



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

APPELLANT: First Midwest Bank
DOCKET NO.: 19-00237.001-C-1
PARCEL NO.: 23-15-02-207-007-0000

The parties of record before the Property Tax Appeal Board are First Midwest Bank, the appellant, by attorney John P. Fitzgerald, of Fitzgerald Law Group, P.C. in Burr Ridge, and the Will 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 Will County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$175,673
IMPR.: \$ 61,254
TOTAL: \$236,927

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2019 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 bank/office building of masonry exterior construction with 3,538 square feet of building area. The structure was built in 2005 with central air conditioning and has a concrete slab foundation. Additional improvements include a 1,200 square foot canopy with four drive-through lanes and an ATM. The property has a 48,352 square foot corner site with a land-to-building ratio of 13.67:1 and is located in Crete, Crete Township, Will 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 Thomas W. Grogan and John T. Setina, III, both of whom are Certified General Real Estate Appraisers. Grogan additionally has the MAI designation from the Appraisal Institute. Utilizing both the income and sales

comparison approaches to value, the appraisers estimated the subject property had a market value of \$710,000 as of January 1, 2019.

The appraisal was prepared to estimate the fee simple market value of the subject property for real estate tax purposes. As part of the property history on page 15 of the appraisal, the appraisers report that the subject property sold in August 2017 for \$1,719,366, however, the property was never marketed and this was a sale lease-back. The appraisers further assert the sale price was based on a leased fee interest and its long-term lease agreement. Furthermore, it is reported that this was part of a bulk transaction where multiple bank branches were conveyed noting that First Midwest Bank has continued to be the tenant of all facilities with the option to repurchase. As such, the appraisers wrote that "it is not considered to be indicative to current market value" and concluded the sales were merely a financing mechanism in the form of a sales-lease back transaction.

Utilizing the sales comparison approach, the appraisers analyzed six sales located in Mokeana, Tinley Park, New Lenox, Naperville and Aurora. The land sizes range from 11,997 to 60,591 square feet of land area with land-to-building ratios ranging from 7.20:1 to 15.37:1. As shown on individual descriptive sheets, five comparables consist of one-story buildings and comparable #4 is a two-story building. The comparables were built between 1975 and 2006. The structures range in size from 1,440 to 8,192 square feet of building area. Comparables #3, #4 and #6 have basements, one of which was described as finished. The comparables were on the market from more than eight months to two years. Comparable #5 had also previously been on the market and sold in December 2013 for \$503,000 or \$119.28 per square foot of building area, including land. The sales and under contract data for comparable #6 (which was listed in May 2018) occurred from August 2016 to April 2018 for prices ranging from \$275,000 to \$1,300,000 or from \$84.73 to \$215.57 per square foot of building area, including land.

The appraisers next considered adjustments to the comparables for differences to the subject in conditions of sale, economic trends, location, building size, age and condition, land-to-building ratio and/or basement area. Although appraisal sale #3 was reported to have been an REO sale, the appraisers determined it was typically marketed and had similar features such that no adjustment was necessary for conditions of sale; appraisal sales #1 and #3 were given upward adjustments for their deed restrictions; and appraisal #6 which was under contract was given a downward adjustment for its current list status. Appraisal sale #5 was given an upward adjustment for its date of sale. Each comparable, while located in Will County, was given a downward adjustment for superior locations. As set forth on pages 50 to 52 of the appraisal report, adjustments were also applied for differences in building size, age and condition, land-to-building ratio and/or basement foundation when compared to the subject with adjustments summarized on page 52. Through this process, the appraisers opined the subject's unit value would be \$200.00 per square foot of building area, including land, resulting in an estimated market value of \$710,000, rounded, under the sales comparison approach to value.

The next approach to value was the income capitalization approach. The first step under this approach was to estimate the subject's market rent. The appraisers set forth data on four bank/office buildings with drive-through facilities and, due to the lack of such properties available for lease, also expanded the search to include commercial/office properties/space rentals in Lake, McHenry and DuPage Counties; rental comparable #5 is a bank/office building

with leased space, but without a drive through. Rental comparables #6 and #7 are commercial/retail space(s) in strip centers along the same street as the subject, but without drive through facilities.

The seven comparables were summarized on page 56 and were located in Carpentersville, Plano, Montgomery, Elmhurst and Crete. The buildings range in leased square footage from 1,200 to 10,006 square feet of building area. The comparables were built from 1915 to 2005 and present land-to-building ratios ranging from 2.85:1 to 12.29:1. These comparables had net, gross, modified gross and/or asking rental rates ranging from \$12.00 to \$22.18 per square foot of building area. After considering adjustments for conditions of lease, location, size, age and condition, and/or land-to-building ratio, the appraisers concluded that the subject would have a market rent of \$20.00 per square foot resulting in a potential gross income (PGI) of \$70,760.

The appraisers analyzed historical occupancy rates from various published sources and thus, estimated the subject would have a 7.50% allowance for vacancy and collection loss resulting in an effective gross income (EGI) of \$65,453. Assuming a net lease, the appraisers estimated operating expenses for the subject for property management (3.5% of EGI), insurance of \$708 and replacements for reserves of \$885, or \$3,884 resulting in net operating income (NOI) of \$61,569.

The final step under the income approach was to estimate the capitalization rate to be applied to the subject's net income. Due to the lack of actual capitalization rates obtained from the market, the appraisers consulted investor surveys published by *PricewaterhouseCoopers (PwC)* which indicated overall rates from 4.75% to 10% from which the appraisers opined that the subject's overall capitalization rate would be 8.5%. Alternatively, considering the band of investment technique based on data from *RealtyRates.com*, the appraisers concluded an 8.72% overall capitalization rate. Placing more weight on the direct capitalization technique, the appraisers concluded an 8.50% overall capitalization rate best reflects investors' criteria for the subject property. Given a net lease and the subject's estimated vacancy rate, the appraisers next added a tax load of 0.37% resulting in a loaded capitalization rate of 8.87%. Capitalizing the subject's estimated net income of \$61,569 by 8.87% resulted in an estimated value under the income approach of \$695,000, rounded. (Appraisal, pages 54-64).

In reconciling the two approaches to value, the appraisers gave primary consideration to the sales comparison approach with second consideration to the income approach in concluding an estimated market value for the subject of \$710,000 as of January 1, 2019.

As part of the brief filed in this appeal by appellant's counsel, appellant also contends that the subject property was recently part of two sale-leaseback transactions in which the property was conveyed, as part of a bulk transaction. In exchange for an immediate infusion of capital, First Midwest Bank agreed to lease the property for a 14-year term plus certain option periods, including the option to purchase back the property. As such, the appellant contends the consideration was not reflective of actual fair market value and the transactions were not arm's-length given multiple other factors. (Exhibit A – 60± page Absolute Lease Agreement between FMB Portfolio C Owner, LLC (Landlord) and First Midwest Bank (Tenant)).

Based on the foregoing evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$320,777. The subject's assessment reflects a market value of \$961,274 or \$271.70 per square foot of building area, land included, when using the 2019 three year average median level of assessment for Will County of 33.37% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review submitted a memorandum from the Crete Township Assessor summarily stating that the subject property sold on August 24, 2017 for \$1,719,366 or \$485.97 per square foot of building area, including land, which is higher than the subject's estimated market value based on its assessment. In support of this sales transaction, the assessor provided a copy of the PTAX-203 indicating that the property transferred by Special Warranty Deed and was not advertised. In response to the appellant's assertion that the sale was part of a bulk transaction with a 14-year lease with an option to buy back the property, the assessor cited to the recorded Deed that there was no option to purchase (Exhibit B, Item #2 – "without any right of first refusal or options to purchase.")

In support of its contention of the correct assessment, the board of review submitted information on three comparable sales of bank properties located in Crete. The comparable parcels range in size from 1,307 to 35,572 square feet of land area. Each parcel is improved with one-story brick buildings, where comparable #1 has two buildings on one parcel with a combined building size of 12,335 square feet. Comparables #2 and #3 were built in 1915 and 2002, respectively; no date of construction was provided for comparable #1 in either the grid analysis or the underlying property record card. Comparables #2 and #3 have buildings of 5,367 and 7,479 square feet of building area, respectively. One of the two buildings identified as comparable #1 along with comparable #3 each have basements. The comparables #1 and #3 each reportedly sold in May 2013 for \$5,980,000, however, no documentation of the sale(s) was supplied. In contrast, comparable #2 sold in November 2016 for \$1,654,782 or \$308.33 per square foot of building area, including land, where the underlying PTAX-203 was marked as a sale-leaseback transaction.

Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

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 along with a complete copy of the subject's lease agreement whereas the board of review submitted data on three suggested comparable sales and an argument concerning the August 2017 sale of the subject property to support their respective positions before the Property Tax Appeal Board. The Board has given

little weight to the board of review's contention regarding the 2017 sale of the subject which has been refuted by the appellant's documentary evidence and the appellant's appraisal report refuting that the transaction was reflective of market value.

The first issue the Board will address is whether or not the sale-leaseback transaction involving the subject property in August 2017 was indicative of the market value of the subject property. The Board finds the sale-leaseback was not reflective of the fair cash value of the subject real estate. First, the sale-leaseback had a price of \$1,719,366, which equates to approximately \$485.97 per square foot of gross building area, land included. The price reflected by the transaction is significantly above the comparable sales in the record demonstrating the transaction was not reflective of the fair cash value of the real estate. Second, the board of review's/assessor's copy of the PTAX-203, Illinois Real Estate Transfer Declaration and Form PTAX-203-A Illinois Real Estate Transfer Declaration Supplemental Form A associated with the subject's August 2017 sale does not support the contention that this was an arm's-length transaction. Question 7 on Form PTAX-203 reflects an answer of "No" to the question; "Was the property advertised for sale or sold using a real estate agent?" Item 3 on Form PTAX-203-A has an answer of "0" to the statement, "Write the total number of months the property was for sale on the market." The Board further finds that the appellant's evidence includes an extensive lease agreement (Exhibit A) related to the sale-leaseback transaction which indicates that the sale did not reflect a market value transaction. The Board finds the evidence in this record demonstrates the sale-leaseback was a leveraged lease transaction in which the sale was based on the leaseback of the property for a long-term basis guaranteed by the seller's parent company. Therefore, the Board finds on this record that this sale is not indicative of fair cash value for *ad valorem* real estate assessment purposes.

Moreover, the Property Tax Appeal Board has given little weight to the three sales presented by the board of review. The record is incomplete regarding sales #1 and #3 as there is no supporting documentation, however, the Board finds it highly suspicious that both properties sold on the same date for the same sale price of \$5,980,000, which suggests this may have been a bulk sale transaction. Regardless, as to board of review sales #1 and #3, the Board finds the sales dates in May 2013 are too remote in time to be indicative of the subject's estimated market value as of the valuation date at issue of January 1, 2019. The Board has also given reduced weight to board of review sale #2 which, based on its underlying PTAX-203, was a sale-leaseback transaction.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The appraisers placed most weight upon the sales comparison approach to value which the Board finds were similar properties to the subject in location, size, style, exterior construction, features, age and/or land area. These properties also primarily sold proximate in time to the assessment date at issue and were reported to be arm's-length transactions that had been on the market for a period of time. The value conclusion of \$710,000 or \$200.68 per square foot of building area, including land, is below the market value reflected by the assessment. The subject's assessment reflects a market value of \$961,274 or \$271.70 per square foot of building area, including land, which is above the appraised value conclusion.

On this record, the Board finds the subject property had a market value of \$710,000 as of the assessment date at issue. Since market value has been established the 2019 three year average

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median level of assessments for Will County of 33.37% 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: November 16, 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

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