



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

APPELLANT: Sherwin Family Partnership
DOCKET NO.: 17-02924.001-C-2
PARCEL NO.: 07-16-103-037

The parties of record before the Property Tax Appeal Board are Sherwin Family Partnership, the appellant, by attorney Lauren Glennon, of Glennon Law, LLC 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: \$374,158
IMPR.: \$ 49,133
TOTAL: \$423,291

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 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 retail masonry building currently operated as a Chili's restaurant with 5,635 square feet of building area which was built in 1993.¹ The property includes 115-parking spaces on the 1.54-acre or 67,082 square foot site with a land-to-building ratio of 11.90:1. The property is located in Gurnee, Warren Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Joseph J. Calvanico, MAI and a Certified General Real Estate Appraiser along with Ibi Cole, a Certified General Real Estate Appraiser. The appraisal was prepared for a property tax assessment appeal but also mistakenly says it was

¹ The subject property record card and board of review submission depict a 1993 construction date whereas the appellant's appraisers reported the building was built in 2007 with a purported 10-year chronological age without any factual support (Appraisal, p. 45).

prepared for a market value as of January 1, 2016 (Appraisal, p. 3 & 5). The 107+-page appraisal sets forth an estimated market value for the subject property of \$1,270,000 as of January 1, 2017.

As to the subject, the appraisers noted this to be an average commercial location along an interior commercial thoroughfare as an out lot of the Gurnee Mills shopping center. Access to the subject was deemed to be poor as access to the site is shared with a neighboring restaurant property and access to the subject requires patrons to drive through the other property's parking lot to access the subject (Appraisal, p. 36, 37). Visibility of signage was poor due to shrubbery and trees (Appraisal, p. 37).

The appraisers found the building to be in average condition but noted the marketability of the subject is diminished by the exterior and interior cosmetic template which is specific to the Chili's brand.² The appraisers also noted some deferred maintenance of moisture deterioration, [interior] signs of settlement,³ damaged/deteriorating flooring, aged and inefficient windows with chipping/splitting paint and wood along the frames, and cracked/damaged asphalt paving (Appraisal, p. 19, 44, 50-51). Although the area is stable due to the presence of Gurnee Mills and Six Flags Great America, the appraisers noted this area of Gurnee, where the subject is located, is "saturated with national fast food, casual, and sit-down restaurant chains which can be detrimental to the subject property." (Appraisal, p. 29).

On page 49 of the appraisal, the appraisers reported a series of items of functional obsolescence including the out lot location with no direct access from Grand Avenue, the poor access to the site as previously described with a shared access point, an excess amount of parking for the building occupancy, and the interior was deemed to be dated, dark and does not reflect modern tastes. Also as described previously, the layout is highly compartmentalized and specific to the Chili's brand which is not efficient and reduces the pool of prospective buyers/renters of the property in general. The final point was related to the signage and visibility such that despite the busy street, the subject's location off the main road may make it difficult to figure out how to reach the property along with the poor signage placement.

Under the income approach, the appraisers analyzed four rental comparables which were triple net leases which were summarized on page 66 of the appraisal. The units ranged in size from 4,000 to 16,000 square feet of building area with asking rents ranging from \$11.25 to \$25.00 per square foot of building area. The appraisers analyzed the data and estimated a rental rate of \$22.50 per square foot on a net basis.

Therefore, the appraisers estimated potential gross income to be \$126,788 less vacancy and collection loss of 7.5% or \$12,679 which results in an effective gross income estimate of \$114,109. Next, the appraisers estimated expenses including a reserve during vacancy for real estate taxes of \$3,649, insurance of \$148, legal and professional fees of \$3,500,⁴ a management fee of 8% of effective gross income or \$9,129 and reserves for replacements at 2% of effective

² Throughout the appraisal report, the appraisers frequently misspelled the corporate restaurant name as Chilli's.

³ Despite the description of settlement, at page 35 that appraisers wrote, "the current structure has existed on the site for a number of years with no visible signs of settlement."

⁴ On page 77 the appraisers estimated legal and professional fees to be \$3,000 but in the summary on page 78, the appraisers applied the figure of \$3,500 for this expense.

gross income or \$2,282 resulting in total estimated expenses of \$18,708. Deducting the estimated expenses from the estimated effective gross income resulted in a net operating income of \$95,401.

Utilizing direct capitalization, the appraisers concluded a 7.5% capitalization rate. Once applied to the resulting net operating income, the appraisers reported an indicated value for the subject by the income approach of \$1,270,000, rounded, although the appraisers did not apply a tax load to account for real estate taxes in this analysis.

Using the sales comparison approach, the appraisers analyzed five comparable sales of commercial buildings in Lake Zurich, Round Lake Beach, Mundelein and Vernon Hills. The comparables have sites that range in size from 34,252 to 100,797 square feet of land area and were improved with one-story masonry or wood-frame buildings that were built between 1980 and 2016. The structures range in size from 4,245 to 6,380 square feet of building area. The comparables sold from July 2014 to January 2017 for prices ranging from \$880,000 to \$1,455,000 or from \$182.53 to \$230.13 per square foot of building area, land included.

The appraisers next applied adjustments as summarized on page 95 of the appraisal concerning differences in location, building size, age and condition, access and visibility, land-to-building ratio and "miscellaneous." The adjustments were further discussed on pages 96 through 100 of the report. Through this process, the appraisers opined adjusted sales prices ranging from \$182.53 to \$230.13 per square foot of building area, including land. As a result and as depicted on page 100, the appraisers placed most weight on comparable sale #2 and arrived at an estimated market value for the subject of \$1,270,000, rounded, or \$225.00 per square foot of building area, including land, as of January 1, 2017.

In reconciliation as outlined on page 102 of the appraisal report, the appraisers gave equal weight to the income and sales comparison approaches to value when concluding an opinion of value for the subject as of January 1, 2017 of \$1,270,000. Based on this evidence, the appellant requested a total assessment of \$423,291 which would reflect 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 \$687,184. The subject's assessment reflects a market value of \$2,072,953 or \$367.87 per square foot of building area, land included, when using the 2017 three year average median level of assessment for Lake County of 33.15% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a memorandum criticizing the appellant's appraisal report for utilizing comparables in both the income and sales approaches which "have inferior locations" to the subject which is adjacent to Gurnee Mills Regional Shopping Center. In addition, none of the comparable sales in the appraisal report were located in Gurnee.

In support of its contention of the correct assessment, the board of review submitted a two-page grid analysis with limited information on six comparable sales along with printouts from CoStar comps for each of the comparables. Five comparables are located in Gurnee and comparable #3

is located in McHenry. The comparables have parcels ranging in size from 53,182 to 94,961 square feet of land area. Using the underlying data sheets for confirmation, the record reveals that comparables #1 through #4 consist of single tenant buildings, comparable #4 consists of both a four-unit strip center and a single tenant building and comparable #6 reflects the sale of vacant land. Based on the data sheets the buildings on comparables #1 through #5 range in size from 5,200 to 14,779 square feet of building area. Comparables #1, #2 and #5 reflect 1031 exchanges and comparable #4 was sold for "redevelopment" while comparable #3 sold as a "triple net" investment. Comparables #1 through #4 sold between October 2013 and May 2017 for prices ranging from \$1,935,000 to \$4,375,000 or from \$96.85 to \$722.78 per square foot of building area, including land. Comparable #6 sold 53,182 square feet of land area in October 2016 for \$1,300,000 or for \$24.44 per square foot of land area.

Based on the foregoing 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted an appraisal of the subject property and the board of review criticized various aspects of the appraisal report and submitted six comparable sales in support of their respective positions before the Property Tax Appeal Board.

The Board has given little weight to the board of review's criticisms of the appraisal report as the board of review failed to factually support the contention that the rental comparables and sales comparables in the appraisal differed in location and, more importantly, to the extent that may be true, that the appraisers failed to adjust for such locational differences in the report. Moreover, the Board finds that little weight can be afforded the six raw, unadjusted sales presented by the board of review given their diverse lot sizes, ages, building sizes and/or dates of sale along with the indication the sales were 1031 exchanges, a redevelopment sale, a triple net investment sale and/or a land only sale which detracts from the usefulness of these sales to support the estimated market value of the subject property as of January 1, 2017.

On this limited record, the Board finds the best evidence of market value to be the appellant's appraisal report with an estimated market value of \$1,270,000 as of January 1, 2017. The subject's assessment reflects a market value of \$2,072,953 or \$367.87 per square foot of building area, including land, which is above the appraised value. Therefore, the Board finds the subject property is overvalued based upon its assessment and the Board finds a reduction in the subject's assessment commensurate with the appellant's request 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: October 20, 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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