



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

APPELLANT: J. Douglas Winter
DOCKET NO.: 15-01457.001-C-1
PARCEL NO.: 11-03-302-011

The parties of record before the Property Tax Appeal Board are J. Douglas Winter, the appellant, and the Winnebago County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds **A Reduction** in the assessment of the property as established by the **Winnebago** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$45,159
IMPR.: \$138,156
TOTAL: \$183,315

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Winnebago 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, multi-tenant retail/office building of masonry and steel construction with 12,893 square feet of gross building area of which 12,826 square feet is rentable. The building was constructed in 2005 and has seven units ranging in size individually from 1,473 to 2,295 square feet of building area. As of the assessment date, one unit of 1,632 square feet was occupied resulting in a 13% occupancy rate; the remaining units were available for lease with several of the units yet to be built out. The property has a 127,050 square foot site or 2.92-acres of land area resulting in a land-to-building ratio of 9.85:1. The subject is located in Rockford, Rockford Township, Winnebago County.

The appellant J. Douglas Winter appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. Additionally, the appellant contended that the subject is a distressed property further impacting its market value.¹

¹ One issue raised by the taxpayer is what constitutes a distressed property.

In support of the appellant's overvaluation argument, he submitted an appraisal prepared by Daniel P. Currier of John P. Hill & Associates, Ltd. with an opinion of the leased fee market value of the subject property of \$250,000 as of January 1, 2015. The appraisal report also presented an opinion of the fee simple market value of the subject property of \$300,000 or \$23.27 per square foot of gross building area, including land, as of January 1, 2015. These respective conclusions were based upon the property's occupancy as of the valuation date.

For the hearing, the appellant called Daniel Currier, an Illinois Certified General Appraiser, currently employed by Midwest Appraisal Services, as a witness in this matter. Currier testified that he is a candidate for his MAI (Member of the Appraisal Institute) designation and has over 25 years of experience appraising commercial property in northern Illinois, southern Wisconsin and other adjacent states.

Currier inspected the subject property and determined that 13% was occupied with six vacant units as of January 1, 2015 which was located in an area of distressed properties with a high crime rate. As a consequence, Currier concluded that the subject was a less desirable property in the Rockford metro area due to the crime rate. Currier also examined the income levels of the households in the area to give an opinion of the location of the subject property as compared to other properties.

In addition, in examining the subject building, Currier noted that the property was built in 2005, but still has approximately 3,600 square feet of vacant area that has never been built out. As such, Currier testified the property has never reached its stabilized occupancy levels since its construction and has an effective age for the property of 5 years.

As part of the report, Currier noted that an insurance agency and a cellular tenant "recently" vacated the subject building after an armed robbery at the cellular store. The appraiser also opined that the high crime rate in the area made leasing the subject building's units difficult even at discounted rental rates. (Appraisal p. 5)

Currier testified that the township assessor "will look at the property" from the perspective of a stabilized occupancy level; Currier opined this would not occur until approximately the year 2021. The appellant's appraisal report also included a stabilized prospective leased fee value, taking into consideration an absorption period to get the property to a stabilized occupancy level of approximately 80% (Appraisal, p. 53), of \$575,000 as of January 1, 2021 and a stabilized prospective market value of \$525,000 as of January 1, 2021.²

In preparing the appraisal, Currier also examined a property directly across the street from the subject in an outlot of a Wal-Mart shopping center. Currier noted this property is much larger and has seven units that are vacant of which six units have never been built out as of April 2017

² The appraiser's opinion was based upon a "stabilized" market value defined on page 2 of the report as "an estimate of prospective market value when all improvements are complete and optimum levels of income are anticipated for the marketplace. This is a future value estimate." The appraiser's report also defined "prospective value estimate" as a forecast of the value expected at a specified future date. "A prospective value estimate is most frequently sought in connection to a new use, or those that have not achieved sellout or stabilized level of long-term occupancy at the time the appraisal report is written."

(the date of hearing). Currier therefore opined that this nearby property has never reached its stabilized level of occupancy and this building was constructed prior to 2005. Currier noted that as such, this property has never reached the "city-wide" level of stabilized occupancy of 89%.

The sales comparison approach was used by Currier to derive his leased-fee value of the subject property. As to the sales comparison approach, the appraiser considered the entire Rockford metro area, but as Currier testified the appraiser must also consider the specific neighborhood that the property is located in. As such, the appraiser opined that it would be inappropriate to compare the subject property to a property located on East State Street near Perryville, which has a much higher occupancy level, a much higher rental level and much higher sales price level than a property like the subject located on West Riverside. In light of these considerations and for an appraisal to address a property tax appeal, Currier selected comparable sales that were located beyond the immediate Rockford metropolitan area. The nine sales presented in the appraisal report, summarized on page 24, were located in Rockford, Homewood, Freeport, Mount Prospect, Joliet, Huntley, Carpentersville, Loves Park and Elkhorn, Wisconsin. Sale #1 was a fee simple arm's length transaction and the eight other sales were leased-fee sales, two of which were REO and one of which was deemed to be distressed. The sales occurred between September 2012 and January 2016 for prices ranging from \$450,000 to \$3,700,000 or from \$68.92 to \$203.92 per square foot of building area, including land. The buildings range in size from 5,845 to 18,144 square feet of building area and have parcels ranging in size from 21,301 to 127,050 square feet of land area.

Currier adjusted each of the comparables downward by 30% for 2015 crime stigma which resulted in an adjusted sales price conclusion of \$58.00 per square foot of building area for the subject or a value of \$675,000. In the "Notes" heading for several of the individual comparable sales in the appraisal report, Currier reported average household income within a five mile radius of the comparable and/or crime statistics within a one-mile radius of the comparable where available; sales #1, #3, #4, #7, #8 and #9 each presented one or both of these statistics. Also, in the course of the hearing, it was revealed that two armed robberies occurred at the subject property prior to the valuation date at issue.

The analysis herein will focus upon the data utilized to derive the appraiser's fee simple "as is" retrospective market value of \$300,000 as of January 1, 2015. For the fee simple value, the appraiser applied the cost and income capitalization approaches to value. (Appraisal p. 3)

Under the cost approach, the appraiser analyzed five vacant land sales to estimate a land value of \$2.75 per square foot of land area or approximately \$350,000, rounded. Utilizing Marshall & Swift along with local adjustments, the appraiser estimated replacement cost new of \$1,584,457 and site improvements of \$378,945. The appraiser also estimated soft costs for engineering of 6% of building cost, architectural of 5% of building and site costs along with permitting and legal costs of \$10,000 and marketing/leasing commissions of \$20,000 for a total of soft costs of \$223,237. These estimates along with a developer's profit of 10% resulted in a total building cost of \$2,405,303 less physical building depreciation of 10%, physical site depreciation of 25% and external obsolescence of 75% for a total depreciation deduction of \$1,794,404 resulting in a depreciated improvement value of \$610,899. Next the appraiser estimated an additional investment of \$75,000 to complete the unfinished units. Therefore, under the cost approach

along with the land value, the appraiser opined a value of \$885,000, rounded, or \$68.64 per square foot of building area, including land. (Appraisal, p. 12-23)

Under the income approach to value, Currier analyzed seven rental comparables in Rockford. The comparables had a rental range of \$13.00 to \$17.74 per square foot of building area on a net basis. (Appraisal, p. 38-46) The appraiser made adjustments to the rental comparables for differences in location, condition, traffic count, size, effective age, lease terms and/or crime stigma. The appraiser gave greatest weight to his rental comparables #7 and #8 due to their locations on the northwest side of Rockford. The appraiser also reported that the landlord is currently offering vacant area in "a vanilla box buildout at \$8.00 per square foot for the two end units and \$6.00 per square foot for the interior units." After adjustments, Currier concluded adjusted rental rates ranging from \$3.27 to \$11.40 per square foot of net rentable area on net rental terms. Currier then reconciled a net market rent of \$5.50 per square foot of building area as of January 1, 2015 for the subject's interior units and \$7.50 per square foot for the two exterior units due to the location and drive up windows. Currier's analysis resulted in a potential gross income of \$128,736 less vacancy of \$16,823 for an effective gross income of \$111,913. Currier set forth operating expenses, including real estate taxes, totaling \$59,509 resulting in a net operating income estimate of \$52,404. (Appraisal, p. 47, 59)

In order to convert the net operating income into an estimate of market value, the appraiser considered the two methods that are commonly used. For this appraisal, Currier developed an income approach to reflect market value using a 10-year Discounted Cash Flow Analysis of the net operating income at a market derived capitalization rate utilized to develop the fee simple value. (Appraisal, p. 49) The appraiser's analysis for fee simple was set forth on page 59 of the report and summarized on page 60. From this analysis, the appraiser applied a 10% capitalization rate to a net operating income of \$52,404 resulting in a value conclusion of \$525,000, rounded, and a discount rate of 12.5% resulting in a present value determination of \$220,000, rounded. (Appraisal, p. 59-62)

In reconciliation, Currier gave greatest weight to the income approach to value over the cost approach and concluded an as-is fee simple market value as of January 1, 2015 of \$300,000. As part of the appeal petition, the appellant requested a total assessment of \$123,333 which would reflect a market value of approximately \$370,036 or \$28.70 per square foot of gross building area, including land.

The Administrative Law Judge made inquiry of the appellant's appraiser concerning a sale or financial transaction involving the subject property that was referenced in the board of review's submission. Currier testified that the appellant purchased the subject property in September 2013 for \$800,000 with two tenants and a letter of intent at the time of sale.³ Upon further inquiry, the appellant J. Douglas Winters testified that the subject property had been on the market for quite a while. The property was "with the bank that had taken it back." Therefore, with the three tenants that were present at the time of purchase, the appellant found it was a suitable investment property for purposes of purchase.

³ On page 7 of the appraisal report, Currier reported there was "no transfer of the subject within the past 3 years."

Upon cross-examination, the board of review made inquiry of the appellant concerning the 2013 sales price of \$800,000 as compared to the current appraised value. The appellant responded that he "did not want" the property to be down to an appraised value of \$300,000 or his requested assessment value of \$370,000, but as the property currently stands as rented, it does not pay the current real estate taxes on the property which is not the basis of commercial real estate investment. He further noted that at the time of the sale transaction with three tenants, the property was appropriate for investment, but after the robberies one of the tenants closed their doors that day and another tenant fled on foot closing the business shortly thereafter.

The board of review made inquiry of Currier concerning the depreciation percentages in the cost approach on page 22. Currier explained that the 25% depreciation to the "site" was for the site improvements such as asphalt, concrete sidewalks, shrubbery and similar improvements. The external obsolescence of 75% applied to the building was based upon a combination of a high vacancy level, the neighborhood, the crime rate and the stigma of the property. Currier acknowledged that the percentage was a subjective estimate based on his experience and accounts for nearly \$1.5 million of the building value if brand new construction.

When turning to the cost approach conclusion on page 23 of the appraisal of \$885,000, Currier acknowledged that the cost approach value conclusion does present a large gap from the final market value opinion of \$300,000 for the subject property. Currier further explained that the calculations under the cost approach included estimates for external obsolescence and the final value conclusion of fee simple market value was an estimate that was not based upon a stabilized occupancy level. In contrast, Currier noted the value conclusion fee simple with a stabilized occupancy level was higher at \$525,000. The witness further contended that the cost approach is representative of value just to reconstruct the building and more reliance should be given to the sales and/or income approaches to value with the considerations made by buyers and sellers.

As to the comparable sales presented by Currier on page 24 of the appraisal report, the witness was asked about the distant locations of many of the comparable properties and whether Currier was unable to find sales closer to the subject's marketplace. Currier testified that he had difficulty finding similar comparables in their buildout, construction and age which is why he "went to other markets" and then adjusted if necessary for location. Currier was asked if consideration was given to the demographics of the comparable properties that were chosen. Currier responded that demographics of each comparable were considered and reported in the "Notes" section of each comparable property addressing the average income level and number of households from the STDB online service (Appraisal, p. 25-33). This data then assisted Currier in the basis for any location adjustments. Likewise, crime statistics were sought out for the comparables and when available, the data was also set forth in the "Notes" sections of the individual property descriptions (id.).

Turning to page 35 of the appraisal report depicting an adjustment grid for the comparable sales, Currier was asked about the dual adjustments made for both location and traffic count to comparables #1, #4, #7 and #8. The location adjustment was based not only from physical location but also the income levels around the property and population when compared to the subject property. A separate adjustment was made for actual traffic counts in front of the comparable property as compared to the subject. Currier testified that he has consistently made

these types of adjustments separately and disputed the notion that by doing so there was some type of 'double counting' of what might be deemed similar types of characteristics.

Next, Currier was asked about the occupancy level adjustments⁴ made between sales #2 and #4 with varying occupancy levels of 42% and 0%, respectively, but adjustments of 15% and 20%, respectively. Currier answered this was a subjective estimate which he based off his experience. Currier further pointed to the occupancy adjustment to sale #8 which was also a 15% upward adjustment with a 31% occupancy level. Furthermore, he testified there is a range that is used to arrive at the adjustment and he tried to keep the adjustments to a minimum as he could, not being such high gross adjustments.

The appraiser was asked about adjustments to the comparable sales for crime stigma. Currier testified that, as depicted on page 35, all of the comparable sales were adjusted downward by 30% for the crime stigma. None of the comparable sales presented in the appraisal report had an actual crime occur on the property.

As to page 47 of the appraisal report presenting seven rental comparables for the income approach to value, Currier testified that the downward 25% adjustments applied to each rental comparable for crime stigma was based on his subjective estimate. Currier further pointed out that each of the rental comparables in the "Notes" section identifies the applicable crime statistics (Appraisal, p. 39-45).

Currier was next asked about his familiarity with Illinois case law in Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), which the board of review asserted concerns the proposition that "the earning capacity is properly regarded as the most significant element in arriving at the fair cash value." The witness testified that he was not familiar with the case until he saw it "brought up" in the board of review's evidentiary submission before the Property Tax Appeal Board. As set forth on page 62 of the appraisal report, Currier gave greatest weight to the income approach for both the "as is" market value and the "stabilized" market value with secondary weight given to the sales comparison approach.

Upon questioning about his stabilized value conclusion of \$525,000 as of January 1, 2021 and not as of January 1, 2015, Currier testified that he arrived at this conclusion because the subject has not yet achieved stabilized occupancy at or near a level of 90%.

Based on the foregoing evidence and as depicted in the appellant's Commercial Appeal petition, the appellant requested a total assessment of \$123,333 which would reflect a market value of approximately \$370,000 at the statutory level of assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$222,644. The subject's assessment reflects a market value of \$667,999 or \$51.81 per square foot of gross building area, land included, when using the 2015

⁴ As to the sales comparison approach to value, it is reiterated that this approach was used for purposes of assuming the subject with a stabilized occupancy of 80% which is noted on the chart on page 35. The sales comparison approach was not considered in arriving at the fee simple market value of the subject property by the appraiser.

three year average median level of assessment for Winnebago County of 33.33% as determined by the Illinois Department of Revenue.

For purposes of hearing, the board of review was represented by Tom Ewing, member of the Winnebago County Board of Review. As part of the hearing, Ewing asserted that the board of review considers the actual vacancy, income and expenses as useful to supporting the sales comparison approach. It was Ewing's opinion that appellant's appraiser had placed a great deal more weight on the income approach than on the sales comparison approach which is primarily relied upon by the board of review and assessing officials.

In support of the assessment of the subject property, the board of review submitted a set of documents including a one-page memorandum from Board of Review Member Jasper St. Angel along with a four-page narrative entitled "Assessor's Notes" that concluded the subject property has a market value of \$790,000.⁵ Also submitted was a grid of comparable sales with supporting property record cards and a chart entitled "Operating Statement – Retail/Commercial." Additional documentation included the PTAX-203 Illinois Real Estate Transfer Declaration concerning the September 2013 sale of the subject property for \$800,000 and MapQuest searches describing the driving distances from the subject property to the comparable sales set forth in the appellant's appraisal report among other supporting documents.

At hearing, the board of review called Mike Smith, Deputy Commercial Township Assessor for Rockford Township, as its witness. Smith has held this position with the township for nearly six years. He has his CIAO (Certified Illinois Assessing Officer) designation and is a Certified General Real Estate Appraiser in the State of Illinois.

In arriving at the estimated market value of the subject property as reflected by its assessment of \$667,999, Smith testified that both a sales comparison approach and an income approach to value were considered by the assessing officials.

For the sales comparison approach, the assessing officials gathered data on four comparable sales where comparable sale #2 actually reflects the September 2013 sale of the subject property for \$800,000 or \$62.87 per square foot of building area, including land. The Administrative Law Judge specifically asked Smith under what principle would the sale of the subject property be used as a comparable property; Smith answered that it is "actually done in many cases in appraising real estate." The remaining three comparable sales were each located on East Riverside Boulevard as compared to the subject's location on West Riverside Boulevard. No proximity data was included in the board of review's evidence. These comparable parcels range in size from 42,170 to 57,750 square feet of land area and are each improved with retail buildings ranging in size from 11,208 to 15,735 square feet of building area. The board of review's summary data further reveals that both the sale of the subject and sale #3 were "REO" properties. The three comparables sold between November 2013 and March 2015 for prices ranging from \$803,000 to \$957,500 or from \$51.03 to \$85.43 per square foot of building area, including land.

⁵ Although the calculations set forth in the "Assessor's Notes," which were submitted as part of the board of review's evidence, reflect a higher estimated market value for the subject property, at hearing Board of Review Member Ewing specified that the board of review was merely seeking confirmation of the subject's assessment.

Smith testified that comparable #1 was a multi-tenant building. As outlined in the Assessor Notes, sale #1 necessitated a downward adjustment for location (nearer to the expressway) and an upward adjustment for land-to-building ratio which resulted in an overall downward adjustment to the sale price of \$85.43 per square foot of building area, including land. Sale #2, the subject property, in the adjustment analysis of the Assessor Notes was described as needing an upward adjustment for conditions of sale (bank owned) and an upward adjustment for low occupancy being less than 50% occupied at the time of sale (significantly below stabilized occupancy which is deemed to be 89%) such that overall the property would have an upward adjustment indicating according to Smith that the subject would sell as of January 1, 2015 for more than \$62.87 per square foot of building area, including land, on a stabilized occupancy basis. Sale #3 necessitated a downward adjustment for location (closer to the expressway) and there were upward adjustments for land-to-building ratio, REO sale condition and that property's larger building size as compared to the subject. As a consequence, Smith opined that the three upward adjustments would outweigh the downward adjustment for location resulting in an overall opinion for the subject greater than \$51.03 per square foot of building area, including land. The adjustments for comparable sale #4 were slightly downward for location (nearer to the expressway) with upward adjustments for inferior land-to-building ratio and its low occupancy that was approximately 50% at the time of sale where a Blockbuster Video had vacated prior to the sale date. Smith opined that the location adjustment would be the greater adjustment overall resulting in a value for the subject of less than \$80.97 per square foot of building area, including land.

From this analysis, Smith testified the subject should be worth more than sale #2 (the subject) of \$62.87 per square foot and less than sale #4 of \$80.97 per square foot. Smith further noted that the subject property is more similar to comparable sale #2, it being the subject property, such that Smith opined a market value of the subject based on the sales data of \$65 per square foot of building area, including land or a market value of \$827,000, rounded.

Utilizing the income capitalization approach, based on data gathered primarily from the local MLS (Multiple Listing Service) in the area, the assessor's office opined a potential gross income based upon an estimated rental rate of \$11.75 per square foot per year. This estimate was derived from actual rental rates of four nearby retail spaces ranging from \$10.76 to \$13.71 per square foot per year. Then, based upon a survey of the Rockford area by Coldwell Banker Commercial an 11% vacancy allowance. Insurance expenses ranged from \$0.06 to \$0.41 with the median being \$0.20 per square foot; repairs/maintenance expenses likewise ranged from \$0.09 to \$1.74 with the median being \$0.56 per square foot; utilities expense ranged from \$0.06 to \$1.33 with the median being \$0.27 per square foot; and management expense vary from 0.87% to 12.09% of effective gross income with the median being 4.53% of effective gross income. Other expenses (miscellaneous) for retail buildings range from \$0.06 to \$4.64 with a median of \$0.82 per square foot.

Based on the foregoing data, the assessor's office opined the subject property had a potential gross income of \$11.59 per square foot of building area or \$149,507. The assessor applied a vacancy allowance of 11% or \$16,446 resulting in an effective gross income of \$133,061. Expenses were calculated for insurance as \$2,545, repairs/maintenance of \$7,125, utilities of \$3,435, management of \$6,028 and other of \$10,434 for total expenses of \$29,567 resulting in a

net operating income of \$103,494. Next the assessor opined a base capitalization rate of 10% from a database ranging from 4.16% to 67.20%; the rate was selected based on the building's age and Riverside Boulevard frontage. The assessor applied a tax rate load of 1/3 of the tax rate or 5.10% resulting in a loaded capitalization rate of 15.10%. Applying the loaded capitalization rate of 15.10% to the net operating income of \$103,494 resulted in an indicated market value of \$685,392 under the income capitalization approach to value or \$685,000, rounded.

The assessor's office reconciled these two value conclusions to an estimated market value for the subject of \$790,000 which is weighted toward the sales comparison approach to value in light of case precedent before the Property Tax Appeal Board. In addition, the assessor recognized that this value conclusion was approximately 18% above the subject's current estimated market value based on its assessment. (See also Footnote 4)

On cross-examination, Smith was questioned regarding comparable sales #1, #3 and #4 that were deemed similar to the subject, although they were each in a much superior location as indicated by necessary downward adjustments for location. Smith testified that he deemed these sales comparables as being nearby locations of similar retail properties in age and size to the subject that require adjustments just as most comparables do. He further disagreed with the appellant's appraiser's premise that the sale of the subject cannot be used as a comparable sale in an appraisal report as it often is so used. Smith also testified that there was nothing within the Uniform Standards of Professional Appraisal Practice (USPAP) directing that an appraiser can or cannot use the sale of the subject property as a comparable sale.

As to the income approach, Smith was asked for the basis of utilizing a stabilized occupancy level derived from the entire metropolitan Rockford area where occupancies range from 95% to 100% as compared to the area where the subject is located where even a property across the street from the subject has never reached that type of occupancy level. Smith testified that his market area is defined by where he chooses his comparables, so for this analysis his market area is defined as Rockford area commercial so Smith would use a vacancy factor that is based upon the Rockford area. Ewing added, based on his commercial real estate experience, the Rockford market area encompasses areas east of Interstate 90 and west of the Rockford city limits, but overall the area is a fairly small market area that does not extend nearly 100 miles when he estimates value(s) for a prospective buyer or seller.

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

In written rebuttal, the appellant submitted a letter and documentation with his credentials as a manager of real estate along with a letter from his appraiser critiquing comparable sales purportedly presented by the board of review. The appraiser's written critiques, however, were based upon data presented by the assessing officials before the Winnebago County Board of Review, not the data presented before the Property Tax Appeal Board. Thus, the criticisms do not directly correlate to the sales presented by the board of review before the Property Tax Appeal Board and will not be further addressed on this record.

At the hearing, the appellant's appraiser first noted that typically the sale of a subject property is never utilized as a comparable property in the sales comparison approach. As to the sales

presented by the board of review, but for consideration of the subject property's 2013 sale, each of the comparable properties are located on East Riverside Boulevard as compared to the subject's West Riverside Boulevard location. Moreover, as set forth in the assessor's adjustments, all properties on East Riverside Boulevard were noted as having much superior locations than the subject property. As such, the appellant's appraiser asserted that the assessing officials presented no comparables that were similar to the subject's area and/or demographics such as income levels which is a factor for retail properties. The appraiser contended that the assessor's comparables are located in a much higher traffic area than the subject; he further opined that this East Riverside area was a high growth area of Rockford. Currier acknowledged that the assessing officials value the property based on a stabilized occupancy level for assessment purposes even though the subject property has never reached stabilized occupancy levels since its construction in 2005. Moreover, a neighboring property across the street from the subject also has never reached those stabilized occupancy levels and that nearby property is under completely different management from the subject property. As such, Currier contended that it was inappropriate to consider the subject property as having a stabilized occupancy level as of January 1, 2015 when such occupancy has never been achieved and, furthermore, to use a stabilized occupancy level developed for the entire Rockford metropolitan area which differs from the subject would be inappropriate.

Upon a question from the Administrative Law Judge, Currier expounded on his basis that the sale of the subject property should not be utilized as a comparable sale property in the sales comparison approach to value in an appraisal. He testified that appraisers seldom, if ever, use the sale of the subject as a comparable because there are other comparables that could be used, the property would need adjustments and, in this case, since the sale there have been tenants who have left and an increased crime rate. Currier also acknowledged that the sale of the subject property would be included in the report as part of the data.

On cross-examination, Ewing inquired of Currier why the appraiser gave greatest weight to the income approach in arriving at his estimated fee simple market value of the subject property as of January 1, 2015 of \$300,000. Currier explained that fair market value is defined as what a willing buyer and will seller considering an open market is willing to buy and sell a property for (where they meet; supply and demand). In estimating the market value of the subject property given its occupancy level, what the occupancy level has been historically and the occupancy level of other properties in that area, Currier's analysis concluded a length of time necessary to reach a stabilized level of occupancy. For the appraisal report, Currier gave greater weight to the income approach to value because it is more directly related to the actual income level of the property and the actual expenses of the property as of that given date.

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 on this record.

The Board has given reduced weight to the evidence presented by the Winnebago County Board of Review. As to the sales comparison approach to value prepared by Mike Smith of the township assessor's office, the Board finds the inclusion among the comparable sales of the 2013 sale of the subject property was inappropriate and not supported by standard appraisal techniques and methodology. The Board finds using the sale of the subject property in the sales comparison approach to be troubling at best and a methodology that is likely to lead to an artificial market value result. The Board finds that when there is a recent sale of a property that is the subject of a valuation question, the actual sale of that property should be analyzed to determine the arm's length nature of the transaction and whether the sale price was reflective of market value. As was evident in the record in this appeal, neither party deemed the subject's sale as an arm's-length transaction reflective of market value. The Board further finds the three other comparable sales considered by the township assessor are all superior to the subject in location as acknowledged by the adjustment process and testimony in the record. These factors detract from the credibility of the sales comparison approach presented by the board of review through the township assessor's office and the value conclusion derived using this data. Similarly, the Board finds the assessor's analysis in the income approach to value is not well-supported in the record and thus, the Board has given this data little weight in estimating the subject's market value.

The Board has also given little weight to the fee simple market value conclusion opined by Currier of \$300,000, because as part of the appraisal report, the appraiser performed an analysis of the subject's land value as if vacant. In the appraisal, Currier concluded a land value of \$350,000 or approximately \$2.75 per square foot of land area (Appraisal, p. 13-21) which is greater than Currier's final fee simple value conclusion concerning both the land and the improvement of \$300,000. The Board finds these inconsistent value conclusions as of January 1, 2015 call into question Currier's overall opinion of value. Moreover, the Board finds Currier's use of a discounted cash flow analysis as part of the appraisal process to be a speculative methodology.

Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Illinois Supreme Court has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970).

Although Currier's report stated that the sales comparison approach was utilized solely to develop the leased fee value of the subject property, the Board finds it necessary to examine the sales data in the record based on case law where comparable sales are the preferred method for valuing property. Having discounted the use of the board of review's comparable sales, the Board will consider the sales presented in the appellant's appraisal report. The Board finds the best evidence of market value to be consideration of the subject's sale price in September 2013 along with appraisal listings #8 and #9 that were closest in proximity to the subject property. The appraiser opined that the subject property has never reached stabilized occupancy since its construction and has been negatively impacted by crime that has occurred on the subject property and in the immediate area. The board of review did not dispute nor contradict the lack of

stabilized occupancy at the subject property or the crime stigma associated with the subject property. The appellant's appraiser articulated a valuation methodology to take into consideration these two critical factors of occupancy and crime in the course of valuing the subject property. The board of review did not meaningfully refute the details or the methodology utilized by the appellant's appraiser in analyzing the data available. On this record, the Board finds that the subject property is overvalued given its location and associated crime stigma.

The subject's assessment reflects a market value of \$667,999 or \$51.81 per square foot of building area, including land. The Board finds the subject property is overvalued based on the best comparable sales in the record and consideration of the recent sale of the subject property. As such, the Board finds a reduction in the subject's assessment is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code. Pursuant to Section 1910.50(b) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code §1910.50(b)) 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



Acting 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:

October 20, 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 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

AGENCY

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APPELLANT

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