



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

APPELLANT: 1440 Hubbard LLC
DOCKET NO.: 12-28204.001-C-2 through 12-28204.015-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are 1440 Hubbard LLC, the appellant(s), by attorney John P. Fitzgerald, of Fitzgerald Law Group, P.C. in Burr Ridge; and the Cook County Board of Review by Cook County Assistant State's Attorney Cristin 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
12-28204.001-C-2	17-08-131-056-0000	7,734	427	\$8,161
12-28204.002-C-2	17-08-131-057-0000	12,983	854	\$13,837
12-28204.003-C-2	17-08-131-058-0000	7,350	385	\$7,735
12-28204.004-C-2	17-08-131-059-0000	1,534	129	\$1,663
12-28204.005-C-2	17-08-131-060-0000	5,838	684	\$6,522
12-28204.006-C-2	17-08-131-061-0000	7,373	1,495	\$8,868
12-28204.007-C-2	17-08-131-062-0000	14,746	84,630	\$99,376
12-28204.008-C-2	17-08-131-063-0000	14,746	84,630	\$99,376
12-28204.009-C-2	17-08-131-064-0000	7,373	42,336	\$49,709
12-28204.010-C-2	17-08-131-065-0000	7,373	42,336	\$49,709
12-28204.011-C-2	17-08-131-066-0000	7,373	42,336	\$49,709
12-28204.012-C-2	17-08-131-067-0000	7,373	42,336	\$49,709
12-28204.013-C-2	17-08-131-068-0000	2,475	12,688	\$15,163
12-28204.014-C-2	17-08-131-069-0000	4,898	29,606	\$34,504
12-28204.015-C-2	17-08-131-070-0000	7,373	42,336	\$49,709

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 fifteen parcels of land totaling 56,509 square feet and improved with an approximately 32-year old, one and part two-story, masonry, single-user, industrial building containing 54,378 square feet of building area. The property is located in West Chicago 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 Setina of Sterling Valuation. Setina was the appellant's only witness. Setina testified he is a certified general real estate appraiser licensed in Illinois and is currently working on his MAI designation with the Appraisal Institute. He testified he has been appraising property for 22 years. Setina testified he has worked at Sterling Valuation since 2007 and has been the sole owner since 2010. He described his duties as an owner. He testified he has appraised over 5,000 properties during his career and in the last 10 years, approximately 100 of those have been industrial properties. Setina testified he has appeared before courts and tribunal as an expert witness. Mr. Setina was accepted as an expert in property valuation without objection from the parties.

The appraisal indicated the subject has an estimated market value of \$2,175,000 as of January 1, 2012. The appraisal report utilized the three traditional approaches to value to estimate the market value for the subject property.

Setina testified the subject was inspected on August 22, 2012 for the 2012 valuation of the property. He opined the subject's highest and best use as improved is its current existing use. Setina described the subject property and its environs. Setina testified the subject currently is used for light manufacturing/industrial use with a portion of the first floor and the second floor utilized as office space. He testified that this was a significant amount of office space at about 69.3% which he opined is a superadequacy. He testified that at the time of inspection, the second floor was vacant. Setina testified that typical industrial buildings have approximately 5% to 15% office space.

Under the cost approach, Setina testified he analyzed five land sales. He described the properties and the resources used to gather the information. These properties sold for prices ranging from \$6.24 to \$11.08 per square foot. Setina testified that after adjustments made to the comparables for pertinent factors, he opined a land value for the subject of \$8.50 per square foot or \$480,000, rounded.

Using Marshall & Swift Valuation Guide, Setina estimated a reproduction cost new for the subject of \$3,559,335. Setina used the age-life method to estimate depreciation at 55.56%. He estimated the total depreciated value of the improvement at \$1,581,769 with site improvements at \$50,000. Setina testified he added the land value back in for a total estimated value under the cost approach of \$2,110,000, rounded.

Under the sales comparison approach, Setina testified he researched similar properties using various sources and analyzed five sales. He testified that he looked for properties similar in

building size, land size, stories, use, location and condition and that were single-tenant occupancy. He opined it is better to use owner-occupied properties. Setina described each property and the adjustments made. The properties sold from July 2009 to April 2012. They ranged in size from 5,625 to 50,000 square feet of building area and sold for prices ranging from \$31.70 to \$57.45 per square foot of building area. Setina testified he made adjustments to the comparables for pertinent factors and estimated a value for the subject at \$40.00 per square foot of building area for a total estimated value under the sales comparison approach of \$2,175,000, rounded.

Under the income approach, Setina testified that the subject is not an income producing property. He testified he analyzed the asking rents of five properties considered comparable to the subject. These properties ranged in rental size from 22,100 to 90,000 square feet of building area and have asking rental rates from \$3.00 to \$5.79 per square foot of rental area. Setina testified the rents were based on net, semi-gross, and gross rents and that he made adjustments to estimate a net rent for the subject of \$4.50 per square foot of building area on a net basis. This resulted in a potential gross income of (PGI) \$244,701. Vacancy and collection loss were estimated at 10% of PGI for an effective net income (EGI) of \$220,231. Expenses for insurance, management and reserves for replacements were estimated at \$25,123 for an estimated net operating income (NOI) of \$195,108.

In determining the appropriate capitalization (CAP) rate, Setina testified he analyzed survey and publication data and employed the band of investment methodology to develop an overall CAP rate of 9.5%. The NOI was divided by this rate to estimate the market value for the subject under this approach at \$2,050,000, rounded.

In reconciling the approaches to value, Setina testified he placed the most weight on the sales comparison approach because the subject is a single-tenant, owner-occupied property. He testified secondary consideration was given to the income approach for a final estimate of value for the subject as of January 1, 2012 of \$2,175,000.

On cross-examination by the board of review, Setina acknowledged that there are other staff within the office that perform duties in regard to the appraisals. He testified that his brother Brian Setina, who is not a licensed appraiser inspected the subject. He testified that his brother has a construction background and has not undertaken any appraisal training. Setina acknowledged that the certification page discloses that he did not make a personal visitation of the subject.

In reviewing the photographs within the appraisal, Setina testified he would not be surprised that the subject was used as an auction house and sells items on consignment. He did not know how many parking spaces the subject contained, but testified the parking lot contains approximately 20,000 square feet and is gated. Setina also acknowledged that the photographs show a chandelier hanging from the ceiling and that this was unusual.

Setina was then questioned on his description of the subject's designated neighborhood. Setina testified that the subject is located within the "near west side" neighborhood of Chicago. He acknowledged that he could not provide the definitive borders of that neighborhood off hand. Setina was then shown *BOR's Group Exhibit #1*, two printouts of the "near west side" and "west

town” neighborhoods. Setina acknowledged that the subject is located in “west town” one street north of the border of the two neighborhoods. He was then questioned about the subject’s planned manufacturing district zoning. Setina acknowledged that the subject has access to major highways and that this access is important for industrial and manufacturing properties. He testified he described the subject as fair to average condition and acknowledged that the subject has very nice finishes for an industrial property.

As to the sales comparables, Setina acknowledged that sale comparable #1 was 50 years older than the subject, but stated that he did make an adjustment for this factor. He testified that he did not make a quantitative adjustment. He acknowledged the adjustments are subjective. Setina testified he did not inspect the interiors of the comparables as he did not want to trespass on the properties. Setina testified that sale comparable #2 was built in 1925 and that no adjustments for age were made to this property. He testified that sale comparable #3 is located 2.8 miles from the subject and was built in 1956. He testified he made an upward adjustment to this comparable for age. Setina acknowledged he did not observe the interior of this comparable. He testified he did not know if sale comparable #4 was located within a high crime area, but acknowledged that it could possibly be important. He testified he did not observe the interior of this property and that it was built in 1922. Setina testified he made upward adjustments to this comparable as well as sale comparable #5 for age. He also testified he spoke with a broker involved in the sale of comparable #5 who told him the overall condition of this property. He acknowledged he did not know this individual’s subjective standards for conditions. Setina reiterated that the adjustments were not quantitative.

As to the income approach, Setina testified that the rental comparables were all available for lease. He opined that the subject’s market would be a three-mile radius around the subject. He did acknowledge that the report indicates the subject is in the north submarket. He acknowledged that further in the report discussing vacancy for the Chicago industrial market, the report discloses a rate for the south submarket. Setina testified he used a 10% vacancy rate to account for the vacant second floor. He acknowledged that the overall rate for the Chicago industrial market was 10.6% and that the appraisal lists the rate for the south submarket at 7.4%. He confirmed that the subject is not located in the south submarket and that the north submarket has a 7.4% vacancy rate. He was questioned on the south submarket’s rate of 13.91%.

At various times throughout this cross-examination, Setina was asked to calculate values for the subject based on various numbers found within the appraisal.

On re-direct, Setina testified that someone from Sterling Valuation will inspect the subject to gather the physical characteristics of the building. He testified that the Uniform Standards of Professional Appraisal Practice (USPAP) does not require the subject and the comparables to be physically observed. Setina opined that the use of the building as an auction house does not alter the estimate of value.

Setina reiterated that the subject is located one block north of the border separating the “near west side” and “west town” neighborhoods. He opined that the access to major highways would be the same for either neighborhood and this access would be a benefit for any industrial property.

Setina testified that an appraiser cannot just pick the high end of the range value to calculate a value for a property, but that you need to compare the property with the subject and make adjustments to that value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment was \$753,415; yielding a market value of \$3,013,660 or \$55.42 per square foot of building area 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 22,000 to 25,600 square feet of building area and sold for prices ranging from \$55.88 to \$80.08 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.

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.

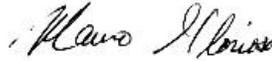
The Board gives no weight to the board of review's argument that if the appraiser used a different value for one of the components of an approach to value, the appraisal would support the board of review's assessed market value. Calculating values for the subject based on various numbers found within the appraisal without any explanation or any verification of the validity of using those numbers creates a false value which is highly unreliable and prejudicial. The Board finds this is a veiled attempt by the board of review to establish an appearance that the appellant's appraiser agrees to a value for the subject that reflects the current assessed value.

The Board finds the board of review'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 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 three traditional approaches to value in determining the subject's market value. The Board finds the appraisal and testimony to be persuasive for the appraiser: has experience in appraising; the subject was by the appraiser's staff; and the appraiser 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 \$2,175,000 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. Pursuant to Section 1910.50(d) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(d)) 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



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: June 19, 2018



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

AGENCY

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