



A M E N D E D

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

APPELLANT: Premsagar Mulkanoor
DOCKET NO.: 13-30078.001-C-2 through 13-30078.002-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Premsagar Mulkanoor, the appellant(s), by attorney John P. Fitzgerald, of Fitzgerald Law Group, P.C. in Burr Ridge; 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
13-30078.001-C-2	32-19-316-021-0000	8,861	9,959	\$18,820
13-30078.002-C-2	32-19-316-032-0000	22,476	103,475	\$125,951

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 two parcels of land totaling approximately 45,818 square feet and improved with two, six-year old, one story, masonry or masonry and metal buildings. Building #1 is a gas station and building #2 is a retail building with 3,360 square feet of building area. The property is located in Bloom Township, Cook County and is a partial class 8 and a partial 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 Thomas W. Grogan of Sterling Valuation. Grogan was the appellant's only witness. Grogan testified he has been a real estate appraiser for 28 years. He testified he is an Illinois certified general appraiser and holds the MAI designation from the Appraisal Institute; he testified as to the requirements needed to be a MAI. Grogan testified he first worked for Vestor Consultants in 1990, then LaSalle Appraisal Group in 1991, then Illinois Valuation Group in 2009, and has in the last seven years worked for Sterling Valuation. He testified has appraised approximately 20 gas stations per year since working at Sterling Valuation and appraised office buildings, hotels, banks, retail, big box stores, nursing home and apartment buildings. Mr. Grogan was admitted as an expert witness in property valuation without objection.

The appraisal indicated the subject has an estimated market value of \$810,000 as of January 1, 2012. The appraisal report utilized the sales comparison approach to value to estimate the market value for the subject property. Grogan testified the subject was inspected on January 10, 2013 and subsequently in 2014 and 2015. He testified that the subject's highest and best use as vacant was for commercial use and as improved, its current use.

Grogan described the subject property as a gas station with a commercial store. He testified that the subject consists of two separate parcels with the gas station located on one parcel and the retail store on the other parcel. As to the gas station, he testified it contains approximately 2,325 square feet of building area with a 5,488 square foot canopy covering the gas pumps. He testified both buildings were renovated in 2006 and he relied on that date as the date of construction.

As to the subject's environs, Grogan testified that the subject is located around older commercial properties and single-family residential. He opined that Glendale Heights suffers with vacancy problems and high tax rates.

Grogan testified that he did not use the cost approach because typically potential owners do not rely on this approach. He testified he did not use the income approach to value because typically gas stations are owner-occupied. He opined that a gas station lease does not usually reflect just the real estate, but also reflects the business value.

Under the sales comparison approach, Grogan testified that he relied on CoStar, the multiple listing service, and public documents as resources for finding comparable properties. He testified he valued the subject buildings separately because there were no comparable properties with both a gas station and retail buildings on separate parcels.

As to the gas station, Grogan testified he reviewed sales of gas station properties that were similar in type of owner, age, land to building ratio, canopy, and pumps and sale date in comparison to the valuation date. He testified he avoided leased fee sales and sale lease backs. Grogan testified that gas station sales are unique in that sometimes they can be marketed, but most of the time they are not. He testified that he would attempt to speak with a party to the transaction to find out more about the sale. He testified that other tangibles and intangibles can be included in a sale. Grogan opined it is better to use owner-occupied sales because they are similar to the subject property.

Grogan testified he analyzed six comparable sales and one listing. Grogan then described each comparable. He testified he made adjustments to these comparables for pertinent factors including location, age, size, and land to building ratio. He described these adjustments. Grogan further testified that the report indicates an upward adjustment for location, but the comparables are superior in location and the actual adjustments were downward. The comparables ranged in sale prices from \$213.63 to \$295.97 per square foot of building area with the listing comparable having an asking price of \$111.25 per square foot of building area. Grogan estimated a value at \$290.00 per square foot of building area for a total estimated value for building #1 under the sales comparison approach of \$675,000.

As to the commercial building, building #2, Grogan testified that the commercial building is vacant and was vacant during the lien year. He testified he relied on sales of local commercial buildings. Grogan analyzed four sales and one listing. He then described each comparable. The comparables ranged in sale prices from \$14.45 to \$41.67 per square foot of building area with the listing comparable having an asking price of \$32.25 per square foot of building area. The appraisal discloses adjustments to these comparables for pertinent factors. Grogan estimated a value at \$40.00 per square foot of building area for a total estimated value under the sales comparison approach for building #2 of \$135,000.

Grogan testified that he added the value of the two buildings to arrive at a value for the subject of \$810,000. He acknowledged that the sum of the parcels is not always equal to the value of the whole, but opined that without comparable sales of a gas station and commercial building together, this was the next best step in valuing the property. Grogan testified he estimated a final value for the subject of \$810,000 as of January 1, 2012. He opined that if all other factors stayed the same, the value would remain the same for January 1, 2013.

Under cross-examination by the board of review, Grogan acknowledged that he has prepared appraisals for the appellant's law firm on different properties over the years. He acknowledged he received payment for these appraisals. He reiterated that he only performed the sales comparison approach to value the subject property. He acknowledged that there are gas stations that are leased. He testified that there are times when the client can determine the scope of the work and what approaches the client would like used. He clarified that the client can ask to use a particular approach and then the appraiser decides what is applicable and what is not.

Grogan reiterated the documents he looked to in developing the sales comparison approach and testified that the multiple listing service and CoStar could differ on size. He testified that if the differences are small he will use CoStar and if they are significant he will look to a third source for information. Grogan acknowledged that he did not inspect the subject property, but that an employee of Sterling Valuation that worked on the appraisal with him did. He agreed that furniture, fixtures and equipment are not included within the estimate of value for real estate.

In regards to the subject's building #1, Grogan was shown *BOR's Exhibit #3*, a CoStar Comps printout for sales comparable #1. Grogan testified that sales comparable #1 was a bank owned sale. He acknowledged he did not include this information in the appraisal nor did he account for that within the adjustments. Grogan testified that the square footage listed on *BOR's Exhibit #3* differs from his CoStar Comps printout which he reviewed at an earlier date. Grogan was shown *BOR's Exhibit #4*, copies of the deeds and a transfer declaration form for sale comparable

#1, and acknowledged that the sale price of \$775,000 as listed on the transfer declaration included \$475,000 in tangible property for a real estate only purchase price of \$300,000.

Grogan was then shown *BOR's Exhibit #5*, a copy of the CoStar Comps printout for sales comparable #4. Grogan read this document which disclosed this sale was part of a nonmarket package deal of 109 locations. He testified this is referred to as a bulk sale. He agreed that bulk sales are often not indicative of individual market value. Grogan reviewed *BOR's Exhibit #6*, copies of the deed and transfer declaration for this comparable and agreed that the deed appeared to have covenants and restrictions that run with the land. He testified that the purchase price he used in the appraisal corresponds with the real estate only purchase price on the transfer declaration.

Grogan again testified that sales comparable #7 was an active listing at the time the report was prepared. He was shown *BOR's Exhibit #7*, copies of a deed and a transfer declaration for this comparable. He acknowledged this deed and the transfer declaration disclose a sale in February 2011 for \$300,000. He agreed that this property sold prior to the date of valuation and was not included within the appraisal. The board of review also submitted *BOR's Exhibit #13*, copies of photographs of this comparable.

As to sales comparable #3 for the subject's building #1, Grogan was shown *BOR's Exhibit #8*, copies of the deed and transfer declaration for this comparable. Grogan acknowledged that the transfer declaration disclosed that this sale was the fulfillment of an installment contract that initiated in 2007. He testified that the terms of the installment contract could affect whether the property sold at market value. He acknowledged he did not contact a party to the transaction to gather information on this sale.

The *BOR's Exhibit #9*, copies of the deed and transfer declaration for sales comparable #5, was shown to Grogan. He acknowledged that the deed contains covenants and restrictions running with the land and that the grantor is a trust. Grogan testified he did not know the beneficiaries of the trust, but opined that there was nothing in the documents he reviewed to indicate this transaction was not an arm's length or market value transaction.

The *BOR's Exhibit #10*, copies of the deed and transfer declaration for sales comparable #2 for the subject's building #1, confirmed the sale price used by Grogan in the appraisal. Grogan acknowledged that he did not deduct any amount for personal property from this sale price, but testified that the transfer declaration does not include any personal property as part of the sale.

Grogan was shown *BOR's Exhibit #11*, copies of the deed and transfer declaration for sales comparable #6 for the subject's building #1. Grogan testified that he utilized the sale price that was listed on the transfer declaration as the sale price for this comparable within the appraisal. He acknowledged that he did not deduct any amount for personal property from this sale price, but testified that the transfer declaration does not include any personal property as part of the sale. Grogan testified that it is possible that any furniture, fixtures, and equipment could have been sold separately from the sale of the real estate. In reviewing *BOR's Exhibit #12*, a CoStar Comps printout for sales comparable #6, Grogan testified that personal property would include the pumps and the stations.

Grogan testified that he did not make quantifiable adjustments to the comparables. He acknowledged he made downward adjustments to all the six sales comparables based on location, but testified he did not use traffic counts, annual gallons sold, annual store sales, or average income of the surrounding area. Grogan testified he did not use gas station comparables that had car washes involved in the sale. He did acknowledge that he did not nor any one in his office inspect the comparables.

As to the subject's building #2, Grogan testified that the sales comparables analyzed to arrive at an estimated value for this building were all commercial stores or storefronts with comparable #2 being a former restaurant. He testified that this comparable was vacant at the time of sale.

On redirect, Grogan testified that he also prepares appraisals for tax appeal law firms other than the appellant's and the volume of work done for these firms is consistent with the volume done for the appellant's law firm.

Grogan testified that the inspection of the subject property by an employee of Sterling Valuation is permissible under Uniform Standards of Professional Appraisal Practice (USPAP) guidelines. He reiterated that a client can request a particular approach to value be used in the appraisal, but that it is the appraiser's decision as to what is permissible. Grogan opined that he tailored the scope of work for this appraisal appropriately.

Grogan testified that he did not see the precise CoStar printouts that were used as exhibits by the board of review and he doesn't know what information on his CoStar printouts are different than on the board of review's exhibits. He testified that the CoStar printouts for sales comparable #1 for the subject's building #1 differed on building size.

As to sales comparable #1 for the subject's building #1, Grogan testified that the CoStar printouts listed a sales price of \$750,000. He testified that he believed this value excluded the personal property. He acknowledged that he saw a reference to \$300,000, but wanted to be safe. He agreed that it is typical to rely on tax stamps when determining the sale price for real estate.

As to installment contracts, Grogan testified these types of sales are underway on a certain date, but do not finalize until a later date. He testified the agreed upon price is determined at the time the contract begins. For building #1's sales comparable #3, Grogan opined that if the sales contract began in 2007 the purchase price would reflect the 2007 market conditions and that these conditions would have been about the same as the sale date.

Grogan testified that the real estate of a gas station would include the land, building, tanks, and canopy. He acknowledged that typographical errors occur in appraisal reports and in this report, but that he stands by the conclusion of value he estimated for the subject property.

Grogan testified that the appraisal was performed within USPAP standards and that it is not necessary to quantify adjustments made to sales comparables. In looking at the adjustments for location, Grogan testified he looked at the specific location of the properties and whether the comparable was located on a major street, minor arterial street, number of lanes and surrounded by other facilities or residential properties.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment was \$264,588. The subject's two parcels are designated as both a class 5 with a 25% level of assessment based on the Cook County Real Property Classification Ordinance and a class 8 designation with a 10% level of assessment based on the Cook County Real Property Classification Ordinance. The parcel containing the gas station has an assessment of \$230,247 which reflects a market value of \$1,136,934 or \$498.66 per square foot of building area based on the two classifications and using a building square footage of 2,280 square feet as listed on the property record card. The parcel with building #2 located on it has an assessment of \$34,341 which reflects a market value of \$343,410 or \$102.20 per square foot of building area using the building square footage of 3,360 square feet as listed by both the appraisal and the property record card.

The board also submitted raw sales information on 10 properties suggested as comparable; five comparables for each of the subject's buildings. The properties are described as general retail/service station or general retail and range in size from 1,885 to 5,851 square feet of building area. These properties sold for prices ranging from \$201.59 to \$818.18 per square foot of building area, including land for the subject's building #1 and \$115.58 to \$206.88 per square foot of building area, including land for the subject's building #2. 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.

In closing arguments, the appellant's attorney addressed the board of review's evidence and argued that the comparables are not similar to the subject in location, physical characteristics, ownership, or sales conditions.

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 evidence.

The Board finds the preparer of the board of review's evidence was not present or called to testify about his/her qualifications, identify his/her work, testify about the contents of the evidence, or be cross-examined by the appellant and the Property Tax Appeal Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Property Tax Appeal Board gives this evidence from the board of review no weight.

Moreover, the Board gives little weight to the board of review's argument that the appraisal is insufficient to establish the subject's market value because the appraisal only utilizes the sales comparison approach. The Courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989).

However, the Board finds that two of the appraisal's sales comparables for building #1, comparables #3 and #4, did not reflect the actual condition of the sale and the appraiser failed to make any adjustments for the installment contract or bulk sale. In addition, while the board of review failed to prove that the building #1's sales comparable #1 was not at market value, the board of review did show that the appraiser used the wrong value for the sale of the real estate and any adjustments made were based off the incorrect purchase price. The board of review also established that the appraiser's sales comparable #7 did sell prior to the valuation date and the appraiser should have made adjustments off this sale price and not the asking price. Therefore, the Board will look to the raw sales data of the appraisal's sales comparables in establishing the subject's market value.

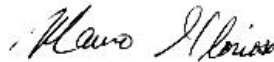
In determining the fair market value of the subject's building #1, the Board finds the best evidence to be the appraisal's sales comparables #1 using the corrected real estate only sale price, #2, #5, and #6. These comparables sold for prices ranging from \$118.39 to \$270.12 per square foot of building area, include this parcel's land.

The Board finds the appraiser credibly testified as to the subject's size for building #1 and finds that building #1 contains 2,325 square feet of building area. This reflects a market value based on the assessment of \$489.00 per square foot of building area which is above the range of the best comparables in the record. The appraiser testified that he estimated a value for building #1 under the sales comparison approach of \$290,000 per square foot of building area, including the parcel's land. The Board finds that after adjustments to the best comparables for pertinent factors this value, although above the range of the comparables, is a credible and reliable value for the subject's building #1 as of the date of value; and therefore, finds that this building has a value of \$675,000.

As to the subject's building #2, the Board finds the best evidence of this parcel's market value is the appraisal. The Board finds the appraiser credibly testified to each of the sales comparables for this parcel and the adjustments made to them. The Board finds the board of review failed to show that any of the data presented in the appraisal was in error or did not properly reflect the transactions. Therefore, the Board finds the subject's building #2 had a value of \$40.00 per square foot of building area, including this parcel's land or \$135,000.

In determining the value of the subject property as a whole, the Board finds the best evidence to be the individual values of each parcel reconciled together for a market value of \$810,000 for the 2012 assessment year. Since the market value of these parcels have been established, the Cook County Real Property Classification Ordinance for Class 5 property of 25% and Class 8 property of 10% 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



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: May 15, 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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