FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Nornat, Inc.
DOCKET NO.: 14-22997.001-C-1 through 14-22997.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Nornat, Inc., the appellant(s), by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. in Chicago; and the Cook 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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
14-22997.001-C-1	28-11-123-008-0000	5,265	2,148	$7,413
14-22997.002-C-1	28-11-123-009-0000	5,265	1,616	$6,881
14-22997.003-C-1	28-11-123-010-0000	5,265	2,202	$7,467
14-22997.004-C-1	28-11-123-042-0000	44,869	151,911	$196,780

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 2014 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.[1]

Findings of Fact

The subject property contains an eight year-old, one-story commercial building of masonry construction with 4,006 square feet of building area. The building was utilized as a fast food restaurant. Features of the building included a kitchen, drive-through and two washrooms. The property has a 34,279 square foot site located in Bremen Township, Cook County. The property is a Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

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[1] The parties stipulated that the appraisal report submitted for #2014-22997.001-C-1 through #2014-22997.004-C-1 and the appraiser's testimony in support of that report shall be included in the appellant's evidence submitted in #2015-24403.001-C-1 through #2015-24403.004-C-1.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal utilizing the sales comparison and income capitalization approaches of valuation. The appraisal estimated the subject property had a reconciled market value of $690,000 as of January 1, 2014. The appellant requested a total assessment reduction to $172,500 when applying the 2014 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $218,541. The subject's assessment reflects a market value of $874,164 when applying the 2014 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.

In rebuttal, the appellant filed a one-page brief to reaffirm the request for an assessment reduction.

The hearing commenced with appellant's counsel calling William Shulman (hereinafter, "Shulman") to testify as an expert witness. Counsel conducted *voir dire* of Shulman's expert qualifications and offered him as an expert in real estate appraisal. The board of review cross-examined Shulman and objected to qualifying him as an expert because he performed his work as an appraiser trainee. On redirect, Shulman testified that he was supervised by Mitchell Perlow, a certified real estate appraiser in his office. Perlow reviewed Shulman's appraisal and signed-off on the report. Shulman further testified that he appraised hundreds of commercial properties. The Administrative Law Judge (hereinafter, "ALJ") took the board of review's objection under advisement.

Shulman appraised the subject's fee simple property rights. He testified that the subject was a franchise fast food operation. The property was leased from McDonald's Corporation. Shulman testified that he prepared his appraisal report based on the income capitalization and sales comparison approaches.

To develop the income capitalization approach, Shulman selected five comparable rental properties, two of which did not have actual rental agreements but were based on asking rates. None of these properties were franchise operations. The actual rental rates ranged from $15.00 to $19.75 per square foot. Shulman calculated a potential gross income of $81,320. He selected a stabilized vacancy rate of 10.00% based on his analysis of general retail building vacancy rates in the area, resulting in an effective gross income of $73,188. After subtracting expenses, the projected net operating income was $60,562. Shulman considered national and local capitalization rates, and applied a 9.00% capitalization rate by using the band of investment technique. He considered local conditions of fast food restaurants and general commercial properties that included properties that were not restaurants. Shulman did not determine a tax load by accounting for real estate taxes. Shulman testified that he recognized the subject's market value may have been affected by a business enterprise value that would include analysis of furniture, fixtures and equipment and other intangible items such as franchise fees and rights. However, he did not isolate a business enterprise value to estimate the market value of the fee simple property. By dividing the resulting capitalization rate of 9.00% into the net operating income of $60,562, Shulman arrived at an estimated total value based on the income capitalization approach of $672,911, rounded upward to $675,000.

Shulman relied most on the sales comparison approach. To develop this approach, he selected seven improved sales of commercial properties. These comparable properties sold from January 2012 through December 2013 for prices ranging from $109.92 to $177.78 square feet of building area, including land. Shulman testified that these seven sale comparables had the following characteristics:

1) Built in 1963, was not built as a fast food restaurant, but was sold as one without a drive-through in 2012;
2) Built in 1969 and was not a fast food restaurant;
3) Built in 1963, was a restaurant but not a fast food one, was not a franchise and did not have a drive-through;
4) Built in 1995 as a fast food restaurant without a drive-through;
5) Built in 1976 as a restaurant but not a fast food one, was not a franchise and did not have a drive-through;
6) Built in 1983 as a restaurant but not a fast food one, was not a franchise and did not have a drive-through;
7) Built in 1975 as a restaurant but not a fast food one, was not a franchise and did not have a drive-through.

Shulman's appraisal report included a few paragraphs of narrative about adjustments he made to the comparables for time, location, physical characteristics, age, condition and land-to-building ratios. Shulman did not include detailed quantitative adjustments in support of his narrative. He opined that the subject had a market value of $170.00 per square foot of building including land based on the sales comparison approach. Shulman arrived at a total market value based on the sales comparison approach of $691,220, rounded to $690,000.

Shulman did not develop a cost approach analysis because there were few recent land sales. He testified that buyers and sellers do not typically rely on this approach because it would have been highly speculative with a fast food restaurant. Shulman opined that a fast food restaurant has about a 20-year life span. The subject was eight years old during the lien year.

Shulman reconciled the estimated market values of the two developed approaches. He gave the most weight to the sales comparison approach. He estimated the subject's reconciled fair market value to be $690,000 as of January 1, 2014.

The board of review representative testified that each of the five sale comparables submitted by the board of review were fast food restaurants, three of which were franchises. The five properties were sold from 2009 through 2012 and ranged from $223.21 to $404.56 per square foot of building area including land.

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.

The Board finds that Shulman is qualified to be an expert in the theory and practice of real estate appraisal for this appeal. He testified that he had extensive experience and training. He authored the appraisal report and worked under the supervision of a certified real estate appraiser.

The Board finds the appellant's appraisal to be unreliable. Shulman appraised the subject assuming it had a fee simple interest in the property. However, he was aware that the subject had a leased fee interest as a franchise rental of the property. At least four of the sale comparables Shulman selected to develop his sales comparison approach were not franchise operations, and only one had been built as a fast food restaurant. Although Shulman considered that a fast food restaurant had a 20-year life span, the sale comparables he selected ranged in age from 1963 through 1995. In contrast, the subject fast food restaurant was only eight years old. As for Shulman's development of the income capitalization approach, none of his five selected comparables were franchises. Two of these were not closed sales, but were based only on rental asking prices. Shulman's vacancy factor was based on national, not just local, general retail properties of various types, not on fast food restaurants. To calculate a capitalization rate, Shulman first considered national general retail property investment returns, rather than solely considering local restaurant returns, and did not include a tax load in his overall capitalization rate. Shulman's report and his testimony disclosed that he did not develop a cost approach because the functional obsolescence would have been highly speculative due to the eight-year age of the subject. Yet, Shulman also testified that a fast food restaurant would typically have a 20-year life span. Shulman also testified that there were not many fast food restaurants within proximity to the subject. But, sale comparable #1 submitted by the board of review was a fast food restaurant located close to the subject, was sold in March 2012 and contained 3,751 square feet of building area.

Considering that the appellant's appraisal report lacks sufficient reliability, the Board accords no weight to the opinions and conclusions contained herein. However, the Board may look to the raw data presented by the parties to establish a range of comparable sales. The appraisal disclosed raw data of seven sales for the sales comparison approach. The board of review disclosed five closed sales. The Board finds the appellant's comparables #2 and #3, and the board of review's comparables #1, #3 and #5 were the best comparables. These comparables ranged from $159.41 to $404.56 per square foot of building area including land. They were similar in size, usage and were close in proximity. The subject's assessment reflects a market value of $214.99 per square foot of building area including land, which is within the range established by the best comparable sales in this record. Therefore, after considering all documentary evidence and testimony, the Board finds the appellant has failed to sustain its burden of proof by a preponderance of the evidence and that a reduction in the subject's assessment is not 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:

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: November 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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