



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

APPELLANT: Karen Smith
DOCKET NO.: 17-05284.001-I-1
PARCEL NO.: 03-29-301-019

The parties of record before the Property Tax Appeal Board are Karen Smith, the appellant, by attorney Dennis M. Nolan, of the Law Office of Dennis M. Nolan, P.C. in Bartlett; and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$48,130
IMPR.: \$188,670
TOTAL: \$236,800

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the DuPage 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, single-tenant industrial building of masonry construction with 10,000 square feet of building area, including 1,428 square feet of office space. The building was constructed in 1973. The building is situated on a site containing approximately 21,000 square feet of land area and has a land-to-building ratio of 2.10:1. The building has an exterior height of 19 feet. The subject property is located in Addison, Addison Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. A consolidated hearing was held before the Property Tax Appeal Board via video conferencing technology covering appeals for the 2016, 2017, and 2018 tax years. Appearing before the Property Tax Appeal Board on behalf of the appellant was her attorney, Dennis M. Nolan. A representative for each of the parties along with the board of review witness appeared for the proceeding remotely with the use

of the WebEx virtual platform pursuant to notice from the Property Tax Appeal Board and neither party objected to the virtual hearing format.

In support of overvaluation argument, attorney Nolan summarized the evidence for the 2017 tax year appeal submitted on behalf of the appellant consisting of eight comparable sales located in Addison, Bensenville, Elk Grove Village, or Wood Dale. These properties had sites ranging in size from 23,372 to 39,520 square feet of land area and were each improved with a one-story industrial building of masonry exterior construction ranging in size from 10,000 to 19,351 square feet of building area, resulting in land-to-building ratios ranging from 1.91:1 to 3.06:1. The buildings were built from 1963 to 1988. The comparables sold from April 2015 to October 2017¹ for prices ranging from \$610,000 to \$865,000 or from \$31.52 to \$71.38 per square foot of building area, including land. Attorney Nolan asserted that most weight should be given to comparables #5, #6, and #8 due to being most similar to the subject, and less weight given to comparable #1 as it was purchased by the tenant, and #4 and #7 which were multi-tenant buildings. Attorney Nolan acknowledged that the evidence was compiled by his office staff and that he is not a licensed appraiser.

Based on the evidence submitted, attorney Nolan requested the subject's assessment be reduced to \$209,979 to reflect a market value of approximately \$630,000 or \$63.00 per square foot of building area, including land.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$236,800. The subject's assessment reflects a market value of approximately \$710,471 or \$71.05 per square foot of building area, land included, when using the 2017 three-year average median level of assessment for DuPage County of 33.33% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a memorandum asserting that the subject property is the subject of a pending appeal for the 2016 tax year and the board of review has submitted evidence of market value in conjunction with that appeal. For the current 2017 tax year at issue, the board of review has only applied the 2017 township equalization factor of 1.0831 (8.31%) to the 2016 assessment which was same factor applied to all non-farm properties in DuPage County that tax year.

The board of review has not presented new evidence for the current 2017 tax year appeal but has submitted the same evidence in support of the 2016 tax year appeal which consists of information on five comparable sales located in Addison. Board of Review's comparable #5 and the appellant's comparable #5 is the same property. These properties had sites ranging from 20,800 to 32,500 square feet of land area and were each improved with a one-story industrial building of masonry exterior construction ranging in size from 9,940 to 11,750 square feet of building area, resulting in land-to-building ratios ranging from 2.00:1 to 3.27:1. The buildings were constructed from 1966 to 1973 and have building heights ranging from 16 to 20 feet. The

¹ During the hearing, it was disclosed that appellant's comparables #2 and #8 which reportedly sold in 2016 for \$380,000 and \$650,000, respectively, sold again in 2017 for \$525,000 and \$719,500 or for \$49.01 and \$71.38 per square foot of building area, including land, respectively. The Board finds that the subsequent sales are more proximate to the January 1, 2017 assessment date at issue and will be used in the Board's analysis.

comparables sold from April 2014 to June 2016 for prices ranging from \$650,000 to \$798,000 or from \$62.13 to \$76.73 per square foot of building area, including land.

In addition, the board of review submitted a report prepared by the Chief Deputy Assessor for Addison Township, Frank A. Marack, Jr., consisting of property record cards for the subject and each comparable sale, "summary of salient facts" for each property, grid analysis, color photographs of each property, and Illinois Real Estate Transfer Declaration (PTAX-203) form associated with each comparable sale.

The board of review called as its witness Frank A. Marack, Jr. who testified that he prepared all the evidentiary documents submitted on behalf of board of review.

Mr. Marack critiqued the comparable sales submitted by the appellant contending that appellant's comparable #1 was not on the market, was purchased by the tenant, and therefore is not an arm's-length transaction; appellant's comparable #2 has no transfer of deed associated with the sale recorded; comparable #3 is located outside of Addison; comparable #4 had significant amount of deferred maintenance and the buyer received credit for a new roof; comparable #5 was the same property used by the board of review; comparable #6 was a multi-tenant building; comparable #7 was likewise a multi-tenant building and had significant deferred maintenance; and comparable #8 was located outside of Addison.

With respect to the board of review evidence, Mr. Marack testified that the comparable sales submitted by the board of review were each located in Addison and that he applied positive, negative, or no adjustments to these comparables for characteristics such location, time on market, building size, land-to-building ratio, construction, age, number of units, building height, and percentage of office space. Mr. Marack also testified that he analyzed the subject property individually, rather than applying a mass appraisal technique due to the subject's assessment being appealed. In doing so, Mr. Marack determined that the subject's adjusted market value is greater than the value as reflected by its assessment based in part on quantitative (calculable) factors such as land-to-building ratio versus price per square foot, and in part based on his personal experience related to property values.

Based on this testimony and evidence, the board of review requested a confirmation of the subject's assessment.

Under cross-examination, Mr. Marack affirmed that he is not a licensed appraiser and he did not prepare an appraisal report but rather a summary report of his opinion of value as requested by the DuPage County Board of Review. As part of his report, Mr. Marack prepared the grid analysis, "summary of salient facts" and "market approach to value" and "summary sheet of adjustments" depicting a "plus", "minus" or "equal" symbols to reflect whether a particular feature of the comparable sale is superior, inferior or equal to the subject property, respectively. Mr. Marack testified that the purpose of the report was to "estimate fair market value" of the subject property as of January 1, 2016.

Upon further cross-examination, Mr. Marack testified that he did not update his report nor obtain any new sales in response to the appeals for the following two years because the only increase to the subject's assessment from 2016 tax year was the application of the township equalization

factor which was applied equally to all properties in DuPage County and the subject property should not be singled out as one property not subject to that multiplier. Mr. Marack affirmed that it would be appropriate to use newer sales for the 2017 and 2018 appeals if he was “coming up with a new market value for each of those years,” however, he was not asked to prepare a new report for 2017 or 2018 tax year appeals as it relates to the subject property. Mr. Marack also affirmed that in his opinion, the market in Addison Township did in fact change from 2016 to 2018, however, he did not specify whether market values generally increased or decreased.

Attorney Nolan then questioned Mr. Marack regarding the clear ceiling height and roof height of the comparable properties in relation to the subject property. Mr. Marack testified that the height adjustments he made to the comparables were on the basis of exterior building heights rather than interior ceiling height as a measure of comparison even though the ceiling height may impact the overall value of the building. Attorney Nolan submitted two exhibits at the hearing, the first being a page extracted from the *Dictionary of Real Estate Appraisal, 6th Edition*, defining “clear height” (marked as “Appellant Hearing Exhibit #1”); and the second being a 70-page document containing Co-Star property information data sheets related to the six board of review comparables (marked as “Appellant Hearing Group Exhibit #2”). Upon objection from the board of review as to group exhibit #2, the hearing officer allowed the documents to be used for limited purpose under cross-examination of the witness for impeachment purposes. However, the hearing officer denied the introduction of said documents to be admitted into evidence. Section 1910.67(k) of the rules of the Property Tax Appeal Board provide:

- k) In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless:
 - 1) Such evidence has been submitted to the Property Tax Appeal Board prior to the hearing pursuant to this Part;
 - 2) The filing requirement is specifically waived by the Board; or
 - 3) The submission of the written or documentary evidence is specifically ordered by the Board or by a Hearing Officer.

(86 Ill.Admin.Code §1910.67(k))

The Board finds that Appellant Hearing Group Exhibit #2 was not submitted to the Property Tax Appeal Board prior to the hearing pursuant to the filing requirement of Section 1910.67(k); the filing requirement was not waived by the Board; and the submission of said documents was not specifically ordered by the Property Tax Appeal Board or the hearing officer. 86 Ill.Admin.Code 1910.67(k). The board of review did not have an objection, however, to Appellant Hearing Exhibit #1 being admitted into evidence.

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. National City Bank of Michigan/Illinois v.

Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002), 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.

Initially, the Board finds that the documents prepared by Mr. Marack (including his “Market Approach to Value”) are within the scope of his authority as the Chief Deputy Township Assessor. A well-grounded exception in the Illinois Real Estate Licensing Act allows assessors to testify regarding the value of subject property as well as the comparables. Section 5-5(e) of the Real Estate Appraiser Licensing Act states as follows:

This Act does not apply to a county assessor, township assessor, multi-township assessor, county supervisor of assessments, or any deputy or employee of any county assessor, township assessor, multi-township assessor, or county supervisor of assessments who is performing his or her respective duties in accordance with the provisions of the Property Tax Code.

225 ILCS 458/5-5(e)

As the Chief Deputy Township Assessor, Mr. Marack’s job is to assess values of properties. The "Market Approach to Value" prepared by Mr. Marack was prepared pursuant to his duties as an assessor under the Property Tax Code in support of the assessment of the subject property. There is no evidence in the record that Mr. Marack was purporting to perform an "appraisal" of the subject property. Moreover, the Board finds that the documents prepared by the Chief Deputy Township Assessor and submitted by the board of review (including any opinion of market value) goes to the weight of the evidence, not its admissibility. The Board has given little weight to the “plus” or “minus” adjustments presented by Mr. Marack as there is no evidence in the record of specific market data (other than raw sales data) upon which he relied to calculate the adjusted sale prices per square foot of building area for each of the comparable properties. Consequently, the Board gave little weight to Mr. Marack’s value conclusion of the subject property as it was based in part on unsupported adjusted sale price per square foot of the comparable properties.

The Property Tax Appeal Board finds that the board of review submitted the same evidence used to support the tax year 2016 appeal. The board of review witness testified that it would be appropriate to use newer sales for the 2017 and 2018 appeals if he was “coming up with a new market value for each of those years,” however, he was not asked to prepare a new report for the current appeal.

The Board gave less weight to the appellant’s comparable sales #4 and #5 based on their sale dates in 2015 being less proximate in time to the subject’s January 1, 2017 assessment date than the remaining comparable sales in the record and therefore less likely to be indicative of subject’s market value as of the assessment date at issue. Additionally, appellant’s comparables #4, #6, and #7 are each multi-tenant buildings, dissimilar to the subject’s single-tenant characteristic and were therefore given reduced weight. The Board gave less weight to board of

review sales #1, #2, #3 and #5 due to their 2014 and 2015 sale dates being less proximate in time to the January 2, 2017 assessment date.

The Board finds the best evidence of market value to be appellant's comparable #1, #2, #3, and #8, as well as board of review sale #4 which were similar to the subject in location, single-tenant design, exterior construction, building size, land size, and land-to-building ratio. However, appellant's comparables #1 and #3 had larger building and land sizes relative to the subject, therefore requiring downward adjustments for these superior features in order to make them more equivalent to the subject. These best comparables in the record sold proximate to the January 1, 2017 assessment date at issue. These comparables sold from June 2016 to October 2017 for prices ranging from \$525,000 to \$865,000 or from \$31.52 to \$76.73 per square foot of building area, including land. The subject's assessment reflects a market value of \$710,471 or \$71.05 per square foot of building area, including land, which is within the range established by the best comparable sales in the record on an overall value basis and on a per square foot basis.

After considering the evidence and testimony provided, and after considering adjustments to the best comparable sales in the record for differences from the subject property, the Board finds that the appellant has not demonstrated by a preponderance of the evidence that the subject was overvalued. The Board further finds that the subject's assessment is supported by the evidence in the record and the testimony of the witness and, therefore, no reduction in the subject's assessment 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: _____

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:

May 18, 2021



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

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