



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

APPELLANT: Marilyn Sobieski
DOCKET NO.: 17-06002.001-C-1 through 17-06002.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Marilyn Sobieski, the appellant, by attorney Arnold G. Siegel, of Siegel & Callahan, P.C. in Chicago, and the DuPage 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 **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|------------------|----------------------|-------------|----------------|--------------|
| 17-06002.001-C-1 | 09-06-403-001 | 25,880 | 0 | \$25,880 |
| 17-06002.002-C-1 | 09-06-403-003 | 132,000 | 7,100 | \$139,100 |

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from decisions of the DuPage County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessments 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 two parcels operated as an owner-occupied, masonry constructed, 11-bay car wash facility. Features more specifically include nine self-serve bays and two automatic touchless bays along with an equipment room, a change center and eleven vacuum stations. The structure was built in 1984 and has a total gross building area of 4,602 square feet. The parcels have a total site of 35,499 square feet with a land-to-building ratio of 7.7:1 and are located in Downers Grove, Downers Grove Township, DuPage County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by David Conaghan and Gregory Nold, both of whom are Certified General Real Estate Appraisers, estimating the subject property, consisting of two parcels, had a market value of \$495,000 as of January 1, 2016. Nold also has the MAI designation or Member of the Appraisal Institute. The appraisers utilized both the income and

sales comparison approaches to value in arriving at their opinion. The purpose of the appraisal was for an ad valorem tax assessment to arrive at an opinion of the market value of the fee simple interest.

Under the income approach to value which begins on page 39 of the appraisal report, the appraisers set forth five rental comparables of car wash and auto repair buildings with actual or asking rents ranging from \$10.79 to \$22.42 per square foot. From consideration of this data, the appraisers estimated a market rent for the subject of \$16.00 per square foot based on a modified gross lease arrangement where the tenant is responsible for their own utility expenses and CAM reimbursement (p. 40). This results in a potential gross income of \$73,632 plus reimbursements of \$11,505 for a total potential gross income of \$85,137.

In analyzing the applicable vacancy and collection loss for the income approach to value, the appraisers wrote on page 41:

The car wash industry has not fully recovered from recent market declines. Additionally, the car wash industry is moving more toward full-service tunnel wash facilities that offer a full spectrum of products, with cheap entry pricing, and the convenience of not having to clean the car yourself.

Considering various factors including the foregoing, the appraisers determined the vacancy and collection loss for the subject was elevated and applied a 12% factor of the potential gross income figure or \$10,216 for slow and non-payment. Thus, the appraisers opined an effective gross income of \$74,921. Next for expenses, the appraisers applied a management fee of 5% of potential gross income or \$3,746 based on the local market; CAM or common area maintenance was estimated to be \$2.50 per square foot or \$11,505; the appraisers stabilized legal and professional expenses at \$2,500 per year and estimated reserves for replacements at \$0.50 per square foot or \$2,301. These expenses thus totaled \$20,052 which when deducted from the effective gross income, resulted in a net operating income calculation of \$54,869.

Next, the appraisers depicted the development of an overall loaded capitalization rate to be applied to the subject's estimated net operating income of 11.07%. When applied to the net operating income, the appraisers opined a value for the subject under the income approach of \$495,651 (p. 45).

Using the sales comparison approach which commences on page 46, the appraisers provided information on five comparable sales. The comparables were located in Addison, North Aurora, Naperville, Summit and Lemont. Comparables #1 and #3 were each described as being tunnel washes with additional bay or detail portions and comparables #2, #4 and #5 were described as 11-bay, ten-bay and six-bay facilities, respectively. The comparable buildings range in size from 1,869 to 9,934 square feet of building area. The structures were built between 1973 and 2001. The comparable parcels range in size from 23,568 to 74,226 square feet of land area resulting in land-to-building ratios ranging from 7.47:1 to 20.20:1. The comparables sold from September 2013 to December 2015 for prices ranging from \$283,000 to \$1,250,000 or from \$87.41 to \$151.42 per square foot of land area, including building(s).

On page 53 of the appraisal report, the appraisers set forth necessary adjustments for differences from the subject for each of the comparables. After reporting that all of the sales were arm's length transactions, the appraisers adjusted comparables #4 and #5 upward by 10% each for sale conditions and adjusted comparables #3, #4 and #5 upward by 5% for market conditions. Additional adjustments for various of the comparables were applied for differences in location, size, physical characteristics, construction quality, land-to-building ratio, age/condition and/or non-realty items. Net adjustments were applied ranging from 10%, 15% and 25% to various of the comparables resulting in adjusted sales prices ranging from \$100.96 to \$118.91 per square foot of land area, including buildings. Based on this data and adjustments, the appraisers estimated the subject had an estimated value under the sales comparison approach of \$495,000, rounded.

In reconciling the approaches to value on page 57, the appraisers gave primary emphasis to the sales comparison approach to value with secondary emphasis on the income approach. The appraisers estimated the subject property had a market value of \$495,000 as of January 1, 2016. Based on this evidence, the appellant requested an assessment approximately reflective of the appraised value conclusion.¹

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the two parcels comprising the subject of \$227,230. The subject's assessment reflects a market value of \$681,758 or \$148.14 per square foot of land area, including building(s), 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 response to the appeal, the board of review submitted an eight-page narrative prepared by the Downers Grove Township Assessor's Office which includes a facts concerning the subject parcel, a detailed discussion of the five comparable sales in the appellant's appraisal report along with criticisms and a discussion of the two sales and two listings presented on behalf of the board of review. The narrative concludes with an analysis of all of the sales/listings in the record and a discussion of the income approach to value from the appraisal. The assessor's data includes a spreadsheet depicting both parties' chosen comparables along with property record card printouts and CoStar data sheets along with other data from the internet and PTAX-203/warranty deed documentation.

As to the sales utilized in the appraisal, the assessor's office questioned adjustments made by the appraisers and detailed the sales and specific criticisms as to each comparable. The assessor contended that appraisal sale #1 was not advertised and "there is a question as to why the sale was \$350,000 and it is currently listed for \$699,000." The documentation supporting the new asking price has a print date of March 2019 from LoopNet which depicts the listing "date created: 8/10/2017." As to appraisal sale #2, the assessor, while unable to confirm improvement data from Cook County Assessor's records, contends that the advertised sale "reportedly" included the business value and has a wrong land size from CoStar based upon county records depicting a land size of 18,122 square feet. Therefore, the assessor asserts this sale should not be considered. With an inability to confirm a listing for appraisal sale #3 and a subsequent 2017

¹ Appellant's counsel set forth a contention that the "statutory level of 33%" should be applied. Under the Property Tax Code, the statutory level is actually 33.33%.

renovation, according to LoopNet, and a September 2018 listing of \$3,800,000, the assessor questioned the adjustments made by the appraisers in the report suggesting the upward and downward adjustments for this property would be offsetting and questioned the property's condition at the time of the sale given the subsequent renovations and current asking price. Documentation from LoopNet depicts a listing with a "dated created: 9/9/2018" and a print date in November 2018. As to appraisal sale #4, the assessor acknowledges the property was listed for a year prior to sale but notes this was an REO sale after foreclosure in 2011 and sold to a bank in 2012. Adjustments to sale #4 should have been overall positive or upward according to the assessor. Furthermore, the assessor in March 2019 observed the property was fully fenced in and being used for storage although the car wash was still standing but not in use and the vacuum canopy was being used as covered parking. Appraisal sale #5, while listed for about six months was described by the assessor as a short sale and not considered arm's-length meaning it should not be considered. However, with appropriate adjustments, both positive and negative, the assessor contends there would have been overall offsetting adjustments to this sale.

On behalf of the board of review, the assessor after extensive search was able to locate only two arm's length sales of self-service type car washes within DuPage, Kane, Will, Lake and Cook Counties. Upon extending the search to include listings in 2017, the assessor found two, one of which is the August 2017 listing of appraisal sale #1. The four comparables presented on behalf of the board of review are located in South Elgin, Hanover Park, St. Charles and Addison, respectively. The comparable parcels range in size from 16,988 to 46,173 square feet of land area and are improved with car wash facilities that range in size from 1,950 to 2,931 square feet of building area with either 4-bays or 6-bays. Listing #1 consists of two buildings, one of which is a tunnel car wash. The buildings were constructed from 1973 to 1995. The comparables present land-to-building ratios ranging from 8.04:1 to 16.6:1. The comparables #1 and #2 sold in January 2017 and September 2014, respectively, for prices of \$272,000 and \$715,000 or for \$139.49 and \$257.01 per square foot of land area, including building(s). Listings #1 and #2 present asking prices of \$699,000 and \$400,000, respectively, or for \$238.49 and \$137.93 per square foot of land area, including building(s). The assessor also reported that sales #1 and #2 require overall negative adjustments and listings #1 and #2 require overall positive and negative adjustments, respectively.

As to all of the comparables in the record, the assessor contends that appraisal sales #2, #4 and #5 should not be considered as they were not arm's length sales of a car wash to a car wash. Based on the lack of advertising, appraisal sales #1 and #3 should also not be considered. As to the four comparables presented by the assessor, the mean and median were reported to be \$193.23 and \$188.99, respectively. With average overall negative adjustments, the assessor contends the unit values would be reduced to approximately \$150 per square foot. Further contending that the best appraisal comparable sale with an unadjusted price of \$151.42 when applying a negative overall adjustment would reduce the value to approximately \$140 per square foot.

As to the income approach prepared in the appellant's appraisal, the assessor noted that the market rent for the subject appeared to be fair. However, the assessor contends that a 12% vacancy should have been 7.9%, although the appraisers' 26.8% expense was deemed appropriate. Using the modified vacancy figure, the assessor contends the net operating income would be \$57,398 and argued for a loaded capitalization rate of 10.57% instead of the 11.07%

loaded capitalization rate used in the appellant's appraisal report. Based on these adjusted figures, the assessor sets forth an estimated market value for the subject of \$545,000, rounded, or \$118.43 per square foot of land area, including building(s), under the income approach to value. Since the subject property is owner-occupied and the income approach generally opines the lowest approach to value, the assessor agrees that the sales comparison approach should be given greatest weight.

At page 8 of the assessor's narrative, the assessor summarizes the lack of credibility of the appraisal sales and contends that the four comparables presented by the assessor support confirmation of the subject's estimated market value as reflected by its assessment.

In rebuttal, counsel for the appellant submitted a two-page letter prepared by Gregory B. Nold, one of the authors of the appellant's appraisal after having reviewed the appraisal file and the board of review submission. Initially, Nold noted that prevailing market conditions for car wash facilities leading up to the 2016 effective date of the appraisal were poor. Besides a downturn in demand, the industry was changing technology, services and pricing which made certain car wash designs obsolete.

As to appraisal sale #1, Nold questions the assessor's focus on an unsuccessful listing of this property for \$699,000. Recognizing that appraisal sale #2 included business value of the going concern, the appraiser contends a downward adjustment was necessary and argues the sale is valid. For appraisal sale #3, Nold argues the appraisal presents the only confirmed sale of a newer car wash facility while the assessor has focused on a subsequent higher asking price of \$3,800,000. As to appraisal sale #4, while it may not currently be used for a car wash, it could again be marketed as such and displays values in the market for car washes. Nold contends that appraisal sale #5 was a typical market sale even though it was a short sale, that is indicative of the poor market conditions for car wash properties and presents a newer building with typical market exposure such that it is good sale.

Next, Nold analyzed the four comparables presented by the assessor on behalf of the board of review. Nold contends sale #1, while a smaller building with superior land-to-building ratio, supports the appraiser's opinion of value after adjustments are applied. As to the assessor's listing #2 (misidentified in the letter), Nold contends the asking price of \$400,000 was from 2019 and this property as failed to sell in March 2012 with an asking price of \$325,000 therefore the property does not represent a "sale." Assessor's sale #2 (misidentified in the letter) was described by Nold as including business value and asserted that too many downward adjustments are necessary such that the sale would not be meaningful but still does not discredit the appraiser's opinion. The assessor's listing #1, as the same property as appraisal sale #1, sets forth an asking price of \$699,000 which has not been achieved; the only sale of the property occurred in December 2015 for \$350,000. Lastly, Nold disputed the assessor's reliance upon inappropriately dated data for the applicable vacancy rate and concluded his letter reaffirming the opinion set forth in the appraisal.

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 Board finds the best evidence of market value to be the appraisal submitted by the appellant. The appraisers estimated the subject property had a market value of \$495,000 or \$107.56 per square foot of land area, inclusive of the building, as of January 1, 2016. The subject's assessment reflects a market value of \$681,758 or \$148.14 per square foot of land area, including building, which is above the appraised value.

The appraisal contains two approaches to value to support the market value conclusion, both the income and sales comparison approaches. In contrast, the board of review provided no substantive income approach to value with only an unsupported revision to the appraisers' vacancy and collection loss which was refuted in the appellant's rebuttal submission. Therefore, the Board finds that the board of review failed to adequately rebut the income approach to value aspect of the appellant's appraisal evidence. The Board further finds the income approach developed by the appellant's appraisers, although given secondary weight, was more credible than the information submitted by the board of review.

With respect to the sales comparison, the appraisers made adjustments to the five sales for sale conditions, market conditions, location, size, physical characteristics, construction quality, land-to-building ratio, age/condition and non-realty items. In contrast, the board of review provided two sales comparables and two active listings, one of which reflected the listing of appraisal sale #1, which as of the date of submission in 2019, had not yet sold for the 2017 asking price. Although the assessor summarized that adjustments for differences were necessary when compared to the subject property, the Board has given little weight to these generic upward/downward adjustments and the assessor's conclusion of value for these four comparables presented. The Nold letter in rebuttal, despite numeric misidentifications, thoroughly refutes the properties upon which the board of review has relied in this appeal. Based on this record, the Board finds the sales comparison approach developed by the appraisers presents the better supported and more credible value conclusion than the data of two comparable sales and two listings provided by the board of review.

After considering the evidence, the Board finds the best evidence of market value in this record was presented by the appellant. The Board finds that the appellant has demonstrated by a preponderance of the evidence that the subject was overvalued and, therefore, a reduction in the subject's assessment is warranted. On this record, the Board finds the subject property had a market value of \$495,000 as of the assessment date at issue. Since market value has been established the 2017 three year average median level of assessments for DuPage County of 33.33% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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:

June 8, 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

State of Illinois
Property Tax Appeal Board
William G. Stratton Building, Room 402
401 South Spring Street
Springfield, IL 62706-4001

APPELLANT

Sobieski, by attorney:
Arnold G. Siegel
Siegel & Callahan, P.C.
1 North Franklin
Suite 450
Chicago, IL 60606

COUNTY

DuPage County Board of Review
DuPage Center
421 N. County Farm Road
Wheaton, IL 60187