



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

APPELLANT: Gus Zois
DOCKET NO.: 15-05409.001-C-2
PARCEL NO.: 06-17-316-007

The parties of record before the Property Tax Appeal Board are Gus Zois, the appellant, by attorney George N. Reveliotis, of Reveliotis Law, P.C., in Park Ridge; the DuPage County Board of Review; Glenbard Township High School Dist. #87, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C., in Chicago; and Helen Plum Library, Lombard Park District and Village of Lombard, intervenors, by attorney Scott L. Ginsburg of Robbins, Schwartz, Nicholas, Lifton & Taylor, 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$264,470
IMPR.: \$52,170
TOTAL: \$316,640

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 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 masonry commercial building containing approximately 5,584 square feet of building area on a slab foundation. The building was constructed in 1965 and had an addition constructed in 1983. The property has a 56,672 square foot site featuring 50 parking spaces and reflecting a land-to-building ratio of 10.15:1. As of the assessment date, the property was operated as Maxfield's restaurant. The property is located in Lombard, York Township, DuPage County.

The appellant through legal counsel contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a 76-page appraisal report prepared by Eric Sladcik, a

Certified General Real Estate Appraiser, estimating the subject property had a market value of \$610,000 as of January 1, 2015. The appraiser utilized both the sales comparison and income approaches to value in arriving at his opinion.

In the sales comparison approach, the appraiser analyzed sales of five comparable properties located in Lombard, Glendale Heights, Lisle or Oak Brook Terrace (summarized on pages 42 and 49). A map depicts the comparables are located from 1.79 to 4.54 miles from the subject property (page 43). The comparable commercial masonry buildings were all described as restaurants in average condition which range in size from 3,800 to 8,935 square feet of building area. The parcels range in size from 6,943 to 64,626 square feet of land area with parking spaces ranging from 12 to 101 and reflect land-to-building ratios ranging from 1.7:1 to 12.67:1. The sales occurred between July 2014 and October 2015 for prices ranging from \$227,900 to \$850,000 or from \$59.97 to \$121.22 per square foot of building area, including land. The appraiser made qualitative adjustments for size, location, land-to-building ratio, condition, and desirability/utility of +10% or +20% for comparables #1 and #3 and comparables #2 and #5, respectively, which resulted in adjusted sales prices ranging from \$71.96 to \$133.34 per square foot of building area, including land. From this data under the sales comparison approach, Sladcik estimated the subject had a market value of \$110 per square foot of building area, including land, or \$615,000, rounded (page 50).

Utilizing the income approach to value, the appraiser began with an analysis of five comparable rental units described as "retail storefront buildings" on page 52 of the appraisal report. The comparables were located in Lombard and were units ranging in size from 646 to 3,300 square feet of building area. The appraiser described these properties as being of similar utility as compared to the subject. These market rentals had rental rates ranging from \$13.93 to \$18.50 per square foot of building area on a gross basis. After analyzing the data, the appraiser opined a rental amount of \$18.00 per square foot annually for the subject or \$100,548, on a gross annual basis as potential income.

Sladcik reported area vacancy and loss levels range from 5% to 10%. For this appraisal report, he deducted 5% or \$5,027 for vacancy and collection loss which resulted in an effective gross income of \$95,520. Next, Sladcik at page 59 of the appraisal considered expenses. He estimated total expenses of \$20,002 consisting of an 8% management fee or \$7,641, \$2,000 for accounting and legal fees, \$2,234 for repairs and maintenance, \$1,955 for insurance, \$1,396 for reserves and 5% for leasing commissions or \$4,776, which then resulted in a net operating income estimate of \$75,518.

In order to derive a market value from this data, the appraiser then researched data using the band of investment formula and concluded a rate of 9.94%. Sladcik then added the tax load of 2.99% to conclude a weighted capitalization rate of 12.93%. When applied to the net operating income figure of \$75,518, resulted in an estimated market value under the income approach of \$585,000, rounded.

In reconciling the two approaches to value, Sladcik gave greatest weight to the sales comparison approach with secondary consideration to the income approach. From the data, the appraiser opined an estimated market value for the subject property as of January 1, 2015 of \$610,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$325,020. The subject's assessment reflects a market value of \$976,036, land included, when using the 2015 three year average median level of assessment for DuPage County of 33.30% as determined by the Illinois Department of Revenue.

Besides the submission of evidence supporting a market value conclusion of \$950,000, the board of review also proposed to reduce the subject's assessment to \$316,640 to reflect its data analysis. The proposed assessment reflects a market value of \$950,871 at the three-year median level of assessment. All parties to the appeal were informed of this proposed assessment reduction and attorneys for the intervenors each acknowledged their respective client's acceptance of the reduced assessment. Counsel for the appellant, however, rejected the proposed reduced assessment.

In support of its contention of a reduced assessment, the board of review through the township assessor submitted information related to an estimate of market value based upon comparable sales and an estimate of market value based upon the income approach.

For the comparable sales, the assessor summarized sales of six comparable properties located in Elmhurst, Oakbrook Terrace, Villa Park, Burr Ridge and Glendale Heights. The parcels range in size from 22,605 to 54,990 square feet of land area and have been improved with buildings that range in size from 4,158 to 8,116 square feet of building area. The buildings were built between 1920 and 2009; comparables #3, #4 and #5 had been renovated/remodeled variously from 1971 to 1988. The sales occurred between December 2014 and April 2016 for prices ranging from \$605,000 to \$2,050,000 or from \$121.36 to \$314.36 per square foot of building area, including land. At pages 16 and 17 of the data, the assessor outlined necessary qualitative adjustments for market conditions, age, condition, building size, land-to-building ratio and location. The assessor concluded that four of the sales required upward adjustments and two of the sales warranted downward adjustments (see page 18). From the data, the assessor concluded an estimate for the subject property of \$175.00 per square foot of building area, including land or a market value of \$977,200 or \$980,000, rounded based upon this comparable sales data.

For an income approach to value, the assessor analyzed seven comparable restaurant properties located in Lombard, Wheaton, Lisle, Downers Grove, Warrenville, Oakbrook Terrace and Villa Park. Three of the comparables were free-standing restaurants and four the comparables were described as multi-tenant retail or restaurant properties. The comparables ranged in size from 2,400 to 7,003 square feet of building area and ranged in age from "new" to 90 years old. The comparables had rental rates ranging from \$15.00 to \$31.40 per square foot of building area on a triple net, modified gross or gross basis. After making adjustments for factors such as age, size, condition, building features and location as described on page 21 of the analysis, the assessor estimated a fair rental value for the subject of \$27.50 per square foot of building area, gross or \$153,560 as potential gross income.

Given 4th quarter 2014 vacancy rates of 7.5% to 8.5%, the assessor deducted 8.5% or \$13,053 for vacancy and collection loss. This deduction resulted in an effective gross income of \$140,507. Next the assessor estimated expenses for management of 5% or \$7,025, insurance of \$2,234, maintenance of \$16,752, reserves for replacement of \$3,350 and legal & professional fees of

\$2,500 which totaled \$31,861. After deduction of the expenses, the assessor set forth a net operating income estimate of \$108,646.

The assessor researched data and developed a capitalization rate of 9% and added the effective tax rate of 3.08% resulting in a loaded capitalization rate of 12.08% which, when applied to the net operating income figure, resulted in an estimated market value under the income approach of \$900,000, rounded.

On page 30 of the documentation, the assessor reconciled the two value conclusions and gave substantial weight to the sale comparison conclusion with secondary consideration to the income approach data. From this analysis, the assessor estimated the subject had a market value of \$950,000.

Based on this evidence, the board of review proposed to reduce the subject's assessment to reflect the assessor's estimate of market value of approximately \$950,000.

Intervening taxing district Glenbard Township High School Dist. #87 through counsel adopted and affirmed the board of review's evidentiary submission in this matter and filed no additional evidence of its own.

Intervening taxing districts Helen Plum Library, Lombard Park District and Village of Lombard through counsel filed Exhibits B through M consisting of printouts concerning the appellant's appraisal's five comparable sale properties "retrieved from CoStar" along with additional supporting documentation and counsel's letter discussing the data. Appraisal sale #1 was 100% leased at time of sale; #2 concerning an April 2016 sale was reportedly a distressed property sold at auction; #3 was an REO sale after the property was vacant for four years; #4 was not advertised prior to sale; and #5 was a leased-fee sale.

In support of the subject's assessment, these aforesaid intervenors jointly filed Exhibit A consisting of CoStar printouts concerning five suggested comparables to support the subject's assessment. None of this data was summarized in a grid analysis for consideration. The attachments depict four of the buildings were built between 1971 and 1981. The parcels range in size from 12,001 to 43,560 square feet of land area and have been improved with buildings that range in size from 1,452 to 4,043 square feet of building area. Counsel's brief stated these comparables sold between June 2013 and June 2015 for prices ranging from \$202.33 to \$475.21 per square foot of building area, including land.

Based on the foregoing evidence and argument, unless the parties agree to the proposed assessment reduction that was proposed by the board of review, these intervenors seek confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant objected to the board of review's evidence noting that no adjustments were applied to the data as compared to the appellant's submission of an appraisal with all of the analysis and adjustments set forth. As to the evidence presented by the intervenors Helen Plum Library, Lombard Park District and Village of Lombard through counsel the submission lacks data as to whether the properties were inspected and furthermore, appellant's counsel outlined criticisms of each of the five sales presented by the intervenors. As

to sale #1, there was no buyer broker involved in the transaction; sale #2 does not appear to have been listed on the open market and no brokers were listed for either party along with notations the property was converted to a title insurance office and is much smaller than the subject; sale #3 was purchased without any brokers and the intention to open a new Hardee's; sale #4 was purchased with the intent to demolish and build a new structure; and sale #5 is a smaller fast food restaurant that is not comparable to the subject.

Conclusion of Law

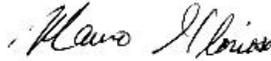
The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist 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 Board finds the best evidence of market value to be the analysis submitted by the board of review consisting of comparable sales that were most similar to the subject property. In particular, the Board has given most weight to board of review sales #2 and #3 along with some weight to sales #5 and #6 where sale #6 was the same property as appellant's appraisal sale #3 that was reportedly an REO sale of a property that had been vacant for four years prior to its sale. These board of review comparable sales sold between February 2014 and July 2015 for prices ranging from \$121.36 to \$240.50 per square foot of building area, including land.

The Board has given reduced weight to the appellant's appraisal due to the lack of comparability of the majority of both the sales and rental comparables when compared to the subject property. The Board finds that the comparables in the appellant's appraisal report differed substantially in size, age and/or land area when compared to the subject and which therefore resulted in an under valuation of the subject property. The Board has also given little weight to the comparable sales data presented by the intervenors Helen Plum Library, Lombard Park District and Village of Lombard since the data was shown in rebuttal to be dissimilar to the subject property.

The subject's assessment reflects a market value of \$976,036, including land, which is above the range established by the best comparable sales in the record presented by the board of review. Based on this evidence, the Board finds a reduction in the subject's assessment commensurate with the proposal made by the board of review is justified.

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: June 19, 2018



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year or years of the same general assessment period, as provided in Sections 9-125 through 9-225, are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for such subsequent year or years directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR OR YEARS. A separate petition and evidence must be filed for each of the remaining years of the general assessment period.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.

PARTIES OF RECORD

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