



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

APPELLANT: Karavites Restaurant, Inc.
DOCKET NO.: 17-03465.001-C-1
PARCEL NO.: 07-36-103-011

The parties of record before the Property Tax Appeal Board are Karavites Restaurant, Inc., 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 **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: \$62,443
IMPR.: \$170,867
TOTAL: \$233,310

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 masonry constructed commercial (fast food restaurant) building with a concrete slab foundation, central air conditioning and drive-thru service window. The subject is currently occupied by McDonald's. The building contains 4,290 square feet of building area and was constructed in 2011. The property has a 30,631 square foot or .70-acre corner site with asphalt paving for approximately 32 vehicles and is located in Waukegan, Warren Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a 73-page appraisal report prepared by Gregory Nold, a Certified General Real Estate Appraiser with the MAI designation. The appraisal was prepared for an *ad valorem* assessment appeal using both the comparable sales and income approaches to value wherein the appraiser estimated subject property had a market value of \$620,000 as of January 1, 2017.

The appraiser inspected the subject property on June 24, 2017. Nold described the subject site on a busy thoroughfare as being surrounded by a large percentage of vacant land with some parcels that had been improved, having now been razed, and many other parcels of land that appear to have never been developed. Thus, although the immediate vicinity has a wide assortment of industrial, commercial and multi-family residential uses, Nold opined that the large amount of vacant and unused land was indicative of poor locational fundamentals. (Appraisal, p. 36)

At page 32 of the appraisal report, Nold indicated the subject property (Real Estate, FF&E and Business Value) was recently acquired on March 1, 2017 in a private, multi-property transaction of four local McDonald's stores. He further stated the sale occurred as the stores were operating below expected sales/re-investment norms for this type of business and the conveyance occurred for an undisclosed price despite a request for sales price and terms data made by Nold. Furthermore, according to the owner, who operates several other franchises in the local market, the value of the real estate (and FF&E) is 'close to nothing' with the vast majority of the value ties to the licensee agreement (Business Value).

At pages 44 through 54, Nold set forth data and analyses using the sale comparison approach to value. The appraiser analyzed five comparable sales in Waukegan, North Chicago, Deerfield, and Zion. The comparables have sites that range in size from 15,525 to 79,715 square feet of land area where each parcel has been improved with a one-story commercial building. The comparable buildings were constructed between 1960 and 1985 and range in size from 2,079 to 4,072 square feet of building area. Comparables #1 and #4 were finished as office buildings and after the sale comparable #1 was converted to an ice cream shop; comparables #2 and #5 were finished as restaurants; and comparable #3 was finished as a veterinary clinic. The sale of comparable #2 was described as a conveyance between two passive investors. The comparables present land-to-building ratios ranging from 7.47:1 to 22.57:1. The comparables sold from July 2014 to May 2016 for prices ranging from \$275,000 to \$675,000 or from \$130.95 to \$184.98 per square foot of building area, including land.

Nold considered necessary adjustments as detailed in pages 56 to 59. Quantitative adjustments were applied to several of the comparables for differences in location, size, physical characteristics, land-to-building ratio, and/or age/condition (Appraisal, p. 50). For the latter factor of age/condition, Nold wrote on page 53 that the subject, as a 12-year-old building is adequately maintained and in relatively average overall condition, but the five comparables which have similar overall condition are all "newer compared to the subject and downward adjustments are applied for this factor"; however, on page 50 where adjustments are summarized, each comparable was afforded a 15% upward adjustment. In the sales comparison approach at page 54, Nold wrote:

The appraiser is well aware the cited conveyances are less than ideal comparisons. However, sales of more comparable properties were not discovered during our research. Selected transactions were chosen for analysis because they are all one story commercial buildings located in competing market areas as compared to the subject.

(Appraisal, p. 54). Through this process, the appraiser opined adjusted sales prices ranging from \$124.40 to \$147.99 per square foot of building area, including land. As a result, Nold arrived at an estimated market value for the subject of \$145.00 per square foot of building area, including land, as of January 1, 2017 or \$620,000, rounded, under the sales comparison approach to value.

Under the income capitalization approach, Nold set forth data on seven rental comparables of "commercial space" further described as retail or office/retail build-outs of freestanding or strip center properties located in Waukegan, Libertyville and Beach Park. The comparables were summarized on page 56 of the appraisal report. The buildings range in leased square footage from 1,000 to 3,000 square feet of building area. Lease terms on a modified gross basis ranged from \$12.00 to \$28.00 per square foot of building area. Given this data as set forth on page 56, Nold concluded that the subject would have a market rent of \$25.00 per square foot, on a modified gross lease arrangement, resulting in a total net rent of \$107,250.

Next, the appraiser estimated the subject would have an 8% allowance for vacancy and collection loss or \$8,580 resulting in an effective gross income of \$98,670. Estimated operating expenses for the subject of \$22,449 for management, common area maintenance, legal/professional and replacement reserves, resulted in a net operating income of \$76,222.

The final step under the income approach was to estimate the capitalization rate to be applied to the subject's net income. The appraiser opined that the subject's overall capitalization rate would be 8% with a tax load factor of 4.37% to account for real estate taxes. Thus, capitalizing the subject's estimated net income of \$76,222 by 12.37% resulted in an estimated value under the income approach of \$615,000, rounded.

In reconciliation, Nold gave most weight to the sales comparison approach in concluding a value for the subject of \$620,000 as of January 1, 2017. Therefore, based on this evidence, the appellant requested an assessment reflective of 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 \$233,310. The subject's assessment reflects a market value of \$703,801 or \$164.06 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.

As to the appellant's appraisal report, the board of review submitted a two-page memorandum along with supporting documentation addressing each of the five comparable sales presented in the Nold report. The board of review asserted that none of the comparable sales in the appraisal have as favorable of a location as the subject, a shopping center situated between I-294 and Route 41, along a corridor of office and industrial parks. As to each of the sales in the appraisal report, the board of review reported the following: #1 was a contract sale "to facilitate the redevelopment of a non-restaurant-oriented property located in [an] older commercial corridor"; #2 and #3 were each not advertised and #3 was not a restaurant-oriented property; #4 was a former bank drive-through facility that differs from the subject type of property; and #5, while a former Hardees restaurant, was located in a declining business corridor. Given these

observations of the appellant's appraisal report, the board of review contends that the report is "not accurate, credible, or reasonable."

In support of its contention of the correct assessment, the board of review submitted information on four comparable sales of "restaurant-oriented" properties. The comparables are located from 4.37 to 7.85-miles from the subject in the communities of Vernon Hills, Grayslake, Mundelein and Libertyville. The comparables are classified as commercial parcels that range in size from 20,038 to 100,587 square feet of land area or from .46 to 2.33-acres of land. The comparables have been improved with one-story buildings constructed between 1969 and 2008. The buildings range in size from 1,725 to 6,380 square feet of building area. The comparables present land-to-building ratios ranging from 8.2:1 to 15.81:1. The four comparables sold on five separate occasions from June 2015 to July 2018, where comparable #2 sold twice, for prices ranging from \$450,000 to \$1,600,000 or from \$165.37 to \$395.35 per square foot of building area, including land. Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

In written rebuttal, counsel for the appellant waived the request for an in-person hearing previously made in this appeal.

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 appellant submitted an appraisal of the subject property and the board of review submitted four suggested comparable sales to support their respective positions before the Property Tax Appeal Board. Having thoroughly examined the appellant's appraisal report, the Board gives little weight to the value conclusion determined utilizing primarily the sales comparison approach as the appraiser utilized comparables that mostly differed from the subject in age, building size, lot size and/or land-to-building ratio. Moreover, the documentation submitted by the board of review in response to the appraisal raised issues concerning the appraiser's conclusions and/or indicating a faulty analysis of the data. Given these concerns related to the properties chosen by Nold for the sales comparison approach analysis, the Board finds the appraiser's value conclusion is not a credible or reliable indicator of the subject's estimated market value as of the assessment date.

The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. The Board

finds there are credible market sales contained in this record. As a consequence of the case law and the finding that the appraisal is not a reliable indicator of value, the most similar raw sales presented in the appraisal will be analyzed along with the raw sales presented by the board of review.

The parties submitted a total of nine comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appraisal sales #2 and #3 as the board of review documentation established that these properties were not advertised prior to the respective sale transactions.

The Property Tax Appeal Board finds that appraisal comparables #1, #3 and #4 and board of review comparable #4 were least similar to the subject property in age, size and/or use/build-out and as such should be given reduced weight. Due to their similarities to the subject, appraisal comparable sales #2 and #5 along with board of review comparables #1, #2 and #3 received the most weight in the Board's analysis. These five comparables sold on seven occasions between July 2014 and July 2018 for prices ranging from \$600,000 to \$1,600,000 or from \$147.35 to \$395.35 per square foot of building area, including land. The subject's assessment reflects a market value of \$703,801 or \$164.06 per square foot of building area, including land, which reflects a market value that falls within the range established by the most similar comparables in this record and is particularly well-supported by the most similar comparable property, board of review sale #2, which sold in both June 2015 and July 2018 for \$775,000 and \$667,300 or for \$192.97 and \$165.37 per square foot of building area, including land, respectively. After considering these most comparable sales on this record along with adjustments to the comparables for differences when compared to the subject, the Property Tax Appeal Board finds the appellant did not demonstrate that the subject property's assessment was excessive in relation to its market value and a reduction in the subject's assessment is not warranted on this record.

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:

November 17, 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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