



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

APPELLANT: Brian Guldbek
DOCKET NO.: 16-03478.001-C-1
PARCEL NO.: 11-16-400-040

The parties of record before the Property Tax Appeal Board are Brian Guldbek, the appellant, by attorney Ronald Kingsley, of Lake County Real Estate Tax Appeal, LLC in Lake Forest, and the Lake County Board of Review.

Based on the facts and exhibits presented in this matter, the Property Tax Appeal Board hereby finds ***No Change*** 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: \$87,357
IMPR.: \$36,615
TOTAL: \$123,972

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 consists of a two-story single-tenant medical office building (residential style) containing 2,299 square feet of building area. The building was constructed in 1900 and has a reported effective age of 30 years. The property has a 24,394 square foot site and is located in Libertyville, Libertyville Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an Income and Expense "method" prepared by counsel along with information on three comparable sales.

An estimate of value was developed by Attorney Kingsley using the subject's income and expense history for 2013 through 2015. To demonstrate or estimate the subject's market value using an income approach one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The submission also included a sheet setting forth four lease comparables with rents of \$18 or \$20 per square foot. As set forth in a one-page analysis and using a \$19 per square foot market rent, the reported total annual income for each year for the subject was either \$39,313 or \$43,681. Vacancy and collection loss of 10% annually was assumed. Total annual expenses were either \$3,984 or \$12,387 which resulted in net operating income of either \$39,697 or \$26,926. The analysis page has some capitalization rate data summarized. Counsel stated an 8.5% capitalization rate was chosen "based upon the Board of Review's Suggested Overall Cap Rate Range for Non-Institutional Grade Properties" and thus the analysis applied an 8.5% capitalization rate with a tax load resulting in loaded overall capitalization rates for each year ranging from 11.21% to 11.24% resulting in an estimated value of \$320,000.

A grid analysis of three comparables was also presented. The comparable buildings range in size from 1,450 to 2,500 square feet of building area. The comparables sold in January or November 2015 for prices ranging from \$135,000 to \$245,000 or from \$54.00 to \$168.97 per square foot of building area, including land.

Based on the subject's age, income generating potential and comparable sales, the appellant requested a value of \$240,000 or \$104.39 per square foot for the subject property.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$123,972. The subject's assessment reflects a market value of \$373,860 or \$162.62 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 response to the sales presented by the appellant, the board of review noted that comparable #1 is a condominium unit and was part of a multi-unit sale where one unit was sold as a shell requiring build out. Sale #3 presented by the appellant supports the subject's current estimated market value. The board of review acknowledged the submission of an income approach to value, but noted that the subject is an owner occupied property.

In support of its contention of the correct assessment the board of review submitted information on three comparable sales of detached residential-style commercial/office properties where comparable #3 is the same property as appellant's comparable #3. The comparable parcels range in size from 9,000 to 17,902 square feet of land area and have been improved with either one-story or 1.5-story buildings that range in size from 953 to 1,854 square feet of building area. The comparables sold between November 2015 and December 2016 for prices ranging from \$245,000 to \$350,000 or from \$170.14 to \$314.79 per square foot of building area, including land.

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

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 did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses unconvincing and not sufficiently supported by market derived evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value."

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not sufficiently demonstrate through any evidence or documentation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant provided very little, if any, factual support for the income and expense analysis prepared by Attorney Kingsley; therefore, the Property Tax Appeal Board gives this argument no weight. The Board further finds problematic the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion evidence of value for that client's property.

The parties submitted a total of five comparable sales to support their respective positions before the Property Tax Appeal Board, with one common property presented. The Board has given reduced weight to board of review comparable #1 due to its substantially smaller building size when compared to the subject property.

The Board finds the best evidence of market value to be the appellant's comparable sales along with board of review comparable sales #2 and #3, where the parties' sale #3 is the same property. The comparables range in size from 1,440 to 2,500 square feet of building area. These four most similar comparables sold between January 2015 and December 2016 for prices ranging from \$135,000 to \$350,000 or from \$54.00 to \$188.78 per square foot of building area, including land. The subject's assessment reflects a market value of \$373,860 or \$162.62 per square foot of building area, including land, which is within the range established by the best comparable sales in this record on a per-square-foot basis. After considering adjustments and the differences in the best suggested comparables when compared to the subject property, the Board finds a reduction in the subject's assessment is not 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



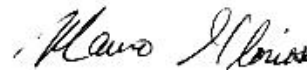
Member

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: December 23, 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

AGENCY

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