



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

APPELLANT: Jesus Gonzalez
DOCKET NO.: 17-27895.001-C-1
PARCEL NO.: 18-24-102-013-0000

The parties of record before the Property Tax Appeal Board are Jesus Gonzalez, the appellant(s); and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$2,031
IMPR.: \$22,860
TOTAL: \$24,891

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook 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 62 year-old, two-story mixed-use building of masonry construction containing 6,000 square feet of living area. The first floor was used as commercial space; the second floor contained nine residential studio apartments. The property has a 3,125 square foot site in Summit, Lyons Township, Cook County. The property is a Class 3 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal utilizing the sales comparison, income capitalization and cost approaches of valuation. The appraisal estimated the subject property had a reconciled market value of \$160,000 as of January 1, 2016. The appellant requested a total assessment reduction to

\$16,000 when applying the 2017 level of assessment of 10.00% for Class 3 property under the Cook County Real Property Assessment Classification Ordinance.

Timothy Andres (“Andres”) appraised the subject’s fee simple property rights. Andres prepared his appraisal report based on the sales comparison, income capitalization and cost approaches. For the sales approach, Andres selected six properties that sold from 2014 through 2016 and ranged from 2,448 to 6,720 square feet of improvement area. Three were REO¹ properties because there were few recent sales of similar properties in or near Summit. Andres opined that Summit was an economically depressed area. The remaining three were conventional sales. Comparable property #4 contained only residential apartments and was not a mixed-use property, as were the remaining five comparables. Comparables #1 through #4 were in Summit, as was the subject; comparables #5 and #6 were in Chicago.

For the development of the income capitalization approach, Andres cited comparables #4 and #6 as the only comparables that disclosed income and expense data. Andres relied on these two properties to develop the income capitalization approach.

In his final reconciliation narrative, Andres stated the “Sales Comparison Approach was considered to be the most reliable indicator of value...the Income Approach was given equivalent consideration as the Sales Comparison Approach in this analysis.” (Appraisal Report, p. 4). Andres’ indicated cost approach was \$211,300; indicated market approach was \$175,000; and the indicated income approach was \$140,000. His reconciled market value opinion of the subject was \$160,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$24,891. The subject's assessment reflects a market value of \$248,910, or \$41.48 per square foot of improvement area including land, when applying the 2017 level of assessment of 10.00% for Class 3 property under the Cook County Real Property Assessment Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on five unadjusted suggested sale comparables that ranged from \$43.51 to \$80.21 per square foot of improvement area including land.

¹ REO is an abbreviation for “real estate owned.” Black’s Law Dictionary, “REO” (10th ed. 2014). Real Estate Owned is defined as “Property acquired by a lender, usu. through foreclosure, in satisfaction of a debt. - Abbr. REO.” Black’s Law Dictionary, “real estate owned” (10th ed. 2014). A "compulsory sale" is defined as:

- (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

The hearing commenced with the appellant calling Andres to testify as an expert witness. After *voir dire* of Andres' expert qualifications, the Administrative Law Judge ("ALJ") found Andres qualified to be an expert in the theory and practice of residential, mixed-use real estate appraisal.

Andres testified that he reconciled the estimated market values of the three developed approaches. He stated he was fortunate to have found six recent sales to support his sales approach. He cited two in the southside of Chicago rather than Summit because those were similarly economically depressed areas and because there were not many similar recent sales in Summit. He testified that he gave the least weight to the cost approach and the most weight to the income capitalization approach. When asked why he gave less emphasis to the sales approach, Andres testified that the comparable properties he cited varied too widely in the number of living units. He gave more emphasis to the income approach because that is what investors would emphasize. Andres considered comparable #6 the best for the income approach because it had a 14.67% overall capitalization rate. In contrast, Andres gave less weight to comparable #4 because its 19.97% rate was too high. But, he still used comparables #4 and #6 for the income approach. He estimated the subject's appropriate capitalization rate at 15.00%. He was not able to obtain income and expense data from comparables #1, #2 and #3 because they were REO properties. When asked how his testimony conflicted with the reconciliation narrative in his report that the sales approach was most reliable, Andres testified that he considered both approaches and gave little emphasis to the cost approach. He estimated the subject's reconciled fair market value to be \$160,000 as of January 1, 2016. The taxpayer testified that he has had difficulty renting the commercial space.

On cross-examination, Andres testified that his comparables #1 through #3 were foreclosed sales and that comparable #4 was not a mixed-use property but was entirely an apartment building. Andres testified that the sale prices per square foot for comparables #5 and #6, respectively at \$46.98 and \$83.70 per square foot of improvement area, were higher than the board of review's assessment or \$41.48 per square foot of improvement area.

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 appraisal states in the reconciliation narrative that the sales comparison was the most reliable indicator of market value; later in the narrative, the appraiser stated he gave equivalent weight to the income capitalization approach. At hearing, the appraiser testified that he found six recent comparable sale properties even though Summit was not in a high sale volume area. But, the appraiser testified that he gave weight to the sales comparison approach only to the extent that it supported the income capitalization approach conclusions. The appraiser further testified that he gave diminished weight to the sales approach because the six selected comparables varied widely

in the number of apartment units. Consequently, he relied mostly on the income approach. In support of the income approach, the appraiser testified that he relied on comparables #4, #5 and #6 of six properties he selected for the sales approach. Yet, comparable #5 did not disclose income and expense data. The Board takes note that the appraiser developed the income approach on only two comparable properties. Comparable #4 contained 3,594 square feet of living area for seven apartment units. Comparable #6 contained 2,688 square feet of living for two apartment units. In contrast, the subject contained 6,000 square feet of living area for nine apartment units. The appraiser did not explain why those two properties were not similar enough to the subject when developing the sales comparison approach, but were similar for the income approach. He also testified that he rejected the 19.97% capitalization rate for comparable #4 after explaining that high capitalization rates were the norm in Summit and the south side of Chicago due to higher risks to investors.

In setting market value, the sales comparison approach is the preferred method. *See Cook County Board of Review v. Illinois Property Tax Appeal Board*, 384 Ill.App.3d 472 (1st Dist. 2008). In the instant case, the appraiser did not adequately explain why in his written report he weighed the sales approach as the most reliable indicator of market value, but at hearing he testified that he gave that approach minimal weight. He also did not explain why he found six recent sales of properties he considered comparable, only to later testify that they were not indicative of the subject's market value because they varied in the number of apartments they contained. The appraiser also did not explain why, after rejecting those six properties as comparable, he selected two on which to develop his income approach. Since Andres gave diminished weight to the capitalization rate for comparable #4, he based his estimated overall capitalization rate only on comparable #6.

The Board finds the appraisal report and the appraiser's testimony in support of it to be unreliable. The Board gives the opinions and conclusions therein no weight. The appraiser did not adequately explain in his testimony his rejection of the sales comparison approach and sole reliance on the income capitalization approach. He rejected the six comparable properties for the sales approach because they varied widely in the number of apartments, but he relied on two of them for the income approach. The appraiser testified he did not consider one of them a good indicator of the correct capitalization rate and relied on only one of them, comparable #6, to calculate the subject's capitalization rate.

Consequently, the Board finds the opinions and conclusions in the appraisal to be unreliable and looks to the raw unadjusted data of recent sales to set a range of similar properties submitted by both parties. The Board finds the best evidence of market value to be the appellant's comparable sale(s) #1, #2 and #3. Although each was a sale of REO property, the Board "shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer." 35 ILCS 200/16-183. Each was a mixed-use commercial/apartment building in Summit. They sold from November 2014 through July 2016 for prices ranging from \$13.71 to \$45.24 per square foot of living area, including land. The subject's assessment reflects a market value of \$41.48 per square foot of living area including land, which is within the range established by the best comparable sales in this record. After considering all documentary

evidence and testimony at hearing, the Board finds the appellant did not sustain his burden of proof by preponderance of the evidence. The Board finds a reduction in the subject's assessment is not 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: June 18, 2019



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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