FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Gus Tzoumas
DOCKET NO.: 14-03151.001-C-1
PARCEL NO.: 09-06-402-009

The parties of record before the Property Tax Appeal Board are Gus Tzoumas, the appellant, by attorney George N. Reveliotis, of Reveliotis Law, P.C. in Park Ridge, and the DuPage County Board of Review.

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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$92,440
IMPR.:	$53,250
TOTAL:	$145,690

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 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 commercial building utilized as a restaurant of masonry construction with 2,365 square feet of building area. The building was constructed in 1968 with an addition in 1986; the building was also remodeled both on the interior and exterior in 2012. Features include a concrete slab foundation, an asphalt parking lot on three sides of the building with approximately 15 parking spaces. The property has a 20,449 square foot site resulting in an 8.65:1 land-to-building ratio. The property is located in Downers Grove, Downers Grove Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Eric Sladcik, a General Certified appraiser, estimating the subject property had a market value of $235,000 as of January 1, 2014. The appraisal report includes a page that details the subject property (page 5), within the data, was noted a sale of the subject in September 2010 for $385,000 which was recorded in July 2011. In estimating the market value of the subject property the appellant's appraiser did not utilize the cost approach to value, but utilized both the sales comparison and income approaches to value.

As to the building, the appraiser reported the structure was approximately 46 years old and the appraiser reported the building size as 2,400± square feet of building area.

For the sales comparison approach to value, the appraiser reported there were a limited number of sales of commercial buildings utilized as a restaurant in close proximity to the subject, therefore, the appraiser expanded the search to early 2012 and an eight mile radius of the subject.

As a result, the appraiser analyzed six sales comparable properties located in the communities of Downers Grove, Lisle, Oakbrook Terrace, Villa Park, Brookfield and Winfield; the appraiser reported that sale #1 was located on the same street as the subject and about a block away while sale #2 was on the same street, but about 2 miles away from the subject. The appraiser reported that these two sales were given considerable weight due to their similarities and proximity to the subject.

The six comparable buildings range in size from 1,960 to 8,543 square feet of building area. The buildings range in age from 25 to 57 years old and each functions as a restaurant. The comparable parcels range in size from 9,775 to 85,042 square feet of land area resulting in land-to-building ratios ranging from 4.98:1 to 12.6:1 whereas the appellant's appraiser reports the subject has a land-to-building ratio of 8.54:1. Each property was reported to be in average condition and in an "average" location. Parking spaces ranging from 24 to 150. The sales occurred between December 2011 and July 2014 for prices ranging from $170,000 to $806,700 or from $68.42 to $124.34 per square foot of building area, including land.

As part of the appraisal process, the appraiser made adjustments to the comparables for differences in size, age and/or land-to-building ratio. As to each comparable, the appraiser determined that no adjustment for time or date of sale was warranted as the comparables "sold during a similar marketing period." From this process, the appraiser arrived at adjusted sale prices ranging from $75.26 to $118.12 per square foot of building area, including land. As described on page 72 of the appraisal, the appraiser then eliminated the highest and lowest adjusted sale prices from the range which resulted in a range of $91.06 to $105.00 per square foot and from this data the appraiser opined that the subject under the sales comparison approach had an estimated market value of $100.00 per square foot of building area, including land or approximately $240,000.

For the income approach to value, the appraiser reported five rental comparables that were "some of the rentals that were analyzed in order to estimate economic rent" applicable to the subject (see page 73 of the appraisal). The comparables were each located in Downers Grove on the same street as the subject property and were each described as "retail storefront" properties. The appraiser described these rentals to be of similar utility as compared to the subject. The appraiser reported the comparables were of similar age to the subject, similar in condition and had similar exposure to traffic on Ogden Avenue. The buildings range in size from 1,410 to 3,228 square feet of building area. Rental rates of the comparables ranged from $15.00 to $19.30 per square foot of building area, on a gross basis. The appraiser determined that rental comparables #4 and #5 each needed upward adjustments for economy of scale and thus the adjusted rental rates ranged from $15.00 to $20.26 per square foot of building area. In addition, on page 80 of the appraisal report, the appraiser noted that the subject property is currently leased and has in the past been leased to tenants such that both market rents and contract rents for the subject property will be relied upon in arriving at an estimation of potential gross rent. The appraiser asserted that the average annual dollar per square foot contract rental for the subject is $15.00 per square foot (an addendum had subject lease information). After analyzing the data, the appraiser opined that the subject had a fair rental value of $17.00 per square foot of building area resulting in an annual potential gross income of $40,800.

Next, the appraiser estimated the subject would experience an average 15% vacancy and credit loss or $6,120 resulting in an effective annual gross income of $34,680. The appellant's appraiser then estimated the owner would incur management expenses of 6% or $2,080; miscellaneous accounting and legal fees stabilized at $500; repairs and maintenance including common area expenses at $0.40 per square foot or $960; insurance estimated at $0.40 per square foot or $840; reserves for replacements stabilized at $0.25 per square foot of gross rental building area or $600; and leasing commissions estimated to be a 4% commission. The projected estimated total expenses was $6,367 resulting in a net operating income estimate of $28,313.

Then the appraiser selected an overall capitalization rate from analysis of the band of investment technique and estimated the overall capitalization rate to be 9.49%. To the capitalization rate, the appraiser next applied a tax load factor of 2.94% resulting in a weighted capitalization rate of 12.43%. Applying this weighted capitalization rate to the estimated net operating income resulted in an estimated value under the income approach of $227,779 which was then rounded to $230,000 in the appraisal report.

In reconciling the two approaches, Sladcik stated within the report secondary consideration was given to the income approach conclusion and greatest weight was given to the sales comparison approach in arriving at the final estimate of value of $235,000 as of January 1, 2014.

Based on this evidence, the appellant requested an assessment reflective of the appraised value conclusion.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $145,690. The subject's assessment reflects a market value of $437,114 or $184.83 per square foot of building area, land included, when using the 2014 three year average median level of assessment for DuPage County of 33.33% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a 7-page memorandum outlining the evidence along with supporting documentation from assessors and recorded documentation such as PTAX-203 Illinois Real Estate Transfer Declaration sheets concerning both parties' comparables. The memorandum, in part, noted that the subject property was sold in June 2011 for $385,000 as a "court ordered sale." At page 14 of the appraisal, the appellant's appraiser reported that there had not been a sale involving the subject in the prior three year period. However, the assessing officials contend that the 2011 sale of the subject "should have been mentioned in the appraisal." The memorandum also includes general observations about the appraiser's lack of detail concerning the size of the subject building, the age of the subject and the failure to note the 2012 remodeling of the subject along with other gaffs such as citing to Cook County, Chicago and similar instances in the appraisal report of a lack of precision and/or detail.

As to the sales set forth in the appellant's appraisal report, the memorandum outlines errors and/or omissions with regard to the building sizes, ages, land area and/or land-to-building ratios of the comparable properties presented by appraiser Sladcik. Also, the memorandum notes that none of the comparable sales presented were "sit-down" restaurants as compared to the subject fast foot-type restaurant and various additional adjustments should have been made. Appraisal sales #1 and #2 were "reportedly not advertised for sale." Appraisal sale #3 was a short sale which "reportedly was not advertised for sale" and the property sold again in May 2015 for $850,000; the memorandum contends that an adjustment should have been made for the December 2011 sale date. Appraisal sale #4 was reportedly much older than stated in the appraisal report, was an REO sale that was not identified in the report and the memorandum disputes the contention that no adjustment was needed for time of sale. Appraisal sale #5 located in Cook County was demolished immediately after the sale making this a possible tear down for land value, but the assessing officials were unable to verify information. Appraisal sale #6 had some descriptive errors according to the assessing officials and was an REO sale after foreclosure that was not set forth in the appraisal report making this sale, as argued in the memorandum, not an arm's length sale transaction.

As to the income approach to value in the appraisal, the memorandum contends that as retail store properties, the chosen rental comparables were dissimilar to the subject restaurant-type property. As part of the response, the assessing officials set forth data on four "restaurant-type" properties that were located in Glendale Heights, Lombard, Wheaton and Addison with rents at the time of assessment ranging from $$18 to $25 per square foot, triple net, for buildings that ranged in size from 1,675 to 8,000 square feet of building area. The memorandum asserts that the appraiser provided no supporting data for the vacancy and collection loss and did not identify whether the percentage was for restaurant properties. The assessing officials report board of review sale #3 had a capitalization rate of 7.11% for a fast food-type restaurant which is loaded would result in an overall capitalization rate of 10.05%. Based on these arguments, the memorandum concludes that using a $20 per square foot rental rate, 10% vacancy and 18% expenses, the value under the income approach would be $347,343 or $146.87 per square foot of building area.

The memorandum also criticizes the requested land assessment reduction contending that there were no land sales in the appraisal to support the requested reduction.[1]

In support of its contention of the correct assessment the board of review submitted information on four comparable sales of fast foot-type restaurant properties located in Bloomingdale, West Chicago or Naperville. The comparable buildings range in size from 2,537 to 3,163 square feet

[1] The Property Tax Appeal Board notes that at the assessment level of 33.33% of the appraised value of $235,000 or approximately $78,325, the subject's land assessment alone of $92,440 exceeds the entire appraised value presented by the appellant.

of building area and were 13 to 29 years old. The parcels range in size from 18,613 to 57,144 square feet of land area and reflect land-to-building ratios ranging from 7.34:1 to 18.75:1. The properties sold between July 2011 and August 2013 for prices ranging from $635,500 to $1,460,000 or from $250.30 to $497.61 per square foot of building area, including land. The memorandum reported that sales #1, #2 and #3 would each require downward adjustments and sale #4 sold with deferred maintenance with this sale needing an overall upward adjustment. The memorandum further asserted that sale #4 was the most comparable to the subject and was the best comparable sale with an adjusted value over $250 per square foot.

Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant filed a generic criticism of the board of review evidence. The rebuttal asserts that the (Cook County) board of review data lacked adjustments for differences, the information lacked details, it is unclear if these were arm's length sale transactions, questioned the proximity to the subject, the information submitted was gathered from various sources without verification and/or the data reflected sales that "are not within the parameters of the lien date for the tax year in question." Nothing within the rebuttal addressed the specifics of the 7-page memorandum and/or the numerous pages of supporting documentation submitted by the board of review.

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.

Upon examining the appraisal report, the Property Tax Appeal Board finds the appellant's appraiser was either in error or did not sufficiently research the comparable sales data such that most of the comparables differed from the subject in features such as lot size, age, building size and/or land-to-building ratios. Moreover, the documentation submitted in response by the board of review established that numerous errors in the appraiser's analysis of the comparable sale properties resulted in either offsetting adjustments that were not supported by the facts or insufficient adjustments given the errors in descriptive data such that the appraiser's conclusions appear to be based upon faulty facts and a faulty analysis. Due to these numerous errors concerning the comparable sales, the Board finds that the final value conclusion presented by the appraiser in the sales comparison approach makes the appraiser's final conclusion less credible and thus, the Board finds that the appraised value is not a reliable indicator of the subject's estimated market value as of the assessment date.

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. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. The Board finds there are credible market sales contained in this record. As a consequence of the case law and the finding that the appraisal is not a reliable indicator of value, the most similar raw sales presented in the appraisal will be analyzed along with the raw sales presented by the board of review.

The parties submitted a total of 10 comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appraisal sales #1, #2 and #3 as the board of review documentation established that these properties were not advertised prior to the respective sale transactions. The Board has also given reduced weight to board of review comparable #4 as the sale occurred in July 2011, a date remote in time to the valuation date at issue of January 1, 2014.

The Property Tax Appeal Board finds that appraisal comparables #4, #5 and #6 along with the board of review's comparables #1, #2 and #3 were most similar to the subject property in size, design, location and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables sold or were listed between August 2012 and August 2013 for prices ranging from $170,000 to $1,460,000 or from $86.73 to $497.61 per square foot of building area, including land. The subject's assessment reflects a market value of approximately $437,114 or $184.83 per square foot of building area, including land, which reflects a market value that falls within the range established by the most similar comparables. After considering these most comparable sales on this record, the Board finds the appellant did not demonstrate that the subject property's assessment was excessive in relation to its market value and a reduction in the subject's assessment is not warranted on this record.

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.

Chairman

Member	Member
Member	Acting 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: February 24, 2017

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.