



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

APPELLANT: Kraft Foods
DOCKET NO.: 12-33405.001-I-3 through 12-33405.010-I-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Kraft Foods, the appellant(s), by attorney Brian P. Liston, of the Law Offices of Liston & Tsantilis, P.C. in Chicago; 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
12-33405.001-I-3	10-07-313-010-0000	102,425	2,474	\$104,899
12-33405.002-I-3	10-07-313-011-0000	72,887	3,295	\$76,182
12-33405.003-I-3	10-07-313-012-0000	72,887	2,768	\$75,655
12-33405.004-I-3	10-07-313-013-0000	97,509	160	\$97,669
12-33405.005-I-3	10-07-313-017-0000	429,011	1,285,478	\$1,714,489
12-33405.006-I-3	10-07-313-018-0000	1,928,345	1,248,836	\$3,177,181
12-33405.007-I-3	10-07-313-019-0000	156,781	4,780	\$161,561
12-33405.008-I-3	10-07-313-020-0000	295,756	18,592	\$314,348
12-33405.009-I-3	10-07-313-021-0000	255,295	8,627	\$263,922
12-33405.010-I-3	10-07-313-022-0000	160,270	3,824	\$164,094

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 contains a single-tenant office complex situated on ten contiguous parcels. The complex contains a single-tenant office complex consisting of a six-story office building, a three-story office building and a fitness center. Enclosed passageways on the first floor level connected the three buildings. They were constructed in 1972, 1980 and 1987 respectively and

contain a total gross building area of 503,961 square feet. The property has a 2,471,147 square foot site located in Niles Township, Cook County. The property is a Class 5 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 utilizing the sales comparison, income capitalization and cost approaches of valuation. The appraisal estimated the subject property had a reconciled market value of \$24,600,000 as of January 1, 2012. The appellant requested a total assessment reduction to \$6,150,000 when applying the 2012 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

Niles Township High School District #219 and Golf School District #67 (hereinafter collectively, "Intervenors") intervened on October 6, 2014, by and through the law firm of Hauser Izzo, LLC. The Intervenors failed to submit evidence or otherwise plead in a timely manner. The Board defaulted both Intervenors on January 9, 2015. The Intervenors did not file a motion to vacate the default.

The board of review was represented by a Cook County Assistant State's Attorney (hereinafter, "ASA"). The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$8,819,318. The subject's assessment reflects a market value of \$35,277,272 when applying the 2012 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on five unadjusted suggested sale comparables.

The Administrative Law Judge (hereinafter, "ALJ") addressed preliminary matters prior to hearing. Counsel for the appellant filed an instant Motion to Dismiss Sales Comparison Approach" pertaining to three of the board of review's five disclosed suggested sales. Appellant's counsel argued that those three comparables were not arm's-length transactions. The ALJ denied the Motion to Dismiss, finding the appellant's objection went to the weight, not the admissibility, of the submitted comparables.

The hearing commenced with appellant's counsel calling Terrence McCormick (hereinafter, "McCormick") to testify as an expert witness. Counsel conducted *voir dire* of McCormick's expert qualifications. The ASA reserved *voir dire* until her case-in-chief. However, the ASA later passed on conducting *voir dire* of McCormick's expert qualifications and stated no objection to qualify him as an expert. As a result, the ALJ found McCormick to be an expert in the theory and practice of real estate appraisal.

The appellant offered a copy of McCormick's appraisal into evidence. It was admitted into evidence without objection as Appellant's Exhibit A. McCormick then testified that he determined that there had been no sales of the subject prior to the October 12, 2012 date when the appraisal report was prepared. However, the subject had been placed on the market for sale in January 2012. Purchase offers were made in June 2012 and amended in August 2012. The subject sold in December 2013 in three separate transactions for a total consideration of \$25,000,000. McCormick included the sale information in the addendum to the appraisal. He testified that those transactions were indicative of the subject's fair market value as of January 1,

2012. He noted that the contract for these three transactions had been pending when he prepared the appraisal. The appellant offered the tax transfer declarations for each of the three transactions as exhibits, which were entered into evidence without objection as Group Exhibit B. The appellant offered the Special Warranty Deeds for each of the three transactions as exhibits. The ASA objected that they were not relevant because they were documentary evidence of market value in December 2013 rather than the relevant lien date of January 1, 2012. As part of the appellant's response to the objection, appellant's counsel asked McCormick further questions. McCormick testified that he considered those sales to be relevant to his estimation of market value as of January 1, 2012, because they reflected sale negotiations that commenced in January 2012. The three Special Warranty Deeds were admitted into evidence as Appellant's Group Exhibit C over the ASA's objection .

McCormick appraised the subject's fee simple property rights. He testified that the highest and best use of the subject as vacant would be for commercial development; as improved its highest and best use would be the continuation of its current use as an office complex. McCormick then testified that he prepared his appraisal report based on the sales comparison, income capitalization and cost approaches.

McCormick considered five property sales to develop an opinion of the subject's primary site land value. These properties ranged from 90,000 to 711,000 square feet in area, and from \$6.00 to \$18.28 per square foot. He opined that the subject's primary site land had a value of \$13,583,603, or \$7.50 per square foot of land. McCormick referred to page 35 of his appraisal report for these land sales. The subject also had what McCormick referred to as excess land. He considered five recent excess land sales to develop his opinion that the subject's excess land had a value of \$7,920,000, or \$12.00 per square foot. Consequently, he estimated the subject's entire land value was \$21,503,603, rounded to \$21,500,000. McCormick estimated the cost replacement value of the subject's three buildings by using the Marshall & Swift commercial estimator. McCormick referred to page 53 of his appraisal report. He opined that the total reproduction cost was \$91,489,384, depreciated by \$86,914,915, or 95%. The result was a total depreciated value of \$4,574,469 for the three buildings. After adding the estimated land value, McCormick opined that the total cost approach value of the entire subject was \$26,074,469, rounded to \$26,100,000.

As to his development of the income capitalization approach, McCormick selected five comparable rental properties, with rental rates ranging from \$16.00 to \$23.00 per square foot. The subject was not under rental contracts because it was owner-occupied. McCormick used the net rental square footage rather than the gross building square footage of the subject to develop his opinion of value because that is typical for developing an income capitalization approach for office properties. The subject had a 430,000 net rental square footage. After applying adjustments to the comparable rental properties, McCormick determined the subject had a unit rental rate of \$17.00 per square foot to arrive at an estimated rental value of \$7,310,000. He selected a stabilized vacancy rate of 20.00% based on his analysis of office vacancy rates in the area, and a \$7.50 per square foot rate for an expense allowance for maintenance due to the large grounds area on which the subject was situated. After applying these deductions, the net operating income was \$2,623,000, to which McCormick applied a 10.50% capitalization rate without accounting for real estate taxes. McCormick calculated an effective tax rate of 5.80% by considering the tax rates available at the time of his preparation of the appraisal report. By

dividing the resulting overall capitalization rate of 16.30% into the net operating income of \$2,623,000 and adding the estimated land value, McCormick arrived at an estimated total value based on the income capitalization approach of \$24,012,025, rounded to \$24,000,000.

McCormick relied most on the sales comparison approach. To develop this approach, McCormick selected seven improved sales of commercial properties. These comparable properties sold from August 2008 through January 2012 for prices ranging from \$10.82 to \$39.07 square feet of building area, including land. McCormick applied adjustments to each of the comparables based on many factors, including location, building size, date of sale, land-to-building ratio and age. He opined that he developed the sales comparison approach with a high degree of confidence to estimate that the subject had a market value of \$33.00 per square foot of building including land. By multiplying this value by the gross building size of 503,961 square feet, the subject had an improvement value of \$16,630,713 including land. By adding the estimated excess land value of \$7,920,000, McCormick arrived at a total market value based on the sales comparison approach of \$24,550,713, rounded to \$24,550,000.

McCormick testified that he reconciled the estimated market values of the three developed approaches. He gave the least weight to the cost approach and the most weight to the sales comparison approach. He estimated the subject's reconciled fair market value to be \$24,600,000 as of January 1, 2012.

On cross-examination, McCormick testified that one of the properties he used in the sales comparison approach sold in January 2012 for \$7,300,000. The ASA offered into evidence a Certificate of Sale of that same property that sold in January 2011 for \$10,400,000 as the board of review's Exhibit #1. The ASA argued that it was relevant because McCormick did not refer to it in his appraisal report. Over appellant's objection, the document was admitted into evidence as the board of review's Exhibit #1 with the caveat that it would be given its due weight.

On re-direct, McCormick reiterated that he searched for properties that were as comparable as possible to the subject and adjusted them for various factors, including location and usage.

The ASA on behalf of the board of review rested on its evidence previously submitted.

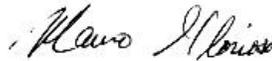
Conclusion of Law

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.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The appraiser, McCormick, testified that he developed the three traditional approaches to valuation, giving most weight to the sales comparison approach. He applied adjustments to the sale properties to compare their market value to the subject. In his appraisal report, McCormick documented relevant information he used in arriving at his conclusions. He testified that he

relied on the three December 2013 sale transactions of the subject property as additional market value information only because the contracts for those sales had been negotiated during the instant lien year. In contrast, the board of review submitted only five unadjusted sale comparables. After considering all documentary evidence and testimony at hearing, the Board finds appellant has sustained its burden of proof and that the subject property had a market value of \$24,600,000 as of the assessment date at issue. Since market value has been established, the 2012 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance shall apply.

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



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: March 20, 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

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