



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

APPELLANT: Barry A. Chatz as trustee of the Midwest Banc Creditors Trust
DOCKET NO.: 12-32940.001-C-2
PARCEL NO.: 07-34-402-035-0000

The parties of record before the Property Tax Appeal Board are Barry A. Chatz as trustee of the Midwest Banc Creditors Trust, the appellant, by attorney David C. Dunkin, of Saul Ewing Arnstein & Lehr LLP in Chicago; the Cook County Board of Review by assistant state's attorney Elly Drake 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 P.C. in Chicago.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **No Change** 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: \$68,377
IMPR.: \$417,683
TOTAL: \$486,060

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 47,567 square feet of land improved with a two-story, commercial building used as a bank building. The 14-year old building contains 10,240 square feet of building area. The property is located in Schaumburg Township, Cook County. The subject is classified as a class 5-28, bank building property under the Cook County Real Property Assessment Classification Ordinance.

Procedurally at hearing, the Board noted that this appeal was originally set by the Board for hearing on December 1, 2017. However, prior to that hearing date, the parties jointly indicated

that a verbal settlement had been reached, hence, the Board cancelled said hearing date. Follow up by the Board failed to produce any written settlement from all of the parties. Therefore, the Board reset this appeal for hearing on October 9, 2019.

The appellant contends overvaluation as the basis of the appeal. While the appellant's petition identified that an appraisal would support this argument, the appellant submitted three suggested sale comparables in support of this argument. The appellant submitted information on three properties that sold from October 11, 2011 through November 15, 2011, for unadjusted prices ranging from \$57.50 to \$66.10 per square foot. While the subject is located in Roselle, the suggested comparables were all located in Schaumburg. These properties ranged: in unit or building size from 10,000 to 20,000 square feet; in township from #150 to #187; and in land size from a commercial condominium unit in a building with a total of 10,590 square feet to 2.32 acres of land. Each suggested comparable was located within a one-story, office building or office showroom according to support documents. Further, the appellant's grid sheet indicated a variance in property classification codes assigned by the county assessor as: sale #1 is a 5-99, commercial condominium; sale #2 is a 5-92, a two-story or three-story, partial or full retail commercial property; and sale #3 is a 5-17, one-story commercial property, respectively.

The support documentation indicated that: sale #1 was via a Special Warranty Deed related to a commercial condominium; sale #2 was a sale by Warranty Deed of an office building; and sale #3 was an Assignment of a Beneficial Interest of a trust.

Initially, at hearing, the appellant's attorney moved to strike the board of review's evidence. After considering the parties' arguments, the Board denied the motion, first because the evidence was timely received during the evidentiary period; and second, because the appellant's argument dealt with the weight to be accorded the evidence, which is within the jurisdiction of the Board.

Second, the appellant's attorney made multiple assertions: that the subject was built as a bank building in 2001 and subsequently vacant in 2012; that the subject was sold as a commercial property on May 13, 2014 for \$1,070,000; and that there was a subsequent change in classification by the assessor sometime from 2016 to 2019. Further, the attorney argued that a 10,000 square foot bank building is not feasible because the market reflects that this is too large for bank usage because the appellant attempted to sell the subject as a bank building to no avail and then had the class changed to commercial office space. He further argued that the subject physically still contained the drive-thru lanes, so it was a less-appealing commercial space.

Therefore, the appellant's attorney argued that this is why the appellant's evidence reflects usage of commercial office buildings.

At hearing, the appellant did not call any witnesses.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$486,060. The subject's assessment reflects a market value of \$1,944,240 or \$189.87 per square foot of living area, including land, when applying the level of assessment for class 5, commercial property under the Cook County Real Property Assessment Classification Ordinance of 25%.

In support of its contention of the correct assessment, the board of review submitted information on five suggested comparable sales. The properties sold from June, 2010, through December, 2012, for unadjusted prices that ranged from \$237.10 to \$524.51 per square foot of building area. While the subject property was located in Roselle, none of these properties were located therein. The support data in the form of CoStar Comps sheets indicated that they were general retail/bank buildings ranging in building size from 5,000 to 5,815 square feet.

Further, the printouts indicated that: sale #1 was a leased fee sale as the tenant was the Bank of America with the ground lease sold elsewhere; sale #2 was a leased fee sale of a multi-tenant building of retail, bank and community center usage that was a REO sale; sale #3 was a single-tenant building used for retail and bank purposes that was identified as part of a bulk/portfolio sale; and sale #4 related to a single-tenant, retail bank, community center building where the seller sold the facility to the tenant, Fifth Third Bank, for \$389.31 per square foot, as the lease contained an option to purchase at the end of the lease. Further, the support printouts for sale #5 did not provide any buyer data, but indicated that the sale was of a multi-tenant, retail bank building as part of a REO sale.

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.

At hearing, the assistant state's attorney argued that as of the assessment year at issue, which is tax year 2012, the subject was a bank building with drive-thru lanes. As to any alleged subsequent sale of the subject in 2014, she argued that there is no evidence in the record of such a sale. In addition, she asserted that any future possible conversion of the subject lacks any relevance to the 2012 tax year and the subject's actual use on the January 1, 2012 assessment date. Moreover, she stated that the subject was used as a bank prior to and during the 2012 tax year; therefore, there was a market for that at the time and that is what should be considered when looking for comparables. Thereafter, she rested on the board of review's written evidence submissions. The board of review did not call any witnesses.

The two intervenors in this appeal submitted via their attorney a statement adopting and affirming the valuation evidence and other materials filed by the Cook County board of review.

No written rebuttal evidence was submitted by the appellant. However, at hearing in the form of rebuttal argument, the appellant's attorney asserted that the subject's owner was forced by the market to sell the subject as commercial office space, while reiterating his prior arguments in his opening statement. In addition, the appellant's attorney argued that the board's properties were neither close in proximity to the subject nor were they located in Cook County.

In response to the appellant's rebuttal assertions, the assistant state's attorney argued that the board's memorandum indicates that as of the assessment date of January 1, 2012, the subject property was a bank building. In support of this assertion, she referred to documents submitted with the board of review's evidence. She indicated that page #2 of the subject's property record card shows that the subject's classification is a 5-28, which is a bank building classification

accorded by the Cook County Assessor. Moreover, she referred to page #3 of the board's evidence which the detailed portion of the subject's property record card indicated: "ownership, store name, Midwest Bank" showing that at that time it was a bank. In summary, she argued that this evidence supports the subject's usage as a bank; and therefore, it should be compared to other bank properties. She asserted that the appellant, in contrast, submitted its sale #1 that is a condominium; sale #2 that is an office building; and sale #3 that is an exempt industrial property, while the board of review's properties are all bank comparables.

In rebuttal, the appellant's attorney argued that as of the lien date the subject was occupied by a fledgling bank and that the tenant vacated the subject property in July, 2012. He also reiterated his prior assertions in his opening argument.

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 *did not meet* this burden of proof and a reduction in the subject's assessment *is not* warranted.

Initially, the Board finds that the subject property was accorded a bank building usage from the Cook County Assessor and that the evidence submitted into the record reflects this usage as of the January 1, 2012 assessment date at issue. In addition, the Board finds that the appellant's attorney made assertions of facts not in evidence in this proceeding; and therefore, finds the appellant's assertions unsupported and unpersuasive.

Further, the Board finds that the parties in totality submitted eight suggested sale comparables. The Board accords varying weight to these sales due to a disparity: in proximity to the subject; in usage and/or assessor's classifications; in building or land size; as well as in property rights conveyed. The Board accords diminished weight to the board's sale #1 as its June, 2010 sale date is too distant in time for relevancy and sale #3 as it was part of a bulk or portfolio sale. The Board finds the remaining six sales sold from April, 2011 through December, 2012 for unadjusted prices that ranged from \$57.50 to \$524.51 per square foot. The subject's market value is \$189.87 per square foot which is within the unadjusted range of these sales. After making adjustments for pertinent factors including but not limited to date of sale, location, property rights conveyed, building and/or land size, as well as type of usage, the Board finds that the subject's market value is supported and that a reduction is not justified.

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



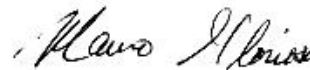
Member

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: April 21, 2020



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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