



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

APPELLANT: Conti Hldgs LLC
DOCKET NO.: 13-03368.001-C-1
PARCEL NO.: 19-12-381-004

The parties of record before the Property Tax Appeal Board are Conti Hldgs LLC, the appellant,¹ and the McHenry County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$57,021
IMPR.: \$56,302
TOTAL: \$113,323

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the McHenry County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 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 a one-story multi-tenant office building of brick and frame exterior construction with approximately 4,349 square feet of total building area. The building has 18 units containing approximately 4,000 square feet of gross rentable area. The building was constructed in 1965. Features include a crawl-space foundation, central air conditioning and 28 parking spaces. The property has an approximately .65-acre site and is located in Cary, Algonquin Township, McHenry County.

¹ Attorney Jerri K. Bush withdrew her appearance as counsel as of March 16, 2016.

In support of this argument the appellant submitted evidence disclosing the subject property was purchased on March 8, 2012 for a price of \$339,900. The appellant completed Section IV - Recent Sale Data of the appeal petition disclosing the parties to the transaction were not related, the property was sold using a Realtor with the firm of Premier Commercial, agent Bruce Kaplan, the property had been advertised on the open market with the Multiple Listing Service.

In further support of the transaction the appellant submitted a copy of the Multiple Listing Service data sheet for the subject property depicting a listing date of January 16, 2012 and an original asking price of \$349,900 and a closing date of March 8, 2012 with a final sale price of \$339,900. The appellant also submitted a "Listing & Property History Report" that similarly displayed the original listing date and asking price. The document also reflected an offering of the property for the period of August 2009 until January 2011 with asking prices ranging over time from \$689,000 to \$589,900 and an offering of the property in November 2008 ending in June 2009 with asking prices ranging from \$829,900 to \$689,900. The appellant also provided a copy of the Escrow Trust Disbursement Statement which reiterated the sale date and selling price as previously reported by the appellant.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$122,931. The subject's assessment reflects a market value of \$368,719 or \$84.78 per square foot of building area, land included, when using the 2013 three year average median level of assessment for McHenry County of 33.34% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review contended that the subject's March 2012 sale "is less significant given improvement in occupancy by January 1, 2013." In further support of the subject's assessment, the board of review submitted a memorandum from the Algonquin Township Assessor's Office consisting of Exhibits A through J.

The township assessor reported the history of an assessment reduction to the subject property for 2012 to account for four vacant units in the subject property. The assessor further reported on the standard practice to follow up on vacancy adjustments on a yearly basis to determine if the property has reached stabilized vacancy. Upon inspection on February 19, 2013, the assessor's staff determined that the subject building had only two vacancies with the remainder appearing to be occupied (Exhibit C). In light of the improved occupancy, the assessor determined that stabilization had been reached and the vacancy discount was removed for assessment year 2013 with application of standard 10% vacancy level (see Exhibit E).

In response to the appellant's appeal at the board of review level, since the subject is an income producing property, the assessor reported that a rent roll and lease data were requested from the appellant's representative and were not provided (Exhibit I). In further support, the assessor provided a copy of the 2013 Rules of the McHenry County Board of Review citing provisions that for an income producing property, the income and expense data of the property must be submitted as evidence to the board of review. (Exhibit J) The assessor at the local hearing further noted that "the property had changed after the date of sale."

Based on the foregoing evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel reiterated that the arm's length sale of the subject property after being on the market for 23 days was the basis of this appeal and the board of review did not dispute the arm's length nature of the subject's sale transaction. Counsel argued that the board of review evidence that the vacancy rate of the subject building changed was not responsive to an overvaluation appeal based upon a recent sale.

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 Property Tax Appeal Board gave little weight to the estimate of value under the income approach prepared by the assessor on behalf of the board of review. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is other credible market value data available.

The Board finds the best evidence of market value contained in this record is the subject's March 2012 sale for \$339,900. The Board further finds the subject's sale meets the fundamental elements of an arm's-length transaction. The buyer and seller were un-related; the subject property was exposed to the open market; and there is no direct evidence the parties to the transaction were under duress or compelled to buy or sell. The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do

so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428 (1970). A contemporaneous sale of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). The subject's assessment reflects an estimated market value of \$368,719, which is more than its recent sale price of \$339,900. The board of review did not present any evidence that would demonstrate the subject's sale was not an arm's-length transaction.

Based on this analysis, the Board finds the subject property is overvalued and a reduction in its assessment is justified. Since fair market value has been established, McHenry County's 2013 three year average median level of assessment of 33.34% 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.

Mario Albino

Chairman

K. L. Ferr

Member

JR

Member

Jerry White

Acting Member

Robert Hoffmann

Member

DISSENTING: _____

C E R T I F I C A T I O N

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 22, 2016

A. Heston

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.