FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Ronald L. Boorstein
DOCKET NO.: 16-02334.001-C-2
PARCEL NO.: 15-06-203-011

The parties of record before the Property Tax Appeal Board are Ronald L. Boorstein, the appellant, by attorney Brian S. Maher, of Weis, DuBrock, Doody & Maher, in Chicago, and the Lake 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 **Lake** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$195,757
IMPR.:	$120,883
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 Lake County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2016 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property is improved with a one-story masonry and siding fast food restaurant that contains 3,840 square feet of building area. The building was constructed in 2008. The property has poured reinforced concrete foundation walls and footings. The exterior walls are a mixture of stone, siding and dryvit over wood studs with fixed aluminum frame windows in the dining area. The dining area has a 9 to 10 feet clear ceiling height and the kitchen has a 7 to 10 feet clear ceiling height. The dining area has a mixture of suspended acoustical tile and painted drywall ceilings with recessed and suspended incandescent lighting; carpeting and ceramic tile floors; and wood frame partitions. The serving area contains some ceramic tile wall cover and suspended 'marlite' panel ceiling finishes. The kitchen and food preparation areas are finished with suspended 'marlite' panel ceilings with recessed florescent lighting, ceramic and rubber tile floors and 'marlite' panel walls. The entire building is heated and air conditioned with roof-top package units. The building is 100% sprinklered with a wet-type sprinkler system. The subject has one men’s restroom and one women's washroom for customers as well as one unisex employee washroom. The property has asphalt parking for 36 vehicles and a drive-thru lane. The property has a site with approximately 41,002 square feet of land area resulting in a land to building ratio of 10.68:1. The subject property is located on an out-lot within the Oak Creek Plaza shopping center in Mundelein, Vernon Township, Lake County. The property is being used as a Culver’s restaurant.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of $750,000 as of January 1, 2014. The appraisal was prepared by Jason D. Zaley, a state Certified General Real Estate Appraiser, with Maresh, Zaley & Associates, Inc.

The appraiser stated within the report that he made an inspection of the subject property on May 28, 2015. The purpose of the appraisal was to render an opinion of the retrospective market value of the fee simple interest. The property rights appraised are the fee simple title, free and clear of all encumbrances. The intended use of the appraisal was to provide an opinion of market value of the subject property as of January 1, 2014 for tax assessment appeal purposes. The appraiser stated as of the date of valuation, the majority of the Oak Creek Plaza shopping center was vacant and deteriorating, thereby affecting the economic vitality of this section of Mundelein.

In describing the improvements, the appraiser reported the building area was estimated from onsite measurements by the appraiser. The appraiser determined the highest and best use as vacant to be for commercial development that complies with the C-4, Shopping Center District zoning requirements. The highest and best use of the property as improved was determined to be its current use.

In estimating the market value of the subject property, the appraiser developed the three traditional approaches to value. The first approach to value developed by the appraiser was the cost approach. The appraiser estimated the value of the land using four comparable land sales located in Vernon Hills, Libertyville, Mundelein and Lake Zurich. The comparables ranged in size from 58,370 to 87,991 square feet of land area. The comparables sold from February 2010 to September 2013 for prices ranging from $4.75 to $17.13 per square foot of land area. The appraiser made qualitative adjustments to the comparables for differences from the subject to arrive at an estimated market value for the land of $10.00 per square foot of land area and a total land value of $410,000, rounded.

The appraiser used replacement cost new of the subject improvements based on the Marshall and Swift Computerized Cost Estimate Program for a Class D construction quality fast food restaurant, which was estimated to be $207.06 per square foot of building area. The cost new of the building structure was estimated to be $795,098. The appraiser estimated entrepreneurial profit to be 5% of cost new or $39,755 resulting in a total cost new of $834,853.

The appraiser reported that Marshall and Swift Computerized Cost Estimate Program stated the subject improvement, if properly maintained, could have a total economic life in excess of 30 years. The appraiser noted the subject building was only 6 years old but estimated the effective age to be 15 years due to the distressed nature of the Oak Creek Plaza shopping center. The appraiser estimated the subject property had an estimated remaining economic life of 15 years. Using the age life method, the appraiser estimated the subject property had accrued depreciation of 50%. Using the breakdown method, the appraiser estimated the subject property had 25% physical depreciation; 5% functional obsolescence; and 30% economic obsolescence resulting in total depreciation of 60%. The appraiser determined the subject suffered from 60% accrued depreciation.

The appraiser estimated the site improvements had a replacement cost of $100,000 and suffered from 60% depreciation resulting in a depreciated value of the site improvements of $40,000.

Adding the depreciated value of the subject building of $333,941, the depreciated value of the site improvements of $40,000 and the land value of $410,000, the appraiser arrived at an estimated value under the cost approach of $785,000, rounded.

The appellant's appraiser next developed the sales comparison approach to value using five comparable sales improved with one-story buildings that range in size from 2,400 to 5,171 square feet of building area. The comparables were located in Mundelein, Round Lake Beach, and Lindenhurst. The comparables were constructed from 1969 to 2000 and each was used as a fast food restaurant. The comparables had land to building ratios ranging from 3.27:1 to 14.72:1. These properties sold from March 2010 to January 2014 for prices ranging from $400,000 to $1,100,000 or from $107.58 to $458.33 per square foot of building area, including land. The appraiser made a $550,000 adjustment to comparable #2 for investment value resulting in an adjusted sales price of $550,000 or $229.17 per square foot of building area, including land. The appraiser made qualitative adjustments to the comparables for various factors and differences from the subject property. The appraiser stated within the report that statistically the unit prices ranged from $107.58 to $247.10 per square foot of building area with a mean unit price of $165.76 per square foot and a median unit price of $124.10 per square foot. The appraiser asserted that improved sale #2 with a unit price of $229.17 per square foot of building area required no overall adjustment due to offsetting factors. The appellant's appraiser estimated the subject property had a market unit value of $200.00 per square foot of gross building area, land included, for a total estimated market value under the sales comparison approach of $770,000.

The final approach developed by the appellant's appraiser was the income approach to value. The appraiser identified five rental comparables located in Lake Zurich, Lindenhurst and Wauconda improved with three fast food restaurants, a sit-down restaurant and in-line retail space ranging in size from 2,135 to 3,740 square feet of building area. The comparables were constructed from 1920 to 2000 and had net rents ranging from $10.05 to $17.87 per square foot of building area. The appraiser made qualitative adjustments to the comparables and noted rental comparables #1, #2 and #5 had offsetting adjustments, comparable #3 was much inferior to the subject requiring an upward adjustment, and comparable #4 was inferior to the subject requiring an upward adjustment.

The appraiser noted that the subject's lease, which originated in January 2012 for a 5-year term, had a contract base rent of $21.88 per square foot, semi-gross along with 7% of gross revenue from the preceding year beginning March 1, 2013. However, the lease also states the rental includes all furniture, fixtures and equipment. The appraiser concluded the contract is a business lease and not a lease of the real estate, therefore, the current contract rent is not representative of the current open market level rent.

The appraiser estimated the subject's market rent would be $17.00 per square foot on a net basis resulting in a potential gross income of $65,280. The appraiser estimated the subject property would have a vacancy and collection loss of 10% of potential gross income or $6,528 resulting in an effective gross income of $58,752.

With respect to expenses the appraiser explained the analysis uses a net lease rate, therefore, a majority of the expenses are incurred by the tenant/lessee with the exception of a management feet and reserves for replacement. The appraiser estimated the subject property would have a management fee of 3% of effective gross income or $1,763. The appraiser also estimated the reserves for replacement would be $.20 per square foot or $768. Deducting the expenses resulted in a net operating income of $56,221.

The appraiser next estimated the capitalization rate to be applied to the subject's net income. Using the band of investment technique, the appraiser arrived at an overall capitalization rate of 9.6%. The appraiser also used published sources such as *Korpacz Real Estate Investor Survey* and *Real Estate Research Corporation (RERC) Real Estate Report*. The appraiser stated that *Korpacz Real Estate Investor Survey* for the fourth quarter of 2013 the National Strip Shopping Center market for class A properties reported a range from 5.0% to 10.0% and an average of 6.98%. The appraiser further indicated *RERC* reported rates for Second Tier/Community Shopping Center properties in the Midwest region for the fourth quarter of 2013 had rates ranging from 7.0% to 12.0% and an average of 8.9%. The appellant's appraiser arrived at an estimated overall capitalization rate for the subject property of 8.0%. Capitalizing the net income resulted in an estimated value under the income capitalization approach of $705,000.

In reconciling the three approaches to value, the appraiser asserted in the report that, “It should be noted that as of the date of valuation, the majority of the Oak Creek Plaza shopping center was vacant and deteriorating; thereby affecting the economic vitality of this section of Mundelein. The appraiser gave least emphasis to the cost approach to value. The sales comparison approach was given primary emphasis. The income approach was considered reliable and was also given ample weight toward the conclusion. Based on this evidence the appraiser arrived at an estimated market value of $750,000 as of January 1, 2014.

Based on the foregoing evidence, the appellant requested an assessment for 2016 reflective of the appraised value conclusion at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $363,653. The subject's assessment reflects a market value of $1,096,662 or $285.59 per square foot of building area, land included, when using the 2016 three year average median level of assessment for Lake County of 33.16% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on four comparable sales improved with one-story commercial buildings that ranged in size from 4,756 to 6,460 square feet of building area. Comparables #1, #2 and #4 were constructed in

1986, 1980 and 2003, respectively. Comparable #3 was described as being renovated in 2015. These comparables were located in Vernon Hills, Buffalo Grove and Libertyville with sites ranging in size from 33,999 to 100,887 resulting in land to building ratios ranging from 5.81:1 to 15.81:1. These properties sold from July 2014 to July 2016 for prices ranging from $1,250,000 to $3,200,000 or from $213.68 to $425.70 per square foot of building area, including land.

The board of review provided the reports for the comparable sales it utilized. The data for comparable sale #3 noted that the property had been renovated in 2015 and had a new, 10-year, triple net leases to two tenants, Dunkin Donuts and CorePower Yoga. The data sheet also reported that this property had previously sold in December 2014 for a price of $850,000 or $131.58 per square foot of building area, including land, considerably less than the July 2016 sale for $2,750,000 or $425.70 per square foot of building area. The data sheet for comparable #4 described the conditions of the sale as being a sale-leaseback, investment triple net. The transaction notes for sale #4 stated the tenant signed a 20-year absolute net lease.

In rebuttal, the board of review provided a written narrative from Martin Paulson, the Lake County Chief County Assessment Officer and Clerk of the Board of Review. Paulson asserted that appraisal land sale #3 was a bank REO sale of four parcels with 104,632 square feet. Paulson described this property as including a parking lot and three waterfront lots with significant portions of the lots being lake bottom. He noted the sale price was $2.65 per square foot of land area and contends this sale should not be considered when arriving at the land value and argued the remaining land sales had unit values ranging from $11.65 to $17.13 per square foot of land area, which supports the current land assessment.

Paulson also questioned the effective age of the subject property as estimated by the appellant's appraiser of 15 years when the building has a chronological age of 6 years.

With respect to the appellant's sales comparison approach, Paulson asserted comparable sale #1 sold almost six years prior to the assessment date; comparable sale #3 was a dormant foreclosure due to a bankrupt franchisee; comparable #4 was a stigmatized property as the result of an on-site homicide which resulted in closing of the restaurant by the franchisee; and comparable #2 sold for a price of $1,100,000 or $458.33 per square foot of building area, as reflected on the PTAX-203 Illinois Real Estate Transfer Declaration. The board of review also contends that appellant's appraisal comparable sale #5 sold for $247.10 per square foot of building area and is supportive of the subject's assessment.

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

<u>Conclusion of Law</u>

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the evidence in the record supports a reduction to the subject's assessment.

The appellant submitted an appraisal estimating the subject property had a market value of $750,000 as of January 1, 2014. The board of review submitted information on four comparable sales in support of the subject's assessment. The subject's assessment reflects a market value of $1,096,662 or $285.59 per square foot of building area, including land.

The Board finds the appellant's appraisal contained an estimate of market value that predated the assessment date at issue by two years. There was no statement from the appellant's appraiser that the value of the subject property would remain the same from January 1, 2014 to January 1, 2016, which detracts from the weight that can be given the conclusion of value contained in the report.

The appellant's appraiser gave most credence to the sales comparison approach in arriving at his opinion of market value. In reviewing the appraisal, the Board finds only one of the appellant's appraiser's sales occurred proximate in time to the assessment date at issue. Appraisal comparable sale #5, composed of a one-story masonry fast food restaurant with 2,934 square feet of building area built in 2000, sold in January 2014 for a price of $725,000 or $247.10 per square foot of building area, including land. The remaining comparables sold in 2010, 2012 and 2013, which are not proximate in time to the assessment date and detracts from the weight that can be given these sales. Additionally, the appellant's appraiser made a significant deduction to the purchase price to sale #2 for investment value, which was not supported with any data in the record. The board of review provided copies of the PTAX-203 Illinois Real Estate Transfer Declaration and PTAX-203-A Illinois Real Estate Transfer Declaration Supplemental Form A associated with appraisal comparable sale #2 disclosing that the purchase price was $1,100,000. There was no deduction for personal property on the transfer declaration and the parties indicated on the supplemental form that the $1,100,000 reflected as the net consideration is a fair reflection of the market value on the date of sale. These forms undermine the appraiser's deduction of $550,000 as the investment value for comparable sale #2.

With respect to the sales provided by the board of review, the Board gives less weight to sales #3 and #4. A review of the data associated with board of review sale #3 disclosed that this property sold in July 2016 for a price of $2,750,000 or $425.70 per square foot of building including land. The transaction notes provided by the board of review disclosed this property had been renovated in 2015 and sold with a new 10-year, triple net lease. This information indicates this was a sale of a leased fee and may not be indicative of fair cash value, especially in light of the fact the documents provided by the board of review disclosed this property previously sold in December 2014 for a price of $850,000 or $131.58 per square foot of building area, including land. This property had a capitalization rate of 7.21% at the time of sale. With respect to board of review sale #4, the documents provided by the board of review reported that this was a sale leaseback transaction where the tenant signed a 20-year absolute net lease with 20% increases every five years and four, five-year options to renew. The documentation disclosed this property had a 6.00% capitalization rate at the time of sale. This transaction appears to be in the nature of a financial transaction and not reflective of the fair cash value of the real estate. Additionally, this property sold in June 2015 for a price of $3,200,000 or $672.41 per square foot of building area, which appears to be an outlier and not reflective of the fair cash value of the real estate when compared to the other sales in the record.

The two remaining sales provided by the board of review sold in 2014 and 2015 for prices of $1,250,000 and $1,455,000 or $213.68 and $228.06 per square foot of building area, including land, respectively. These two sales along with appraisal comparable sale #5 sold for prices ranging from $213.68 to $247.10 per square foot of building area, including land. The subject's assessment reflects a market value of $285.59 per square foot of building area, including land, which is above that established by these comparables on a square foot basis. These sales support the conclusion the subject property is overvalued. However, given that the subject building is superior to these buildings in age, a value at the high end of the range is appropriate.

With respect to the cost approach developed by the appellant's appraiser, the board of review asserted that land sale #3 was a bank REO sale of four parcels with 104,632 square feet. Paulson described this property as including a parking lot and three waterfront lots with significant portions of the lots being lake bottom and the sale price was $2.65 per square foot of land area. Excluding this land sale, the three remaining land comparables have prices ranging from $11.65 to $17.13 per square foot of land area. The subject's land assessment of $183,070 reflects a market value of approximately $549,210 or $13.39 per square foot of land area, which is well supported given these sales. The Board finds the appellant's appraiser understated the land value in the cost approach which resulted in the estimated value under the cost approach to be understated. The Board further finds the appellant's appraiser provided no support for the 5% reduction from the cost new of the improvements for functional obsolescence as he failed to identify the items of functional obsolescence associated with the building. Likewise, the appellant's appraiser provided no support to justify the 30% reduction for external obsolescence. As a result, the Board gave little weight to the appraiser's conclusion of value under the cost approach.

With respect to the income approach to value, the data used to compute the capitalization rate related to the fourth quarter of 2013 and were not shown to be reflective of the capitalization rates as of January 1, 2016. Additionally, two sales provided by the board of review had capitalization rates of 6.00% and 7.21%, which call into question the appellant's appraiser's estimated capitalization rate of 8.0%. As a result, the Board gave less weight to the conclusion of value under the income approach to value in the appellant's appraisal.

Based on this evidence, and considering the best sales in the record, the Board finds a reduction in the subject's assessment 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:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: June 16, 2020

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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