was shown *Intervenors' Exhibit #10*, a CoStar printout for sales comparable #3. He testified that the printout indicates that a substantial buildout was to be completed by the buyer. He opined that this property had a similar use in that they can have different uses depending on who buys them. McCormick acknowledged that this property was not located on a major thoroughfare, but was located on a secondary street off of Northwest Highway. He testified it does not have a drive-thru.

As to sale comparable #4, McCormick testified that this property does not have a drive-thru. He was shown *Intervenors' Exhibit #11*, a CoStar printout for this property. McCormick testified that the printout discloses a purchase price of \$645,000, but that he used \$650,000 because the transfer stamps indicate the higher value. McCormick described this property as located within an office and industrial user area on a thoroughfare with less traffic counts.

McCormick testified that the land to building ratio for sale comparable #5 is significantly lower than the subject. He testified that the traffic counts on the thoroughfare this property is located on is between 31,000 to 33,000 cars per day. He agreed the property was located in mixed commercial/residential area.

McCormick was shown *Intervenors' Exhibit #12*, a CoStar printout for sales comparable #6. He acknowledged that five days prior to the sale for this property the property was transferred in a quit claim deed. McCormick testified that he verified the sale with the transfer declaration and the preparer of the documents. He opined that he would put more weight on a transfer declaration than a CoStar report. McCormick testified to the location of this comparable.

McCormick testified that the chart within the appraisal listing out all the sales comparables also lists if the location, as well as other characteristics, of these comparables are superior, inferior or similar to the subject.

McCormick testified that as of January 1, 2010 the Illinois watch list for troubled banks was at its highest and that a number of banks were being taken over, but that they had not been sold. He was shown Intervenor's Exhibit #13, a CoStar printout for a sale of a property in Lake County. McCormick testified it appeared to be a sale of a bank to a bank, but he was unaware of what was involved in the sale. McCormick was also shown Intervenor's Exhibit #14, a CoStar printout for a sale of a property in Mount Prospect. He testified that this sale took place after he completed his report and that the sale was for the land value as the building on the property was demolished and a band building was built.

In response to a question regard his opinion of value after reviewing exhibits #13 and #14, McCormick testified that one sale occurred after the appraisal was completed and did not exist at the time of the report. He further testified that he did not include sales outside of Cook County.

On re-direct, McCormick testified that he limited his search of comparables to Cook County because there were enough sales within Cook County to determine market value and that the tax rate is substantially different outside of Cook County. He opined that this difference impacts real estate values.

As to exhibit #2, the transfer declaration for the sale of the subject property, McCormick testified that this document does not contain a definition of market value that the signatory would be attesting to. He testified that the sale of the subject in 2012 was a leased fee sale. He further testified that a CAP rate for a leased fee property would differ from a CAP rate for a fee simple property.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment was \$356,791; yielding a market value of \$1,427,164 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 4,114 to 5,000 square feet of building area and sold for prices ranging from \$359.07 to \$608.15 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, Palatine Community Consolidated School District #15, submitted a brief and raw sales information on three properties suggested as comparable. The properties range in size from 3,050 to 10,000 square feet of building area and sold for prices ranging from \$245.00 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.

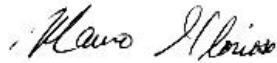
In determining the fair market value of the subject property, the Board examined the appellant's appraisal report and testimony and the board of review's and the intervenor's evidence.

The Board finds the board of review's and intervenor's witnesses were not present or called to testify about their qualifications, identify their work, testify about the contents of the evidence and 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 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. The witness also credibly testified that the property was assessed in 2010 and was not reassessed for the remaining of the triennial assessment period, 2011 and 2012.

Therefore, the Board finds the subject had a market value of \$700,000 for the 2012 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



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: October 21, 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.