FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Southern Land Development, LLC
DOCKET NO.: 15-00598.001-C-2
PARCEL NO.: 06-32-426-007

The parties of record before the Property Tax Appeal Board are Southern Land Development, LLC, the appellant, by attorney John Hetler of Dennis W. Hetler & Associates PC in Chicago; and the Kane County Board of Review.[1]

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

LAND:	$397,849
IMPR.:	$568,141
TOTAL:	$965,990

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2015 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 is improved with a one-story, multi-unit, masonry constructed, neighborhood shopping center with 21,075 square feet of building area that was constructed in 2004. The subject property has a concrete slab foundation and steel framing supports the building. The subject property has eleven units that ranged in size from 1,125 to 3,000 square feet of building area. Each unit has separate front and rear entrances/exists; aluminum framed, double glazed and glass panel windows in the front of each unit; and at least one unisex bathroom in the rear portion of each unit with the exception of the vacant unit. The building also features packaged HVAC units for each occupied unit. The subject has 83-surface parking spaces available. The subject property has a 94,604 square feet or 2.17-acre site resulting in a

[1] Although the appellant originally requested a hearing, after the Property Tax Appeal Board scheduled the appeal for hearing the parties agreed to have the decision be based on the evidence submitted in the record and forego the hearing.

land to building ratio or 4.49:1. The property is located in South Elgin, Elgin Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted a narrative appraisal estimating the subject property had a market value of $2,420,000 as of January 1, 2015. The appraisal was prepared by real estate appraisers John Stephen O'Dwyer and Ibi Cole of JSO Valuation Group, Ltd. In estimating the market value of the subject property the appraisers developed the sales comparison approach to value and the income approach to value. The purpose of the appraisal was to estimate the current market value of the subject property as of January 1, 2015 and the property rights appraiser were the fee simple interest.

The appraisers stated that although the subject property is located along South Randall Road with a high traffic count, it has poor visibility as well as poor ingress/egress. There is no direct access to the subject property from South Randall Road. The appraisers explained that access to the front of the shopping center is only available from a single street cut at the rear of the building, which is available from Gyorr Avenue almost ¼ of a mile south of the subject's location. The report stated that the throughway is shared by traffic heading to Goodwill and further noted traffic can move around the site counter clockwise but the northern drive is too narrow for any large tractor-trailer or trucks. Access to the subject property from the north is compromised due to subject's location south of the Metra Metropolitan Railway tracks. The appraisers further asserted that the subject has no signage and its visibility is virtually drowned from signage by other stores such as Walgreen's to the south, the Goodwill Center and Culvers. The appraisers concluded the subject property has a below average location along a major thoroughfare. They further asserted the subject property is located near a vacant lot that is often used as a dumping site by Goodwill.

The appraisers also contend that despite the subject's recent construction the building suffers from deferred maintenance items such as untraced water intrusion behind dri-vit, beneath awnings and from roof tiles; excessive rusting along rear utility doors; and plumbing issues and rusting near toilets. The appraisers concluded the improvements are in average condition. They also concluded there is functional obsolescence due to:

(a) Access and visibility below average to poor,
(b) Proximity to Goodwill and the vacant land-dumping site is unattractive to prospective renters,
(c) None of the units have a true rear loading area,
(d) The subject units have no signage along South Randal Road, and
(e) The subject has poor ingress/egress.

The appraisers also noted that at the time of their walk through items of deferred maintenance remained such as:

(a) The parking lot has several areas of settlement,
(b) Moisture intrusion in the ceiling tiles throughout the subject, and
(c) Rusting and deterioration of exterior components.

With respect to the highest and best use analysis, the appraisers determined the highest and best use of the site as vacant would be for the development of a mixed use/retail or medical office use. The appraisers determined the highest and best used as improved would be to continue utilizing the subject property as the current use.

The first approach to value developed by appraisers was the income approach with the initial step to estimate the market rent attributable to the subject property using three rental comparables located along South Randall Road in Elgin and South Elgin. The comparables were located in retail strip centers that ranged in size from 3,400 to 122,932 square feet of building area with rental spaces ranging in size from 1,200 to 3,400 square feet of building area. The comparables had asking rents ranging from $16.00 to $22.00 per square foot, triple net. The appraisers made a negative 5% adjustment to each comparable due to the fact the rents were listings, reducing the rents to $15.20 to $20.90 per square foot on a net basis. Using this data and comparing the subject's current rent roll, the appraisers estimated the subject's market rent to be $18.00 per square foot on a net basis. The appraisers then calculated the base rental income for the subject to be $349,805, which actually reflects a rental of $16.60 per square foot of building area. The appraisers also added pass-through income in the amount of $124,364 to arrive a potential gross income of $474,169 or $22.50 per square foot of building area. The appraisers estimated the subject would have a vacancy and collection loss of 10% of potential gross income or $47,417, which was deducted from the potential gross income to arrive at an effective gross income of $426,752. The appraisers asserted that they were provided with the subject's historical income and expense information and stabilize the subject's expenses near the historical expenses and near industry standards. The appraisers made deductions for insurance, legal and professional, management, repairs and maintenance, supplies, utilities, commissions, miscellaneous and reserves. Total expenses were $134,745 and when deducted from the effective gross income resulted in a net operating income of $292,007.

The next step under the income approach was to estimate the capitalization rate to be applied to the net operating income. Using the PwC Real Estate Investor Survey, the appraisers noted that 1st quarter 2015 capitalization rates for net lease properties had an average rate of 6.83%. The appellant's appraisers also noted that the national capitalization rates ranged from 5.50% to 9.00%. The appraisers estimated the subject would have a capitalization rate of 8.75%. To this the appraisers added a tax load of 3.308% to arrive at a loaded capitalization rate of 12.06%. Capitalizing the net income resulted in an estimated market value under the income approach to value of $2,420,000.

The final approach to value developed by the appellant's appraiser was the sales comparison approach to value. The appraisers stated in the report that their survey within Kane County disclosed over 50% of the sales were distress. According to the appraisers this supports the lack of adequate sales in such that it was necessary to consider some REO distressed sales that were more similar to the subject property.

The appraisers selected five comparable sales located in Elburn, St. Charles, Geneva, North Aurora and West Chicago, Illinois and located from 1.266 to 8.102 miles from the subject property. The buildings were constructed from 1987 to 2007 and ranged in size from 10,439 to 24,991 square feet of rentable building area. The comparables had sites ranging in size from .99 to 3.24 acres with land to building ratios ranging from 3.95:1 to 5.82:1. The appraisers indicated that sale #1 was a 1031 exchange on the buyer's side. The appraisers explained that the seller of comparable sale #3 was motivated to divest the property because they had acquired the property through a previous foreclosure. The appellant's experts explained that because the seller acquired the property through a previous foreclosure, the sale is classified as a real estate owned (REO) sale. The appraisers stated that the comparable sale was on the market for 584 days and sold as an REO. The appraisers identified comparable sale #5 as an REO sale. The sales occurred from September 2013 to February 2015 for prices ranging from $875,000 to $1,900,000 or from $71.71 to $120.00 per square foot of building area, including land. Based these sales the appraisers arrived at an estimated value of $115.00 per square foot of building area, including land, or $2,420,000, rounded.

In reconciling the two approaches to value, the appraisers gave equal consideration to the income approach and the sales comparison approach to arrive at an estimated market value of $2,420,000 as of January 1, 2015.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $1,080,679. The subject's assessment reflects a market value of $3,244,308 or $153.94 per square foot of building area, land included, when using the 2015 three-year average median level of assessment for Kane County of 33.31% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information an income approach to value developed by the township assessor using a net income of $16.00 per square foot of building area resulting in a potential gross income of $337,200. The assessor then deducted 10% of potential gross income or $33,720 for vacancy and collection loss to arrive at an effective gross income of $303,480. The assessor then deducted 5% of effective gross income or $15,174 for management expenses and $8,430 for reserves to arrive at a net income of $279,876. The assessor next applied a loaded capitalization rate of 8.33% to arrive at an estimated market value under the income approach of $3,360,000, rounded.

The assessor also identified four comparable sales located in Huntley, Elgin and South Elgin that were improved with neighborhood shopping centers ranging in size from 9,440 to 38,790 square feet of building area. The buildings were constructed from 2000 to 2007. The comparables had sites ranging in size from 48,787 to 237,402 resulting in land to building ratios ranging from 5.47:1 to 7.80:1. The sales occurred from June 2014 to July 2015 for prices ranging from $2,872,500 to $5,250,000 or from $135.34 to $361.44 per square foot of building area, including land.

The assessor also presented a cost approach to value estimating the subject property had an indicated market value of $3,072,000. Associated with the cost approach were six comparable land sales that sold from June 2012 to May 2015 for prices ranging from $475,000 to $4,200,000 or from $7.37 to $18.49 per square foot of land area.

In rebuttal the township assessor asserted the appellant's appraisers estimated the subject property had a market rent of $18.00 per square foot on a net basis but calculated a base rent of $349,805 or $16.60 per square foot. The assessor also contends the appellant's appraisers included pass through expenses which should not be included in a net lease basis. The assessor also contends the appraisers capitalized the net operating income using a loaded capitalization rate of 12.06%, which is higher than market levels.

The assessor further contends the appellant's appraisers supplied sales that are located out of Kane County, distressed sales or high vacancy properties.

In rebuttal appellant's counsel asserted that the subject property had actual rental rates from $12.00 to $28.61 per square foot with an average of $15.50 per square foot and the appellant's appraisers stabilized the rent for the vacant unit at $18.00 per square foot resulting in an average for the building of $16.60 per square foot. The appellant's counsel also contends the assessor offered no evidence to support a lower capitalization rate. As a final point the appellant's counsel contends the assessor's sales were superior to the subject property and do not consider the functional obsolescence including inferior ingress and egress from Randall Road.

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 evidence in the record supports a reduction in the subject's assessment.

In support of their respective positions the appellant submitted a narrative appraisal estimating the subject property had a market value of $2,420,000 as of January 1, 2015, while the board of review submitted evidence provided by the township assessor.

The township assessor developed the cost approach to value estimating the subject property had a market value of $3,072,000, which was not refuted by any evidence from the appellant.

With respect to the income approach to value, the Board finds the subject property had a market rent of $16.60 per square foot of building area on a triple net basis, which is supported by the rental comparables contained in the appellant's appraisal, resulting in a potential gross income of $349,845. Due to the fact the market rent is on a triple net basis with the tenant being responsible for expenses such as taxes, insurance, maintenance, utilities, cleaning, etc., the addition of pass-through expenses, as the appellant's appraisers included, is not appropriate. The Board finds the appellants appraisers and the assessor were in agreement with respect to a 10% deduction from potential gross income for vacancy and collection loss. Deducting 10% from the potential gross income results in an effective gross income of $314,861. The Board further finds that due to the fact market rent is on a triple net basis the appellant's appraisers overestimated expenses. The Board finds the appellant's appraisers' estimate of management expenses in the amount of 6.00% of effective gross income and reserves in the amount of 4.00% of effective gross income are appropriate deductions to arrive at a net operating income of $283,375.

With respect to the capitalization rate, the Board accepts the appellant's appraisers overall rate of 8.75%. The Board finds, however, that due to the market rent being calculated on a triple net basis, the tax load should be calculated for only for that portion of time that the owner would be responsible for taxes during the subject's vacancy. The Board finds the tax load factor is .33% (9.925% (tax rate) x .3333% (assessment level) x .10) resulting in a loaded capitalization rate of 9.08%. Capitalizing the net income results in an estimated market value under the income approach of $3,120,870 or $3,100,00, rounded.

With respect to the sales comparison approach to value, the appellant's appraisers utilized five comparable sales and the assessor submitted information on four comparable sales. Of the comparable sales in the record, the Board gives most weight to appellant's appraisers' sales #2 and #3 as well as the board of review sales #2, #3 and #4 as these properties were located along Randall Road in St. Charles, Geneva, Elgin and South Elgin. The comparables were improved with retail strip centers that ranged in size from 10,939 to 38,790 square feet of building area and were constructed from 1987 to 2007. The comparables had sites ranging in size from 43,176 to 237,402 square feet of land area and have land to building ratios ranging from 3.95:1 to 6.12:1. The sales occurred from March 2014 to February 2015 for prices ranging from $1,200,000 to $3,795,000 or from $105.99 to $272.02 per square foot of building area, including land. Appellant's comparable #2 was significantly older than the subject property and would require an upward adjustment due to age. The appellants' appraisers also indicated that comparable sale #3 was considered an REO due to the seller acquiring the property through a foreclosure and further indicated the seller was motivated to divest the property, indicating an upward adjustment would be appropriate. The appellants' appraisers stated within the report (p. 80) that they opted not to use board of review sale #2 due to the rent roll of A credit tenants, which may explain its relatively high price of $272.02 per square foot of building area; a downward adjustment may be required for the tenants in place at the time of the transaction. The Board finds the two remaining comparables provide by the board of review that had unit prices of $135.34 and $268.54 per square foot of building area, including land, were representative of the subject property. After considering the best comparable sales presented by the parties and the fact the subject property has functional obsolescence as noted by the appellant's appraisers, the Board finds the subject has an estimated market value under the sales comparison approach of $135.00 per square foot of building area, including land, or $2,845,000, rounded.

Based on this record and considering the various approaches to value, giving most credence to the comparable sales and the income approach to value, the Property Tax Appeal Board finds the subject property had a market value of $2,900,000 as of January 1, 2015. Since market value has been established the 2015 three-year average median level of assessments for Kane County of 33.31% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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

Acting 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: August 18, 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.