FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Nornat, Inc.
DOCKET NO.: 16-25426.001-C-1 through 16-25426.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Nornat, Inc., the appellant(s), by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. in Chicago; and the Cook 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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
16-25426.001-C-1	28-11-123-008-0000	5,265	2,148	$7,413
16-25426.002-C-1	28-11-123-009-0000	5,265	1,616	$6,881
16-25426.003-C-1	28-11-123-010-0000	5,265	2,202	$7,467
16-25426.004-C-1	28-11-123-042-0000	44,869	151,911	$196,780

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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 contains an eleven year-old, one-story commercial building of masonry construction with 4,006 square feet of building area. The building was utilized as a fast food restaurant. Features of the building included a kitchen, drive-through and two washrooms. The property has a 34,279 square foot site located in Bremen Township, Cook County. The property is a Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The parties waived hearing and requested the Board to decide the appeal on the documentary evidence submitted.[1]

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal utilizing the sales comparison and income capitalization approaches of valuation. The appraisal estimated the subject property had a reconciled market value of $690,000 as of January 1, 2014. The appellant requested a total assessment reduction to $172,500 when applying the 2016 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $218,541. The subject's assessment reflects a market value of $874,164 when applying the 2016 level of assessment of 25.00% for Class 5 property under the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on seven unadjusted suggested sale comparables, each of which was a fast food restaurant. These seven properties were sold from 2011 through 2016 and ranged from $193.33 to $628.48 per square foot of building area including land.

In rebuttal, the appellant filed a one-page brief to reaffirm the request for an assessment reduction.

William Shulman (hereinafter, "Shulman") of the firm Property Valuation Services appraised the subject's fee simple property rights. The subject was a franchise fast food operation leased from McDonald's Corporation. Shulman prepared his appraisal report based on the income capitalization and sales comparison approaches.

To develop the income capitalization approach, Shulman selected five comparable rental properties, two of which did not have actual rental agreements but were based on asking rates. None of these properties were franchise operations. The actual rental rates ranged from $15.00 to $19.75 per square foot. Shulman calculated a potential gross income of $81,320. He selected a stabilized vacancy rate of 10.00% based on his analysis of general retail building vacancy rates in the area, resulting in an effective gross income of $73,188. After subtracting expenses, the projected net operating income was $60,562. Shulman considered national and local capitalization rates, and applied a 9.00% capitalization rate by using the band of investment technique. He considered local conditions of fast food restaurants and general commercial properties that included properties that were not restaurants. Shulman did not determine a tax load by accounting for real estate taxes. Shulman included a paragraph in his report that the subject's market value may have been affected by a business enterprise value that would include analysis of furniture, fixtures and equipment and other intangible items such as franchise fees and rights. However, he did not isolate a business enterprise value to estimate the market value

[1] The appellant also appealed the subject's assessment in #2014-22997 and #2015-24403. Hearing was conducted on #2014-22997. By stipulation by the parties, the testimony given in #2014-22997 was made part of the record for #2015-24403. The Board's database disclosed that the parties waived hearing for the instant appeal (#2016-26426) and requested the Board to decide that case only on the documentary evidence previously submitted. The parties confirmed this waiver when they appeared for hearing on #2014-22997.

of the fee simple property. By dividing the resulting capitalization rate of 9.00% into the net operating income of $60,562, Shulman arrived at an estimated total value based on the income capitalization approach of $672,911, rounded upward to $675,000.

Shulman relied most on the sales comparison approach. To develop this approach, he selected seven improved sales of commercial properties. These comparable properties sold from January 2012 through December 2013 for prices ranging from $109.92 to $177.78 square feet of building area, including land. These seven sale comparables had the following characteristics:

1) Built in 1963, was not built as a fast food restaurant, but was sold as one without a drive-through in 2012;
2) Built in 1969 and was not a fast food restaurant;
3) Built in 1963, was a restaurant but not a fast food one, was not a franchise and did not have a drive-through;
4) Built in 1995 as a fast food restaurant without a drive-through;
5) Built in 1976 as a restaurant but not a fast food one, was not a franchise and did not have a drive-through;
6) Built in 1983 as a restaurant but not a fast food one, was not a franchise and did not have a drive-through;
7) Built in 1975 as a restaurant but not a fast food one, was not a franchise and did not have a drive-through.

Shulman's appraisal report included a few paragraphs of narrative about adjustments he made to the comparables for time, location, physical characteristics, age, condition and land-to-building ratios. Shulman did not include detailed quantitative adjustments in support of his narrative. He opined that the subject had a market value of $170.00 per square foot of building including land based on the sales comparison approach. Shulman arrived at a total market value based on the sales comparison approach of $691,220, rounded to $690,000.

Shulman did not develop a cost approach analysis because there were few recent land sales. He opined that buyers and sellers do not typically rely on this approach because it would have been highly speculative with a fast food restaurant. Shulman opined that a fast food restaurant has about a 20-year life span. The subject was eleven years-old during the lien year.

Shulman reconciled the estimated market values of the two developed approaches. He gave the most weight to the sales comparison approach. He estimated the subject's reconciled fair market value to be $690,000 as of January 1, 2014.

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 appraisal to be unreliable. Shulman appraised the subject assuming it had a fee simple interest in the property. However, the subject had a leased fee interest as a franchise rental of the property. At least four of the sale comparables Shulman selected to develop his sales comparison approach were not franchise operations, and only one had been built as a fast food restaurant. Although Shulman's report disclosed that a fast food restaurant had a 20-year life span, the sale comparables he selected ranged in age from 1963 through 1995. In contrast, the subject fast food restaurant was only eleven years old. As for Shulman's development of the income capitalization approach, none of his five selected comparables were franchises. Two of these were not closed sales, but were based only on rental asking prices. Shulman's vacancy factor was based on national, not just local, general retail properties of various types, not on fast food restaurants. To calculate a capitalization rate, Shulman first considered national general retail property investment returns, rather than solely considering local restaurant returns, and did not include a tax load in his overall capitalization rate. Shulman's report disclosed that he did not develop a cost approach because the functional obsolescence would have been highly speculative due to the eleven-year age of the subject.

Considering that the appellant's appraisal report lacks sufficient reliability, the Board accords no weight to the opinions and conclusions contained herein. However, the Board may look to the raw data presented by the parties to establish a range of comparable sales. The appraisal disclosed raw data of seven sales for the sales comparison approach. The board of review disclosed seven closed sales. The Board finds the board of review's comparables #2, #3 and #4 were the best comparables. These comparables ranged from $350.00 to $628.48 per square foot of building area including land. They were similar in size, usage, and were close in proximity. Each of these properties was a leased business operation, as was the subject. Comparable #2 was sold in 2014 for $628.48 per square feet of building area; comparable #3 was sold in 2016 for $350.00 square feet; and comparable #4 was sold in 2013 for $578.10 square feet. The subject's assessment reflects a market value of $214.99 per square foot of building area including land, which is below the range established by the best comparable sales in this record. Therefore, after considering all the evidence, the Board finds the appellant has failed to sustain its burden of proof by a preponderance of the evidence and that a reduction in the subject's assessment is not 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(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: November 20, 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

AGENCY

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

Nornat, Inc., by attorney:
Arnold G. Siegel
Siegel & Callahan, P.C.
20 North Clark Street
Suite 2200
Chicago, IL 60602

COUNTY

Cook County Board of Review
County Building, Room 601
118 North Clark Street
Chicago, IL 60602