



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

APPELLANT: Hotcakes LLC
DOCKET NO.: 17-03460.001-C-1
PARCEL NO.: 14-20-306-008

The parties of record before the Property Tax Appeal Board are Hotcakes LLC, the appellant, by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. 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: \$190,011
IMPR.: \$159,722
TOTAL: \$349,733

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 commercial building of masonry exterior construction with 6,401 square feet of building area which operates as a restaurant. The structure was built in 2001 and features a large dining area, a large kitchen and central air conditioning. The property has a 51,401 square foot corner site with an asphalt paved parking lot suitable for approximately 105 cars and is located in Lake Zurich, Ela 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 Gregory Nold, MAI and a Certified General Real Estate Appraiser, which was prepared for a property tax assessment appeal. The 75-page appraisal sets forth an estimated market value for the subject property of \$995,000 as of January 1, 2017.

As to the subject building, the appraiser reported on page 37 of the report that the property has access which is restricted to a side street and not directly from Rand Road. Two valuation methods were utilized by Nold.

Using the sales comparison approach, the appraiser analyzed five comparable sales of commercial buildings in Lake Zurich, Long Grove, Mundelein and Fox River Grove. The comparables have sites that range in size from 12,110 to 86,205 square feet of land area and were improved with one-story buildings that were built between 1965 and 2006. The structures range in size from 3,800 to 6,012 square feet of building area. Sales #4 and #5 are four-unit and two-unit buildings, respectively. The comparables sold from May 2015 to March 2017 for prices ranging from \$400,000 to \$880,000 or from \$83.15 to \$195.92 per square foot of building area, land included.

Nold applied quantitative adjustments as set forth on page 51 of the appraisal concerning differences in building size, physical characteristics, construction quality, land-to-building ratio and/or age/condition. The adjustments were further discussed on pages 52 through 55 of the report. Through this process, the appraiser opined adjusted sales prices ranging from \$103.94 to \$157.71 per square foot of building area, including land. As a result and as depicted on page 55, Nold arrived at an estimated market value for the subject of \$992,155 or \$155.00 per square foot of building area, including land, as of January 1, 2017.

Under the income approach, Nold analyzed seven rental comparables which were modified gross leases and which were described on page 57 of the appraisal as consistent with current market expectations. The units ranged in size from 1,600 to 4,960 square feet of building area with rents ranging from \$14.00 to \$25.83 per square foot of building area. The appraiser estimated a rental rate of \$23.00 per square foot due to the subject's large size and balanced by its quality construction and available parking, based on a modified gross lease arrangement where the tenant is responsible for their own utility expenses.

Therefore, as summarized on page 62 of the report, Nold estimated potential gross income to be \$147,223 less vacancy and collection loss of 8% or \$11,778 which results in an effective gross income estimate of \$135,445. Next, the appraiser estimated expenses of management at 5%, common area maintenance (CAM) at \$3 per square foot, legal and professional at 1.8% or \$2,500 and replacements for reserves of 1.2% or \$1,600 which resulted in total estimated expenses of \$30,076. Deducting the estimated expenses from the estimated effective gross income resulted in a net operating income of \$105,370.

Utilizing direct capitalization, the appraiser set forth a chart on page 61 of the appraisal report and concluded an 8% capitalization rate with a 2.58% tax load factor resulting in an overall capitalization rate of 10.58%. Once applied to the resulting net operating income, Nold reported an indicated value for the subject by the income approach of \$995,000, rounded.

In reconciliation as outlined on page 63 of the appraisal report, Nold gave primary emphasis to the sales comparison approach and gave the income approach secondary emphasis when concluding an opinion of value for the subject as of January 1, 2017 of \$995,000.

Unexplained in the appellant's submission is a two-page letter prepared by Nold which is dated September 5, 2017 and indicates it was "in response" to notes related to a meeting between counsel and the Ela Township Assessor's Office.

Based on this evidence, the appellant requested a total assessment of \$331,634 which would reflect a market value of approximately \$995,000 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 \$416,024. The subject's assessment reflects a market value of \$1,254,974 or \$196.06 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 appellant's appraisal evidence, the board of review reported that a revised appraisal prepared by Nold was "submitted" as of October 2, 2017 with an estimated market value of the subject of \$1,055,000 or \$164.81 per square foot of building area, including land. A copy of this "revised" appraisal report was presented with the board of review's evidentiary submission.

In the cover letter accompanying the revised appraisal report, Nold stated the document was "developed as a result of corrected local sales data considered for analysis." In comparing the data in the sales comparison approach to value, the revised report removed original sale #2 and analyzed four sales. In summary, the comparables were improved with one-story buildings that were built between 1965 and 2006. The structures range in size from 3,800 to 6,012 square feet of building area. Sales #3 and #4 are four-unit and two-unit buildings, respectively. The comparables sold from May 2015 to February 2017 for prices ranging from \$400,000 to \$880,000 or from \$90.65 to \$195.92 per square foot of building area, land included. Nold analyzed appropriate adjustments for differences when compared to the subject and through this process, he opined adjusted sales prices ranging from \$142.11 to \$166.54 per square foot of building area, including land. As a result, Nold arrived at an estimated market value for the subject of \$1,055,000 or \$164.82 per square foot of building area, including land, as of January 1, 2017. In a summary page submitted by the board of review, Nold presented a modified conclusion under the income approach to value for the subject of \$1,050,000.

The record fails to reveal how, when or why the board of review came into possession of this revised appraisal of the subject property prepared by Nold. The submission by the board of review also fails to indicate whether it is complete based upon examination of page numbers in the document.

As part of its memorandum addressing the appellant's revised appraisal report, the board of review contended that appraisal sale #1 was a rehabbed former bank REO property that was advertised as including "both business and real property" although this data was not reported or accounted for in the appraisal. Citing four PTAX-203 Illinois Real Estate Transfer Declarations related to original appraisal sale #2, the board of review argued that the documentation indicates the property was not advertised prior to sale and contradicts the assertion the sale was an arm's length transaction. Citing CoStar and listing data related to revised appraisal sale #2 (originally sale #3) as a bank REO sale the board of review contends the documentation indicates the "price

was affected by the fact it was an REO sale." As to revised appraisal sale #3 (originally sale #4), the board of review argued as a four-unit retail strip center and a transaction as part of a 1031 exchange, the board of review questions the comparability of this transaction. As to revised appraisal sale #4 (originally sale #5), the board of review notes its three-unit retail strip center design which differs from the subject's single-unit commercial building and was not advertised as cited in the applicable PTAX-203 Illinois Real Estate Transfer Declaration related to the sale.

Based on the foregoing criticisms of the sales data in the appraisal report, the board of review contends it "does not believe that the appraisal is accurate or complete, and that the concluded value is not reasonable."

In support of its contention of the correct assessment, the board of review submitted information on five comparable sales along with supporting documentation. Each comparable is described as a restaurant oriented commercial building which are located from 4.22 to 12.05-miles from the subject in the communities of Vernon Hills, Arlington Heights or Streamwood. The comparables have sites that range in size from 32,234 to 100,587 square feet of land area and were improved with one-story brick or frame buildings that were built between 1980 and 2006. The structures range in size from 5,298 to 6,380 square feet of building area. The comparables sold from July 2014 to December 2017 for prices ranging from \$1,250,000 to \$1,455,000 or from \$209.68 to \$246.29 per square foot of building area, land included. Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In written rebuttal, counsel for the appellant waived the request for an in-person hearing in this matter and requested a reduced assessment in accordance with the appellant's appeal petition. In a second rebuttal filing, counsel for the appellant addressed the criticisms raised by the board of review and addressed the comparable properties presented by the board of review as depicting unadjusted comparable sales.

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 dated August 21, 2017 with an opinion of value of \$995,000 and the board of review submitted a "revised" appraisal prepared by the appellant's appraiser dated October 2, 2017 with an opinion of value of \$1,055,000 along with five suggested raw, unadjusted comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given little weight to the original appraisal report presented by the appellant as the document presumably has been supplanted by the "revised" report, a portion of which was submitted by the board of review in this appeal.

The Board has given little weight to the board of review's criticisms of the "revised" Nold appraisal report. In this matter, the Board finds little weight can be afforded the raw, unadjusted

sales presented by the board of review given their diverse lot sizes, ages, building sizes and/or dates of sale for a date of valuation of January 1, 2017.

On this limited record, the Board finds the best evidence of market value to be the appellant's "revised" appraisal report with an estimated market value of \$1,055,000 as of January 1, 2017. The subject's assessment reflects a market value of \$1,254,974 or \$196.06 per square foot of building area, including land, which is above the "revised" appraised value. Based on this evidence of the appellant's "revised" appraisal report, 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: _____

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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