FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Alex Deligiannis
DOCKET NO.: 17-00360.001-C-1
PARCEL NO.: 06-32-476-008

The parties of record before the Property Tax Appeal Board are Alex Deligiannis, the appellant, by attorney George N. Reveliotis, of Reveliotis Law, P.C. in Park Ridge, and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$134,976
IMPR.:	$169,994
TOTAL:	$304,970

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2017 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, free-standing, retail strip shopping center of brick, block and concrete exterior with 8,508 square feet of gross building area. The building was constructed in 2004, has approximately 8,500 square feet of net rentable building area and is configured as five units. Features include a concrete slab foundation; each unit has air conditioning and there is a wet sprinkler system. The property has a 1.44-acre or 62,726 square foot site resulting in a land-to-building ratio of 7.4:1. The subject is located in South Elgin, Elgin Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal report prepared by Gerry D. Bertacchi, a Certified General Real Estate Appraiser. The appraiser utilized two of the three traditional approaches to value in estimating that the subject property had a market value of $915,000 or $107.55 per square foot of building area, including land, as of January 1, 2017.

The property rights appraised were fee simple and the purpose of the appraisal was to arrive at an estimate of the subject's fair market value for purposes of a real estate tax appeal.

As to the subject property, the appraiser reported one of the units was vacant as of the lien date and the property is in average condition. The vacancy accounts for 15% of the gross rentable building area and 20% of the subject based upon the number of units. The appraiser wrote that the center is anchored by Pita BBQ, a local Kebob and Shawarma restaurant, which has a very busy lunch service and has the most exposure to the south and west with a corner space of the building. In describing the subject property, Bertacchi also reported the property is accessed via entry to a larger shopping center on which the subject is an out-lot. (Appraisal, p. 27-30)

The appraiser considered all three approaches to value for the report. As to the cost approach, the appraiser noted it was not applied due to a lack of available land sales in the subject's immediate area and due to the subjectivity of depreciation estimates. Bertacchi further noted that the cost approach was typically not a consideration for buyers and sellers. The appraiser did utilize both the income and sales comparison approaches to value. (Appraisal, p. 14 & 34)

Using the income approach to value, the appraiser analyzed twelve rental comparables located in Elgin, South Elgin, North Aurora and Aurora. The comparables were described as retail or office/retail buildings that range in size from 700 to 9,600 square feet of building area. The rental comparables had rental rates ranging from $7.50 to $19.44 per square foot of building area on a net basis to $7.20 to $18.00 per square foot on a gross or modified gross basis Bertacchi reported the subject leases vary with modified gross lease amounts per square foot ranging from $22.50 for the largest space to $28.36 for the smallest occupied space. The appraiser noted that the subject leases "appear to have somewhat outpaced the market rental rates." Based on the rental comparables, Bertacchi projected market rent on a modified gross basis for the subject to be $23.00 per square foot or $195,500, annually. (Appraisal, p. 41-42)

The appraiser also acknowledged having copies of the 2014, 2015 and 2016 Schedule 8825 tax return forms for the subject which were made part of the Addenda to the report. Bertacchi noted the 2016 Schedule 8825 depicted actual gross revenues of $180,078.

When analyzing vacancy and collection loss, Bertacchi first recognized both that as of the valuation date and as of inspection in February 2018, the subject was 15% vacant. The appraiser also considered Strip Center Rent and Vacancy for the Chicago market from CoStar Analytics. Given the foregoing data, vacancy was estimated by the appraiser to be 10% or $19,550, resulting in an effective gross income of $175,950. Next, since the income estimate was based upon a modified gross lease, all the expenses are incurred by the lessor as of the base year; however, to arrive at a value estimate, the appraiser performed an analysis of the property's annual expenses. In this regard, Bertacchi set forth leasing commissions of 3.8% of gross rental income or $6,686; insurance at $0.35 per square foot or $2,975; management and administration of 7% of effective gross income or $12,317; utilities and scavenger of $0.95 per square foot based upon Schedule 8825 or $8,075; repairs of $1.30 per square foot or $11,050 also based upon Schedule 8825; common area maintenance of $2.50 per square foot or $21,250; and reserves at $0.35 per square foot or $2,975. This resulted in total estimated expenses of $65,328 resulting in an estimated net operating income of $110,622.

In order to process the net operating income into an indication of value, a capitalization rate must be determined. Using the band of investments method and other sources, the appraiser calculated an overall capitalization rate of 9% to which a load factor of 3.081% was applied to account for real estate tax expenses. Thus, Bertacchi applied a loaded capitalization rate of 12.081% to the subject's estimated net operating income of $110,622. As a result, the appraiser concluded a value under the income approach of $915,000, rounded. (Appraisal p. 35-51)

Using the sales comparison approach, Bertacchi considered six sales of retail strip center buildings located in Geneva, St. Charles, North Aurora and Elburn. The parcels range in size from 38,628 to 126,324 square feet of land area and have been improved with buildings that were built between 2000 and 2015. The structures range in gross building area from 8,031 to 14,000 square feet and have rentable area ranging in size from 8,802 to 13,889 square feet. Each comparable was either in average or good condition. The comparables present land-to-building ratios ranging from 3.8:1 to 9.1:1. The properties sold between March 2014 and April 2017 for prices ranging from $620,000 to $1,200,000 or from $77.20 to $106.76 per square foot of rentable area.[1]

At pages 53 through 58, the appraiser presented individual pages with a photograph and pertinent data concerning each of the six comparable sales presented in the appraisal. Sale #1 which sold for $1,200,000 was reported as 60% vacant at the time of sale and was marketed for 429 days with an initial asking price of $1,555,000[2]; sale #2 which sold for $1,200,000 was reported as partially vacant at the time of sale; sale #3 which sold for $1,055,000 had an original asking price of $1,240,000 and was on the market for approximately two months; sale #4 which sold for $1,150,000 was reported as nearly 49% vacant at the time of sale and was on the market for approximately 1,513 days with an initial asking price of $1,150,000; and sale #6 which sold for $620,000 was reported as having been on the market for 962 days.

From pages 60 to 62, Bertacchi both displayed and discussed the adjustment process applied to the six comparable sales. Based upon his research, the appraiser determined that all sales had been exposed to the market, no adjustments were necessary for any unusual financing terms or agreements and no adjustments were necessary for property rights conveyed. Adjustments were made to account for differences in location, gross building area, age, land-to-building ratio and/or condition as depicted in the chart on page 60. As a result of the adjustment process, the appraiser set forth adjusted sale prices for the comparables ranging from $84.92 to $114.07 per square foot of rentable area. From this data and giving most weight to sales #1 and #2, the appraiser estimated a value for the subject of $107.50 per square foot of gross building area or $915,000, including land.[3]

[1] Only comparable sale #4 differs between the building's gross square footage and the rentable area.
[2] Bertacchi further reported sale #1 was resold in April 2015 for $1,141,500 and converted to commercial condominium units after which it was re-PINed.
[3] The Property Tax Appeal Board recognizes a slight discrepancy in the appraisal where rentable building area of the comparable properties was analyzed but the appraiser applied the concluded estimated value to the subject's gross building area. The Board further recognizes there is a negligible difference of eight square feet between gross and rentable building areas of the subject.

In reconciliation, Bertacchi afforded primary weight to the sales comparison approach and reported having given equal weight to the income approach in arriving at the final estimate of value for the subject of $915,000 as of January 1, 2017.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $402,317. The subject's assessment reflects a market value of $1,207,434 or $141.92 per square foot of building area, land included, when using the 2017 three year average median level of assessment for Kane County of 33.32% as determined by the Illinois Department of Revenue.

In response to the appellant's appeal, the board of review submitted a three-page letter criticizing various aspects of the appraisal report which was prepared by Timothy J. Sullivan, MAI, SRA and a Kane County Board of Review member. Additional evidence presented by the board of review consisted of a memorandum from the Elgin Township Assessor along with a land sale data chart, a comparable sales chart, a one-page cost approach and a one-page 2018 Income Approach, each of which was prepared by the township assessor.

As to the income approach prepared by Bertacchi, Sullivan disagreed with the expenses; it was asserted that leasing costs of 3.8% or $0.79 per square foot of rentable area was not "normal operating costs." It was further asserted the management fee was excessive; the board of review suggested a management fee of 5%. Looking to the tax returns attached to the appraisal, Sullivan argued that the average annual repair cost for 2014, 2015 and 2016 was $7,430 but Bertacchi projected an annual repair expense of $11,050. As to the projected common area maintenance of $2.50 per square foot or $21,250 annually, Sullivan contended this lacks evidentiary support to "be this high"; to support the excessiveness, it was noted the income tax return data for 2015 and 2016 depicted landscaping and snow removal costs averaging $1,713. Lastly as to the income approach, the letter questions the data set forth in the Band of Investment technique and other aspects of the development of a capitalization rate. Citing appraisal sale #3 with a reported cap rate of 7.12% and a board of review sale with a cap rate of 7.57%, the board of review contends the appellant's appraiser overstated the appropriate capitalization rate.

As to Bertacchi's sales data, Sullivan summarily states, in pertinent part, "many of these sales were not operating at a stabilized income level." The letter further asserted that occupancy levels of the sales must be considered. In this regard, Sullivan reported that appraisal sale #2 had a single tenant at the time of sale, a long-term comic book seller, who did not want to leave the center; the remainder of the center was vacant and since the purchase, the buyer has made many improvements, including a new façade; thereafter, the other spaces were re-leased. Sullivan further contended that Bertacchi's adjustment process lacked any discussion of economic characteristics; he argued if the subject can achieve rent of $23.00 per square foot, but a comparable sale only achieves $15.00 per square foot, there should be an upward adjustment to account for the correlation between sale price per square foot and income per square foot.

The memorandum from the Elgin Township Assessor's Office asserted the subject is a four-unit [*sic*][4] shopping center. The assessor also reported other commercial properties in this

[4] The assessor's income approach analysis depicted five-units for the subject property, one of which was vacant.

development include Kohl's, banks, TJ Maxx and chain restaurants; to the south of the subject property are both a Best Buy and a Home Depot.

The assessor's land sale data depicts five properties, three of which are described as retail. The parcels range in size from 32,670 to 228,254 square feet of land area. The properties sold between June 2012 and March 2018 for prices ranging from $500,000 to $4,200,000 or from $9.77 to $18.40 per square foot of land area. The chart concludes the subject 62,726 square foot parcel has a land value of $6.46 per square foot or approximately $404,968.

The township assessor's grid contains information on four comparable sales of either commercial or shopping center properties located in Elgin and South Elgin. The comparable parcels range in size from 24,829 to 95,832 square feet of land area and have been improved with buildings that were built between 1990 and 2002. The structures range in size from 6,000 to 16,294 square feet of building area. The comparables present land-to-building ratios ranging from 4.14:1 to 5.93:1. The properties sold between June 2014 and June 2017 for prices ranging from $635,000 to $4,040,000 or from $105.83 to $272.02 per square foot of building area, including land. As part of the memorandum, the assessor also noted that sales #1 and #2 are located on Randall Road and have better exposure whereas sales #3 and #4 are located off of Randall Road and have inferior locations; the raw sales data depicts per square foot sales prices of sales #1 and #2 of $248 and $272, respectively, whereas sales #3 and #4 had sales prices of $105.83 and $118.26, respectively. A map depicting the location of the subject and comparable sales displays the subject in the far southwestern portion of the map while all comparables are to the northeast.

Under the cost approach, the assessor relied upon the land sales chart that estimated the subject had a land value of $404,968. Utilizing *Marshall Valuation Service* data as of May 2018 for a Neighborhood Center, the assessor estimated the replacement cost new of the building to be $943,097 and the site improvements to be $120,000 for a total of $1,063,097. Next, the assessor added soft costs of 2% for miscellaneous costs such as financing charges, consultants, impact fees and others totaling $21,262; indirect costs of 5% for marketing and lease-up totaling $53,155; and entrepreneurial incentive of 10% totaling $106,310. Adding the foregoing components for the building, site and soft costs resulted in a total replacement cost new of $1,243,823. The assessor next deducted physical depreciation of 25% or $310,956 resulting in a depreciated cost of all improvements of $932,867. Adding the depreciated improvement costs and the land value resulted in a conclusion by the assessor that the subject property had an estimated market value of $1,338,000, rounded, under the cost approach.

For the income approach to value, the assessor set forth varying rental rates of $16.00, $18.00 and $20.00 per square foot for four-units of the subject property and described one 2,600 square foot unit as vacant. The assessor depicted the potential gross income of the four units to be $154,800. Next, the assessor set forth a vacancy of 7% or $10,836, resulting in an effective gross income of $143,964. Expenses for management of 5% or $7,198 and reserves set forth as $2,000, totaled $9,198 resulting in an estimated net operating income of $134,766. The assessor next depicted a capitalization rate of 8.50% with a 0% tax load to be applied to the subject's estimated net operating income resulting in a concluded value under the income approach of $1,590,000, rounded.

Based on the foregoing evidence and argument concerning the appellant's appraisal report, the board of review requested confirmation of the subject's assessment depicting an estimated market value of $1,207,434.

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 appellant submitted an appraisal estimating the market value of the subject property to be $915,000 or $107.55 per square foot of building area, including land, to establish that the subject property was overvalued. Having fully examined the appraisal report, the Property Tax Appeal Board finds the appraisal to be persuasive and provides credible evidence including adjustments which were explained in detail and supported the value conclusion using two of the three traditional approaches to value.

The board of review presented criticisms of the appellant's appraisal report as developed by board member Sullivan along with a memorandum prepared by the Elgin Township Assessor performing a cost approach to value, a sales comparison approach and an income approach to value in order to arrive at and justify the estimated market value of the subject property as reflected by its assessment. The main thrust of the responsive letter prepared by Sullivan were perceived deficiencies in the appraisal submitted by the appellant. In the income approach, the criticisms were several of the expenses were deemed to be excessive and the 9% capitalization rate was excessive. For the sales comparison approach, Sullivan criticized that the comparable properties were not operating at a stabilized income level.

Notwithstanding those criticisms, the Property Tax Appeal Board finds the appraisal set forth common expense categories and the board of review provided little, if any, justification for the various criticisms. In fact, as to expenses in the income approach, the assessor provided only two expense categories: a 5% management fee and $2,000 for reserves. The Board finds the presentation by the board of review included no factual support for either figure, particularly where Sullivan had noted additional common expenses from the appellant's tax returns for the property depicting repairs and maintenance over several years averaged $7,430. Likewise, Sullivan acknowledged common area maintenance expenses for the subject averaged $1,713. The assessor's income approach failed to provide for either of these expenses in a suitable amount based on the data. Finally, Sullivan's criticism of an excessive capitalization rate is exceedingly unpersuasive when considering Bertacchi had a capitalization rate of 9% and the assessor concluded a rate of 8.5%. The Board also finds the assessor's failure to account for the tax load as part of the capitalization rate conclusion to be a substantial flaw in the analysis.

As to the four comparable sales presented by the assessor on behalf of the board of review, the Board finds that sales #1 and #2 are dissimilar to the subject property in location on Randall Road and in size of the structures. As such, the Board affords little weight to sales #1 and #2. In contrast, sales #3 and #4 depict properties which bracket the subject in building size and have sale dates proximate to the assessment date at issue of January 1, 2017. Sales #3 and #4 sold for $635,000 and $1,150,000 or for $105.83 and $118.26 per square foot of building area, including land, whereas the subject based upon its assessment has an estimated market value of $141.92 per square foot of building area, including land, which is greater than the two best comparable sales presented by the board of review.

In examining this record, it must be noted that the efforts of the board of review to refute the appraisal valuation with criticisms does not nullify or shift the burden of proof or demonstrate the subject's assessment is correct. The Property Tax Appeal Board is not to afford *prima facie* weight to the findings and conclusions of fact made by the board of review (Mead v. Board of Review of McHenry County, 143 Ill. App. 3d 1088 (2nd Dist. 1986); Western Illinois Power Cooperative, Inc. v. Property Tax Appeal Board, 29 Ill. App. 3d 16 (4th Dist. 1975). The decision of the Property Tax Appeal Board must be based upon equity and the weight of evidence. (35 ILCS 16-185; Commonwealth Edison Co. v. Property Tax Appeal Board, 102 Ill. 2d 443 (1984); Mead, 143 Ill. App. 3d 1088.) A taxpayer seeking review at the Property Tax Appeal Board from a decision of the board of review does not have the burden of overcoming any presumption that the assessed valuation was correct. (People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill. App. 3d 316 (2nd Dist. 1974); Mead, 143 Ill. App. 3d 1088.)

In summary and as analyzed herein, the documentary evidence presented by the board of review failed in its weight and credibility to overcome the appraisal report presented by the appellant. Furthermore, the data and documentation presented on behalf of the board of review through the Elgin Township Assessor's Office failed to overcome the appellant's evidence and failed to support the current assessment of the subject property given the two best comparable sales presented by the assessor and the failings in the income approach as noted in this decision.

Based upon the preponderance of the most credible market value evidence contained in this record, the Board finds the best evidence of market value to be the appraisal submitted by the appellant. The subject's assessment reflects a market value of $1,207,434, which is above the best evidence of market value in the record as contained in the appellant's appraisal report with an estimated market value of $915,000. Therefore, the Board finds the subject property is overvalued and a reduction in the subject's assessment commensurate with the appellant's request 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(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: May 26, 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.

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