FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: West Suburban Bank
DOCKET NO.: 15-01066.001-C-2
PARCEL NO.: 06-33-352-005

The parties of record before the Property Tax Appeal Board are West Suburban Bank, the appellant, by attorneys Courtney Harvey Pastrnak, Daniel B. Pappano and Christopher B. Kaczynski of Smith Hemmesch Burke & Kaczynski, in Chicago; the Kane County Board of Review; and Elgin School Dist. U-46, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C., in Chicago.

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:	$217,810
IMPR.:	$38,677
TOTAL:	$256,487

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 consists of a one-story branch bank building of part face brick and part synthetic stucco exterior construction with 4,614 square feet of building area and a concrete slab foundation. The building was constructed in 2001 and is in average overall condition. Features include a lobby with an open central area, perimeter private offices and a safe deposit box vault with private viewing room. The facility also has teller counter areas and a drive-up teller counter with windows facing five drive-up/ATM lanes that are covered by a canopy. The property has a 46,102 square foot site resulting in a land-to-building ratio of 9.99:1. The subject is located in South Elgin, Elgin Township, Kane County.

The appellant appeared at hearing before the Property Tax Appeal Board through attorneys, Daniel B. Pappano and Christopher B. Kaczynski, asserting overvaluation as the basis of this appeal. In support of the overvaluation argument, the appellant submitted a 62-page appraisal report along with addenda pages that was prepared by Donald P. DiNapoli of Real Valuation Group. For purposes of the hearing, counsel for the appellant identified the written appraisal report as appellant's Exhibit A. Additional signatories on the appraisal report from the same firm were Peter D. Helland and Edward V. Kling. The additional signatories were described in the report as providing "data support and market opinions in a review capacity." (Exhibit A, p. ii, 5)

The appellant called appraiser DiNapoli, an Illinois Certified General Appraiser, for testimony concerning the appraisal report. The witness testified that he is self-employed and has been affiliated with Real Valuation Group since 2002 to present. DiNapoli has 30 years of appraisal experience and is a candidate with the Appraisal Institute. The parties stipulated to the witness' qualifications. (TR. 9-12)[1]

The purpose of the appraisal was to estimate the retrospective market value of the subject for *ad valorem* tax assessment purposes. DiNapoli inspected the subject property on September 17, 2015 both on the exterior and interior, except the vault; photographs the witness took are part of the appraisal report and accurately reflect the property as of the date of inspection. (TR. 13-15; Exhibit A, p. 1, 5)

The witness testified that in preparation of an appraisal report, the appraiser should review trends in the market, in this case, for bank branch buildings. In reviewing trend data, DiNapoli found an increasingly weak market with declines primarily due to digital banking, mergers and acquisitions. He also considered the potential for functional obsolescence of bank branch buildings. The witness also found foreclosure sales and REO transactions. Related to the market trend, DiNapoli identified some branch bank buildings that were sold for alternative uses, such as comparable sale #5, which was sold for a medical office conversion; the witness also noted that he has seen numerous sales where bank branches were adapted for alternative uses. (TR. 17-19)

According to DiNapoli, the subject property is located along a commercial corridor of Randall Road and on the northeast corner of Stearns Road. Randall Road is a main thoroughfare in South Elgin. The subject is an out lot site of a Jewel/Osco shopping center with access from westbound Stearns Road and access through the shopping center lot; there is not direct access for eastbound Stearns Road traffic. The appraiser described the subject as a second-tier site because the property does not have Randall Road frontage and is not located on a signalized corner; he opined that the subject is less desirable due to its lack of direct frontage on Randall Road. These characteristics would affect the value of the subject as compared to a property that has first row frontage. DiNapoli also testified that another structure could be built in front of the subject, which would further reduce exposure. (TR. 19-20, 22-23; Exhibit A, p. 14-15)

The appraiser reported that the subject property as observed suffered from no deferred maintenance. Moreover, there were no functional issues observed for bank branch use. DiNapoli further reported that bank branch facilities are user specific properties "that will require renovation to accommodate any alternate retail or office use." (Exhibit A, p. 24

[1] References to the transcript of the proceedings will be indicated by "TR." Followed by page citation(s).

DiNapoli testified that the concept of highest and best use in an appraisal assignment "speaks to the most reasonable and likely use of the property, a legal use, [where] the property would be put to its highest value." In making the determination, the appraiser must consider what is physically possible, what is legally possible, what is financially feasible and what is the most maximally productive use which speaks to the highest value return to the land. In light of these standards, DiNapoli determined the highest and best use of the subject property as vacant would be for commercial, non-speculative use and as improved, the highest and best use was continued use as a branch bank or for a readaptive or alternative use based upon sales of bank branch properties, such as a medical use or an office-type use. In testimony, DiNapoli further opined that the canopy over the drive-up lanes and/or the pneumatic tubes in those lanes would most likely not offer value to a typical office or adaptive use for a medical office. (TR. 23-25; Exhibit A, p. 27-29)

Furthermore, in highest and best use analysis, the appraiser on page 29 of the report wrote:

> The subject building has a user-specific build-out as a bank branch given the drive-thru facilities, teller stations, and centralized lobby. National banking institutions typically develop their own buildings to conform to a market standard. The drive-up facilities would not offer any value to a typical office or retail user in an adaptive re-use scenario. Due to this, economic life is somewhat limited, and there is functional obsolescence noted.

(Exhibit A, p. 29)

The appraiser used all three traditional approaches to value in estimating the value of the subject property. One approach developed by the DiNapoli was the cost approach. The initial step in this approach was to estimate the value of the land as if vacant. He identified six land sales located in St. Charles and Oswego, one with the same street address has two sales, one which was a split from a larger parcel (sales #2 and #3). While the proximity of the land sale comparables to the subject was not stated in the report, the comparables were described as commercial lots with varying levels of exposure and accessibility located along retail corridors; DiNapoli testified that land sale comparables are preferred to be similar in location, but also in appeal. The comparable land sales ranged in size from 31,605 to 145,490 square feet of land area. The sales occurred from March 2012 to August 2014 for prices ranging from $283,274 to $900,000 or from $5.55 to $13.67 per square foot of land area. Qualitative adjustments were made resulting in adjusted land sale prices ranging from $9.33 to $11.17 per square foot of land area. On page 32, based upon the foregoing data the appraiser indicated the subject's unit price would be $9.50 per square foot of land area or $440,000, rounded. (TR. 26-28; Exhibit A, p. 30-32)

Next, for the cost approach, DiNapoli's report reflects that he estimated the subject's replacement cost new using a cost manual and he also testified, "in addition to having experience with new construction costs." Based upon the <u>Marshall & Swift Valuation Service</u> (Section 15, Page 21, Bank Branches, Class C, Average Quality), DiNapoli began with a base cost of $158.93 per square foot of building area with an addition adjustment of $12.50 per square foot for sprinkler and drive-thru canopy. This initial adjusted base cost of $171.43 per square foot was further adjusted by a local cost multiplier of 1.150 and a current cost multiplier of 1.010 to arrive at an adjusted base cost of $199.12 per square foot which resulted in a total cost estimate of $918,721. (TR. 28; Exhibit A, p. 34-35)

Accrued depreciation is considered to be a loss in value from physical deterioration, functional obsolescence and/or external obsolescence. As to external obsolescence, DiNapoli wrote that "demand for bank branches has declined dramatically over the past few years as consolidation, reduced lending, and bank failures have all contributed to the decline in demand for banking locations." (Exhibit A, p. 24, 35)

Furthermore, despite its construction in 2001, the appraiser reported the subject had an effective economic age of 24 years given the subject's special use design and function. The appraiser also reported a typical economic life of 40 years. Given this data, DiNapoli opined accrued depreciation of 60%. The appraiser also calculated accrued depreciation through use of the market extraction method using rental data from in-house information and the Multiple Listing Service, among others. This analysis resulted in an estimate of 70% depreciation. From these respective estimates, DiNapoli concluded accrued depreciation of 65%. Deducting accrued depreciation of 65% from the replacement cost new or $597,169 plus the contributory value of depreciated site improvements of $46,000 along with adding the land value resulted in an estimated value of $810,000, rounded, under the cost approach. (TR. 28-29; Exhibit A, p. 35-39)

The appraiser also performed the income capitalization approach which is an analysis of comparable bank rentals to derive a net income that is then capitalized to estimate market value. DiNapoli testified that he has in-house information on rentals based upon leases along with examination of the Multiple Listing Service and with other sources such as CoStar and LoopNet. The first step under this approach was to estimate the subject's market rent. (TR. 29-31; Exhibit A, p. 53)

Six rental comparables were summarized on page 54. The properties were located in St. Charles, Downers Grove, Batavia and Naperville. The buildings range in square footage from 2,603 to 6,300 square feet of building area. Limited data on age and condition were presented for the comparables as depicted on page 54 of the report. No data on land-to-building ratios and limited information on location was provided in the appraisal. The six comparables had gross or estimated gross rental rates reportedly ranging from $21.67 to $30.82 per square foot of building area. DiNapoli concluded that "[t]he middle of this range is considered most indicative of gross market rent for the subject property" and therefore, opined a market rent of $26.00 per square foot on a gross basis for the subject property resulting in a potential gross rental income of $119,964. (Exhibit A, p. 54-55)

To estimate vacancy and credit loss, the appraiser examined CBRE, 1st quarter vacancy rates for office properties in the subject's sub-market area which were 18.9% and retail vacancies that were 11%. He also reported that CoStar indicated a 1st quarter office vacancy rate of 13.9% and retail vacancy of 10.7%. Additionally, Colliers reported office vacancy for the subject's sub-market of 18.6%. DiNapoli reported that the subject property has a highly user specific configuration which is primarily office finish. The appraiser opined longer marketing periods would be anticipated during tenant turnover and concluded an 11% of potential gross rental income for the vacancy and credit loss or $13,196, which resulted in an effective gross income calculation of $106,768. (Exhibit A, p. 55)

DiNapoli next set forth a 3% of effective gross income expense for a professional management company fee along with an estimated insurance expense of $.30 per square foot of building area or $1,384; reserves expense estimate of $.40 per square foot which examined Realtyrates.com survey data that ranged from $.22 to $.82 per square foot and a legal; and an accounting expense estimate of $3,000. Making these deductions resulted in a net operating income of $97,335. (Exhibit A, p. 56-57)

The final step under the income approach is to estimate the capitalization rate to be applied to the subject's net income. Using the band of investment method resulted in a capitalization rate of 8.66%. The appraiser also considered an overall rate from the debt coverage ratio which result in a capitalization rate of 8.21%. DiNapoli also consulted *RERC* which depicted rates ranging from 7.1% to 9.8% for various first tier and second tier properties. In light of the foregoing data and the subject's "somewhat specialized improvements" resulting in limited appeal to alternate users, the appraiser established a base capitalization rate of 8.5%. To the chosen capitalization rate, DiNapoli calculated the load factor of 3.94% to account for the effective tax rate which resulted in a loaded capitalization rate of 12.44% which was applied to the net income calculation of $97,335 and resulted in an estimated market value for the subject property of $780,000, rounded, under the income approach to value. (TR. 32-33; Exhibit A, p. 57-60)

DiNapoli also developed the sales comparison approach as part of this appraisal assignment. He testified that this approach relies upon the concept that a willing buyer would not pay more for a property than they would pay for a similar property. The appraiser utilized five 'fee simple' sales located in St. Charles, Carol Stream, Plainfield and Aurora. In order to identify the sales, the appraiser used CoStar, the Multiple Listing Service and appraisal records. The five comparables were verified as arm's-length transactions by the appraiser or the appraisal firm. The land sizes range from 60,300 to 73,616 square feet of land area which were improved with branch bank buildings that were 7 to 12 years old. The structures range in size from 3,171 to 5,815 square feet of building area. The sales occurred from March 2012 to February 2013 for prices ranging from $350,000 to $1,250,000 or from $108.46 to $224.01 per square foot of building area, including land. Next, DiNapoli made qualitative adjustments to the comparable sales for financing, sale conditions, date of sale, location, size/land-to-building ratio, construction/quality, age/condition and other/utility matters when compared to the subject property. As described on page 43 of the report, sale #2 was owned by the FDIC at the time of sale and was, therefore, part of a trend at the time in the branch bank real estate market involving REO sales. While sale #3 was also an REO sale, DiNapoli testified the fact this property was listed on the market for nearly three years 'tempers' the REO nature of the sale given the exposure time on the market. Comparable sale #5 was converted/adapted for office use which the appraiser asserted was not unusual for bank branch facility sales. The adjustment process resulted in net adjustments to the comparable sales data ranging from -25% to +50%. As a result of the adjustment process, DiNapoli estimated adjusted sales prices ranging from $139.29 to $168.01 per square foot of building area, including land. From this data, the appraiser opined the value of the subject to be $165.00 per square foot of building area, including land, resulting in an estimated market value of $760,000, rounded, for the subject property under the sales comparison approach to value. (TR. 33-41; Exhibit A, p. 40-51)

In reconciling the three value approaches as set forth in the appraisal report, DiNapoli placed primary consideration on the income and sales comparison approaches. In testimony, the witness stated primary consideration was given to the sales data since it involves market information. He further noted the cost approach was given secondary consideration due to the difficulty in deriving depreciation from all causes. The appraiser arrived at a reconciled estimate of market value of $770,000 as of January 1, 2015. (TR. 41-42; Exhibit A, p. 61)

Based on this evidence, the appellant requested a reduction in the subject's total assessment to $256,641 which would reflect the appraised value conclusion at the statutory level of assessment of 33.33%.

The appellant's appraisal witness was subjected to extensive cross-examination by Kane County Board of Review member, Michael Madzierak. (TR. 42-74)

On cross-examination by the board of review, when asked if the cost approach to value was not reliable, DiNapoli testified the approach was given secondary consideration. The witness testified that the cost approach includes valuation of the building, the land and site improvements. Although not a Member of the Appraisal Institute, DiNapoli gets publication and continuing education training from the organization. The witness testified that both the Appraisal Institute and USPAP were good sources of information for appraisers. DiNapoli testified that an *ad valorem* appraisal like the instant report could be done for new construction, fee simple or a leased-fee basis would be done in the same manner applying the same rationale whether performed for a tax appeal purpose or otherwise. (TR. 44-47)

Madzierak questioned the witness why there was no calculation for entrepreneurial profit included in DiNapoli's cost approach to value. In response, DiNapoli asserted the issue was considered in the last paragraph on page 39 of the report when stating, "Under current market conditions, the highest and best use as vacant is non speculative [*sic*] development or to hold. We have considered the concept of entrepreneurial incentive. We conclude it is minimally present for this property type under current economic conditions." DiNapoli further explained that he did not believe entrepreneurial profit was applicable for the special use property; the witness further explained that a special use property is typically built for use by, as an example, West Suburban Bank. The witness further testified that entrepreneurial incentive is the additional value/incentive to build a bank branch such that once built, in theory, the finished product could be sold for an additional 5% to 15%. DiNapoli testified that for a retail strip center in a stronger market, entrepreneurial profit would be more likely, but he noted the current market trend does not involve rising values. Furthermore, he testified, for the current market, an average bank branch building would be 2,700 square feet, not 4,614 square feet like the subject; as such, the witness opined the property would not be expected to achieve a higher return because it would be overbuilt for the market. (TR. 47-50; Exhibit A, p. 39)

DiNapoli was questioned about how he made his selection of comparable property sales from the various sources that were used. The witness testified that he did not use all sales that were similar; he selected the sales that were the most indicative sales, that would indicate a fee simple value. The witness was aware of additional sales, including leased fee sales, which he did not utilize. He opined that for a leased fee sale, the appraiser must confirm the lease terms; without those lease terms, the appraiser cannot make adjustments to determine value.[2] The sales selected occurred in 2012 and 2013 and were considered by DiNapoli to be the most similar properties; since the date of valuation is January 1, 2015, DiNapoli would not utilize sales that occurred in 2015. (TR. 51-54)

The witness was asked about the development of capitalization rates. DiNapoli testified that capitalization rates are derived from market indicators, including sales cap rates when available. The sales presented in the appraisal report were fee simple sales and thus, did not provide capitalization rates and DiNapoli did not have enough information on those sales to impute a capitalization rate. (TR. 56-57)

DiNapoli testified for a matched pair analysis, he would "extract an adjustment indication by comparing the comparables to each other." (TR. 57)

The appraiser was asked to explain the determination on page 24 of the appraisal that the subject was in average condition with no deferred maintenance as compared to the cost approach determination that the property is 65% depreciated. DiNapoli testified that this is the difficulty in the cost approach; in addition to physical depreciation, there are also functional due to it being a specialized property and external depreciation considerations which includes trends in the market. DiNapoli acknowledged examples where a sold bank branch results in the canopy being left in place and used for parking, but it is "not as efficient." (TR. 58-61)

As to the appraisal comparable sale #5 that was converted to medical office use after purchase, DiNapoli testified that he did not consider what the purchaser did after buying the property. Such a property that needs to be converted for use speaks to the special use of a property like a bank branch. (TR. 61-62)

The witness was asked why the rental comparables in the income approach to value were dated from 2011 and 2012 for an appraised value in 2015. DiNapoli testified the rental comparables were selected were the most comparable because they are similar as bank facilities or former bank branches that are indicative of rent or asking rents. He opined further that a lease from 2011 is indicative of what the rental value is for the subject in addition to the rentals from 2012 and 2014. DiNapoli testified that use of these rental comparables was reasonable in his opinion. He further noted the comparable data is limited for bank leases as compared to a typical retail property type. DiNapoli's objective was to use the most relevant data; the data in the appraisal was deemed to be relevant and indicative of what the rental rate would be for the subject property. As to rental comparable #1 with a 2012 lease date, the appraiser testified that he made an upward qualitative adjustment and considered all of the rental comparables. (TR. 63-70)

Counsel for the intervenor posed no cross-examination questions to the witness.

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[2] DiNapoli further expounded concerning one leased fee sale property that occurred in May 2013 at a price of more than $700 per square foot and sold again in September for $148 per square foot; he subsequently learned that there was $210,000 worth of office furniture and other items included in one of the sales and there was a buyout of the lease which speaks to a leasehold value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject property of $442,050. The subject's assessment reflects a market value of $1,327,079 or $287.62 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 prepared by Steven Surnicki, the Elgin Township Assessor, consisting of a one-page cost approach to value, a one-page income approach to value and a three-page grid analysis depicting eleven comparable sales. For purposes of the hearing, the board of review called Surnicki as its witness. He has been a licensed real estate appraiser since 1991 and became a Certified General Real Estate Appraiser in 2004. Surnicki has been working in the township assessment office since 2006, was first elected in 2010 as the township assessor and holds the Certified Illinois Assessment Officer (CIAO) designation. For valuation of the subject property, Surnicki opined that equal greatest weight should be placed upon the income and cost approaches to value with least weight given to the sales comparison approach. Surnicki testified there are two types of bank sales: empty bank buildings, such as FDIC sales from 2011 and 2012, and rarely are there sales of banks that were still functioning as banks, which reflect investment grade, same highest and best use. The witness further opined that the downturn of bank branches was a function of consolidation in the banking industry and not truly a problem with the real estate market. (TR. 78-79, 86-87)

At hearing, Surnicki testified that the cost approach to value was deemed relevant because the subject is a 15-year-old building and there are not many sales of this type of building. The cost approach data prepared by Surnicki depicts an average effective physical age of 12.5 years, an average useful life of 47.5 years and an average physical depreciation of 26%. The data depicts use of the Marshall Valuation Service, Section 15, Page 20, dated November 2015 for a Class C, bank branch of average quality. The data depicts a base cost of $169.86 per square foot with a "composite multiplier" of 1.252 resulting in a "total hard cost" of $212.66 per square foot of building area or $981,235. Next, an addition of $74,017 was calculated for the 2,288 square foot canopy along with addition of $51,000 for landscaping, paving, fencing, etc. This data resulted in a total "hard costs" estimate of $1,106,252 to which "soft costs" calculated as 2% for miscellaneous (financing charges, consultants, impact fees, etc.), 5% for indirect costs (marketing & lease-up) and 10% for entrepreneurial incentive or $110,625 were added resulting in a reported total replacement cost new of $1,294,315. (TR. 80)

Surnicki testified entrepreneurial incentive is "the fee or cost of somebody to build a building to have it be able to sell it, collect rent or to occupy." The witness agreed the concept reflects someone having an 'incentive' to build the property. In the cost approach, Surnicki included 10% for entrepreneurial incentive. (TR. 80-81)

The Surnicki cost approach also depicts a deduction of 35% or $453,010 for physical depreciation; Surnicki made no depreciation deduction for either functional obsolescence or external obsolescence. After the deduction for depreciation, the depreciated cost of all improvements calculated by Surnicki was $841,305 with an addition of land value of $653,495 for a total value under the cost approach analysis of $1,495,000, rounded. He testified the land value was approximately $14.50 per square foot. (TR. 81)

Surnicki opined that the income approach was one of the more valued approaches for this type of property "because a lot of bank branches are actually developed by an individual that leased out to banks." He further testified that in reviewing sources like CoStar, leased fee sales will often display the NOI [net operating income] per square foot that may range from $30 to $50 per square foot, although that figure would be after deductions for expenses, including real estate taxes. Surnicki also stated there is a difference between appraisal practice and valuation for assessment purposes; in his role as township assessor, Surnicki contends he is to be estimating market rent on a bank for the subject property. The legal requirement is to assess the property in its current use and not a speculative use as of January 1. Therefore, as he reviewed the sales data, he pulled out rental data and NOI information along with any marketing materials or any bank branches "that would have any type of income or NOI, and then translate that to the property." (TR. 81-83)

Surnicki prepared an income approach to value depicting a rental rate of $35.00 per square foot of building area "as of January 1, 2015." To develop this rental rate, he used leased fee sales as depicted in the board of review's evidence.[3] This rate resulted in a reported potential gross income of $161,490 from which a vacancy and collection loss of 10% or $16,149 was deducted. The resulting effective gross income of $145,341 was then reduced by expenses of 5% for a management fee or $7,267 and reserves for replacements of $693 which resulted in a net operating income figure of $137,381. Next, the data depicts the application of a capitalization rate of 8.5% to this net operating income figure which results in an indication of value under the income approach of $1,620,000, rounded. (TR. 83)

The board of review submission also included a grid analysis of comparable sales data consisting of eleven properties. Eight of the comparables were located in North Aurora, Batavia, South Elgin, St. Charles and Carpentersville in Kane County and comparables #9, #10 and #11 were located in the McHenry County communities of Crystal Lake, Algonquin and Lith. The buildings range in size from 2,996 to 10,781 square feet of building area. The buildings were constructed from 1992 to 2006 and are located on sites ranging in size from 32,234 to 93,205 square feet of land area. The sales occurred from March 2011 to September 2014 for prices ranging from $1,000,000 to $4,475,000 or from $210 to $989 per square foot of building area, including land, rounded.

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

On cross-examination, when asked if he prepared the one-page income approach analysis, Surnicki initially testified, "It's my office. I'm responsible for it, but I also have employees." When advised that it was a 'yes' or 'no' question and asked whether he personally prepared the document, Surnicki said, "Yes." He likewise testified that he personally prepared the cost approach data and selected the comparables for the sales comparison approach. (TR. 88)

[3] The board of review sales grid analysis depicts 11 properties that sold between March 2011 and September 2014. Therefore, it is unclear on the record how Surnicki "developed" rental rates as of January 1, 2015. (TR.84-86)

As to the income approach, Surnicki acknowledged that while he testified he utilized rental comparables, there are no rental comparables in evidence from the board of review. (TR. 88)

As to the comparable sales, when asserted that sale #1 was not advertised, Surnicki first responded, "I think everything is for sale in a bank world," but when pressed he acknowledged that he had no proof it was advertised. Likewise, sale #2 was not advertised and may have been a leased-fee sale, from one bank to another bank. Sale #3 according to Surnicki's notes had a broker involved, but he did not speak to the brokers; he did not know if the transaction was the purchase of property by the tenant, but it was a leased-fee sale. Comparable #5 was a sale by the FDIC as an REO bank sale. The witness was unaware if sale #7 was purchased by the tenant as he had not researched the sale other than checking information on the township assessor's website. Sale #8 was a leased-fee transaction, but Surnicki did not know how many years were remaining on the lease. (TR.89-93)

On redirect examination, Surnicki affirmed that brokers advertise listings which would thus be deemed to be 'on the market.' The witness also opined that generally speaking, an REO sale will sell for less than a market sale. (TR. 95-96)

For purposes of this appeal, the intervening taxing district, Elgin School District No. U-46 through its counsel of record, Ares Dalianis, submitted a brief with data on five comparable sales of bank branch properties located in the general vicinity of the subject. No witness was called at hearing for this data and the intervenor rested on its written submission. (TR. 96)

The intervenor's comparable sales are located in the communities of Lake in the Hills, St. Charles, Algonquin and Carpentersville; intervenor sales #1 and #3 are the same properties as board of review sales #11 and #10, respectively. The five buildings range in size from 3,038 to 8,500 square feet of building area. Based upon documentation attached to the grid analysis, four of the buildings were constructed from 1995 to 2007; no age was reported for intervenor sale #4. The comparables are located on sites ranging in size from 26,254 to 93,218 square feet of land area and the sales occurred from May 2013 to November 2015 for prices ranging from $2,100,000 to $4,700,000 or from $247.06 to $994.44 per square foot of building area, including land.

Based on this data, the intervening taxing district requested that the assessment of the subject property either be confirmed or be increased.

In a five-page written rebuttal filing with attachments, the appellant's counsel outlined criticisms of the data presented by the opposing parties. Initially, counsel argued that both the board of review and the intervenor submitted data on raw sales prices of purportedly comparable properties to support the assessment of the subject property without any consideration of adjustments for various differences. Furthermore, the board of review's submission of sales data lacks any supporting documentation. Appellant argues that this sales data from the opposing parties should be given no weight by the Property Tax Appeal Board.

Next, the appellant's rebuttal filing argues that four of the eleven sales presented by the opposing parties (board of review #1, #4, #6 and #10/intervenor #3) support a reduction in the subject's estimated market value based on its assessment.

As to the sales data, the appellant made additional arguments why several of the comparable sales presented by the board of review and/or intervenor should be disregarded in the Property Tax Appeal Board's analysis. Appellant provided documentation as to board of review sale #3 that this was not advertised prior to sale (Exhibit A). Appellant also argued that eight of the transactions were leased fee sales (board of review #3, #7, #8, #9 and #11 along with intervenor #1, #2, #4 and #5). Exhibit B depicts that board of review sale #9 was deemed by the Algonquin Township Assessor's Office to not be a qualified sale and Exhibit C depicts that the St. Charles Township Assessor characterized intervenor sale #2 as a sale leaseback transaction. In rebuttal, appellant's counsel argued that leased fee sales which involve 'older rents' above current market levels must be adjusted to reflect fee simple interest which neither of the opposing parties did in their submissions.

Exhibits D through J consists of township printouts for board of review sales #2, #8, #9, #10 and #11, three of which were also presented as intervenor sales #5, #3 and #1 along with intervenor #4. The properties are located in both Kane and McHenry Counties. Based upon the varying assessments of these properties, counsel for the appellant argued the data "establish that the local assessing officials have set the 2015 assessments of these properties substantially below the alleged sales prices." The analysis is further outlined in a chart depicting "alleged sales price" ranging from $2,100,000 to $4,475,000 with "2015 Assessor Fair Market Value[s]" ranging from $1,195,225 to $1,802,650.

Exhibit K depicts the August 2016 resale of board of review comparable #7. The board of review reported the December 2012 sale of this property for $1,123,600. The asking price for resale began at $750,000 and resulted in an August 2016 sale for $450,000. From this data, the appellant's counsel argues that the December 2012 sale was an inflated leased fee transaction which is not reflective of fee simple market value.

Appellant's Exhibit L further confirms data contained in supporting documentation filed by the intervenor concerning its sale #2. While the intervenor reported the May 2013 sale price of this property for $4,700,000, there was a September 2013 sale of this property for $750,000. The appellant contends that this more recent sale supports the appellant's valuation request in this matter.

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 appellant presented a narrative appraisal using the three traditional approaches to value as well as the supporting testimony of the appraiser, Donald DiNapoli, who arrived at an estimated market value of $770,000 as of the assessment date at issue. The board of review presented the testimony of the township assessor, Steven Surnicki, who prepared a cost approach, an income approach and set forth eleven improved sales in support of the assessment. Additionally, the intervening taxing district set forth data on five improved sales, of which three of the properties were presented by the board of review. After reviewing the record and considering the testimony of the witnesses, the Property Tax Appeal Board finds the best evidence of market value to be the appraisal submitted by the appellant.

Initially, the Property Tax Appeal Board finds the appellant's appraisal report provided a credible estimate of value of the subject property. The appraiser placed equal weight upon the income and sales comparison approaches to value and gave less weight to the cost approach to value due to the difficulty in calculating depreciation. While the township assessor on behalf of the board of review opined that greater weight should be placed upon the cost and income approaches to value with lesser weight given to the sales comparison approach, the Board finds that the assessor's opinion of the relative merits of the three approaches to value in the context of a property tax appeal proceeding is contrary to case law. 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. Therefore, the Board gives little credence to the opinion of Surnicki as to the relative merits of the approaches to value and finds greater weight shall be given to the appellant's appraiser's bases for valuing the subject property.

The appellant's appraiser developed the cost approach to value using land sales to arrive at an estimated land value of $9.50 per square foot of land area. The Kane County Board of Review presented no land sale data to support the land value estimate and the assessor in testimony stated the subject's land value was approximately $14.50 per square foot of land area. The appellant's appraiser also developed the replacement cost new of the building improvement, starting with an adjusted base cost of $171.43 per square foot of building area. The appraiser added components for a local cost multiplier and a current cost multiplier resulting in an adjusted base cost of $199.12 per square foot of building area or $918,721. DiNapoli then made deductions for depreciation from various causes of 65% or $597,169 and added the contributory value of depreciated site improvements and the land value for an estimated value of $810,000 under the cost approach. Through the township assessor, the Kane County Board of Review developed a cost approach to value starting with a base cost of $169.86 per square foot of building area. The assessor next added both current and local cost multipliers to arrive at an adjusted base cost of $212.66 per square foot of building area or $981,235 to which the assessor added $74,017 for the canopy and $51,000 for site improvements which resulted in total hard costs of $1,106,252. Next the township assessor added 'soft costs' including entrepreneurial incentive to raise the total replacement cost new to $1,294,315. The township assessor then deducted 35% for physical deterioration resulting in a depreciated improvement value of $841,305 to which the land value of $653,495 was added for a total value under the assessor's cost approach calculation of $1,495,000, rounded. Of these two cost approaches to value and in light of the testimony associated with each approach, the Board finds the appellant presented the more credible and supported cost approach to value on this record and thus, the board of review failed to adequately refute the appellant's appraiser's cost approach to value.

DiNapoli also developed an income approach to value in which he arrived at a market value estimate of $780,000, rounded. The appraiser began with an estimated market rent of $26.00 per square foot of building area, on a gross basis. In contrast, the Kane County Board of Review presented the income approach prepared by Surnicki which estimated the subject's market rent to be $35.00 per square foot of building area. There was no supporting rental comparables in the submission of the board of review whereas DiNapoli provided data on six rental comparables, the highest one of which was $30.82 per square foot, on a gross basis. On this record, the Board finds the DiNapoli estimate is well supported by rental comparable data where the average rental rate was approximately $25.69 per square foot. The Board further finds the parties did not differ substantially on the estimates of vacancy and collection loss and expenses. While the parties differed on their respective calculations of the capitalization rate, the Board finds that the board of review did not present any substantive data to support its capitalization rate whereas DiNapoli outlined the data that he considered in developing his capitalization rate. In summary, the entire value conclusion under the income approach drawn by the Elgin Township Assessor is found by the Property Tax Appeal Board not to be credible or a reliable indicator of the subject's estimated market value.

All three parties to this appeal submitted comparable sales data. Only the appellant's appraiser made adjustments to the five comparable sales he presented in the appraisal report to account for differences when compared to the subject property in arriving at an estimated market value of the subject property of $165.00 per square foot of building area, or $760,000. DiNapoli's estimated value of $165.00 was above all but one comparable sale in his appraisal report on a per-square-foot basis.

The Kane County Board of Review presented a grid analysis of eleven raw, unadjusted comparable bank sales, five of which occurred in 2011 or up to approximately four years prior to the January 1, 2015 assessment date at issue in this proceeding. After giving reduced weight to board of review sales #1, #3, #4, #5 and #6 for being dated sale transactions, the Board finds that the remaining six suggested comparable sales range from $195 to $989 per square foot of building area, including land, the majority of which are more than Surnicki's estimated replacement cost new of the building and land of approximately $324.00 per square foot of building area; only board of review sale #10 which is more than twice the size of the subject building reflects a per-square-foot sale price less than the estimated replacement cost per square foot, including land in Surnicki's cost approach. The Board also finds that the appellant questioned and submitted documentation to support criticisms of many of the board of review sales as being dated and/or leased-fee transactions.

Finally, the intervening taxing district also presented a grid analysis of five raw, unadjusted comparable sales, three of which were also presented by the board of review. As to the intervenor's evidence, the Property Tax Appeal Board strongly questions the reliability of intervenor sale #2 reported as a May 2013 sale for $4,700,000, which clearly appears to be an outlier given all the other sales data in the record, particularly when the appellant's rebuttal evidence along with the intervenor's supporting documentation for this sale depicted a subsequent sale in September 2013 for $750,000; the intervenor's submission using the earlier and substantially higher sale appears to have been a clear attempt at deceiving the reader about the sale transaction information for this property.

Considering the sales comparison approach to value developed by DiNapoli and the sales presented by both the board of review and the intervening taxing district, the Property Tax Appeal Board gives more weight to DiNapoli's analysis.

In conclusion, the subject's assessment reflects a market value of $1,327,079 or $287.62 per square foot of building area, including land, which is above the appraised value. The Board finds the subject property had a market value of $770,000 as of the assessment date at issue. 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. 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: March 19, 2019

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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