



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

APPELLANT: Petsmart, Inc.
DOCKET NO.: 19-03524.001-C-2
PARCEL NO.: 07-16-101-024

The parties of record before the Property Tax Appeal Board are Petsmart, Inc., the appellant, by attorney George J. Relias, of Relias Law Group, Ltd. 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: \$245,095
IMPR.: \$473,112
TOTAL: \$718,207

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 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 retail building of masonry exterior construction. The structure contains 25,680 square feet of gross building area that was built in 1997. The property has a 2.15-acre site along a major retail corridor with a 3.651:1 land-to-building ratio and is located in Gurnee, Warren Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$1,7500,000 as of January 1, 2019. The appraisal was prepared by Edward Kling, a State of Illinois Certified General Real Estate Appraiser with the MAI and MRICS designations. In estimating the market value of the subject property, the appraiser developed the sales comparison and income approaches to value.

The appraisal was prepared to develop the fee simple value of the property for *ad valorem* tax purposes. Kling further described that the subject property is actually owned by Menard, Inc. and leased to Petsmart; for valuation purposes, no consideration was given to this lease. The most recent sale of the subject was discussed on page 12 of the appraisal, reporting a December 2016 purchase price of \$6,590,053 which involved acquisition of the leased-fee interest in the property.

For the sales comparison approach, Kling set forth information on four sales located in Mundelein, Vernon Hills or McHenry. Addendum C to the appraisal includes individual data sheets for the comparables. The parcels range in size from 2.08 to 7.55-acres of land area and have each been improved with a brick building constructed from 1988 to 1990, where sale #2 has an effective age of 2017, and ranging in size from 37,000 to 89,692 square feet of rentable building area. Each sale depicts a closed fee simple transaction of a vacant property that occurred from March 2016 to March 2018 for prices ranging from \$1,300,000 to \$4,000,000 or from \$17.84 to \$80.00 per square foot of building area, including land.

After making adjustments to the comparables for market conditions, location, building size and/or age/condition, in a chart on page 33 of the appraisal, Kling wrote the unadjusted value range is from a low of \$17.84 to a high of \$107.57. Given the foregoing, Kling reported that the reconciled value on a square foot basis for the subject is \$67.50 per square foot or an estimated value of \$1,750,000, including land, rounded, under the sales comparison approach.

Under the income approach, the appraiser utilized the direct capitalization method and analyzed four leases of three properties located in Vernon Hills, Kildeer and Crystal Lake, where leases #1 and #2 were in the same multi-tenant building. Addendum C to the appraisal includes individual data sheets for the leased comparables. The buildings range in size from 50,000 to 197,592 square feet of rentable area and are in buildings constructed between 1987 and 2017 with a 1988 building that was renovated in 2017. The leases were executed between January 2016 and August 2017 for 120 months for leased space ranging from 20,000 to 65,502 square feet. Each lease was triple net with a base rental rate ranging from \$6.00 to \$13.33 per square foot with an effective rental rate ranging from \$6.00 to \$23.00 per square foot. (Appraisal, p. 36).

After considering adjustments to the comparable leased properties for differences in location and/or building size, Kling concluded an estimated triple net market rent for the subject property of \$7.00 per square foot of building area. As a result, the appraiser estimated an annual potential gross rent for the subject property of \$179,760, with a vacancy and collection loss estimate of 5% resulting in an estimated effective gross income of \$170,772 (Appraisal, p. 37-38). Given the triple net lease, Kling did not develop stabilized expense levels since the tenant is responsible for all operating expenses (Appraisal, p. 38).

Utilizing direct capitalization, the appraiser considered data from four comparable sales, including the subject's December 2016 sale, reflecting overall capitalization rates ranging from 6.27% to 10.56%. Having given no consideration to the subject's lease data, Kling opined a capitalization rate range of 9% to 9.5% for the subject based on comparable sales. Analyzing investor surveys, Kling reported capitalization rate ranging from 6.09% to 10.56%. Given that the subject is considered to be above the average rate in the survey data, the appraiser opined a capitalization rate range of 9% to 9.5% based on investor surveys (Appraisal, p. 39).

Kling chose to apply a capitalization rate of 9.25% for the subject building. To the chosen capitalization rate, the appraiser added .15% to account for real estate taxes resulting in a loaded capitalization rate of 9.40%. Therefore, Kling concluded an indicated value for the subject of \$1,800,000, rounded, under the income approach to value (Appraisal, p. 41).

In reconciling the approaches to value (Appraisal, p. 42), Kling gave most consideration to the sale comparison approach "since the subject is owner-occupied and the most likely purchaser is another owner-used." He gave secondary consideration to the income approach. After considering these value conclusions, Kling opined an estimated a market value for the subject of \$1,750,000 as of January 1, 2019.

Based on this evidence, the appellant requested a reduction in the subject's total assessment to approximately reflect the appraised value conclusion.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$718,207. The subject's assessment reflects a market value of \$2,183,664 or \$85.03 per square foot of gross building area, land included, when using the 2019 three year average median level of assessment for Lake County of 32.89% as determined by the Illinois Department of Revenue.

In response to the appellant's evidence, the board of review contends, in part, that the subject property was purchased on the open market. Supporting documentation depicts that sale occurred in December 2016 for \$6,590,053 or \$256.50 per square foot of building area, including land, where the single-tenant building was 100% leased at the time of sale.

Furthermore, the board of review in a six-page memorandum outlined its analysis and critique of the appellant's appraisal report, including an analysis of each approach to value. Despite acknowledging that the subject was purchased encumbered with a multi-year lease, the board of review contends the appraiser failed to report this as a Hypothetical Condition as required by USPAP.

Kling also did not report his prior professional services where he had provided an appraisal value range for the subject. (Page 4 of the Appraisal, Certification, Item #16). The board of review contends this value range "also appears to have 'boxed' the appraiser given many other available area sales which he may have been reluctant to consider or include given the prior preliminary sales search. "The appraiser provided this prior service / pre-comp check at the same time the actual engagement was signed and thus there appears to be a predetermined value range which may be a USPAP violation." (See copy of October 11, 2019, Restricted Appraisal report prepared by Kling with an estimate of market value of \$1,500,000 to \$1,750,000 and copy of Engagement Letter for a complete appraisal signed by the client on October 11, 2019). Both the Restricted Appraisal report and the Engagement Letter are part of Addendum B to this appraisal report.

In the sales analyzed by Kling, the board of review contends that two of the four were vacant and non-stabilized properties. As such, the board of review contends "these typically sell as is and require significant work to re-stabilize them." Therefore, the board of review argues that these

sales are inconsistent with the appraiser's definition of market value and fair cash value. Appraisal sales #1, #3 and #4 are "inferior locations as well" according to the board of review.

Next, the board of review set forth a grid with data on six sales, where sale #6 is the sale of the subject property, along with an argument that sales #2 through #5 were available to Kling at the time the report was prepared and "more accurately demonstrate the demand for each individual unit." These are the same sales set forth below which were identified as the board of review's comparable sales.

In the income approach to value, the board of review contends there are inconsistencies in Kling's report. While the subject sold under lease, the board of review notes the lease was not analyzed; the board of review opines failure to consider the subject's lease "can often be misleading as these directly lead to Market Value and Fair Cash Value of a property." As part of its analysis of the appraisal's income approach, the board of review argued that Kling failed to account to management expense items such as legal and accounting nor any minimal reserves for replacements expenses. The board of review contends these items must be accounted for, regardless of lease type. As to the capitalization rate data, the investor surveys actually range from a low of 4% to a high of 13.91% based on the appraisal (page 39), which were erroneously reported by Kling using the averages ranging from 6.09% to 10.56%.

In light of what the board of review asserts are errors and omissions in the Kling appraisal report as outlined above, the board of review is of the opinion that the appellant's appraisal's value conclusion is not fully supported and lacks credibility.

In support of its contention of the correct assessment, the board of review submitted Co-Star sheets, PTAX-203 transfer declarations and property record cards on six sales, where comparable #6 was the sale of the subject property in December 2016. Having examined the supporting documentation and the grid analysis in the critique, the Property Tax Appeal Board summarizes the board of review's comparable sales data as follows: the five comparable properties are located in Grayslake, Gurnee, Vernon Hills, Lincolnshire and Wadsworth; the parcels range in size from 1.4 to 6.25-acres of land area and are improved with commercial structures ranging in size from 10,000 to 45,400 square feet of building area. Four of the comparables were built from 1992 to 2018; no date of construction was provided for comparable #4. Comparables #1, #3 and #4 are single tenant buildings while comparables #2 and #5 are multi-tenant buildings. Comparables #1 and #2 along with the subject property were 100% leased at the time of sale while comparable #3 was vacant at the time of sale. Comparables #1 through #5 sold from February 2016 to June 2020 for prices ranging from \$1,550,000 to \$9,300,000 or from \$83.33 to \$629.27 per square foot of building area, including land.

The board of review as part of its critique of the appellant's appraisal set forth a grid of eight triple net leases of properties located in Lake Villa, Gurnee, Libertyville, Waukegan, Mundelein and Third Lake. The leases began in September 2016 to September 2020 for leased retail space ranging in size from 6,700 to 30,000 square feet for rental rates ranging from \$8.00 to \$16.00 per square foot. Based on this data, the average market rent is \$12.34 per square foot and the median rent is \$12.25 per square foot. The subject property's contract rent is reported to be \$16.10 per square foot and is "slightly above market."

The board of review argues that the subject's contract rent is slightly high and, therefore, the board of review argued that for purposes of *ad valorem* market rent valuation \$12.00 per square foot would be more appropriate. Given a rental rate of \$12.00, the board of review set forth an annual potential gross income for the subject property of \$308,160. The board of review relied upon CoStar data on vacancy rates ranging from 7% to 10% and thus contends an appropriate vacancy rate is 9% for the subject property. As displayed in the board of review's calculation of an income approach to value, the board of review applied a 5% management fee or \$14,021 of effective gross income and reserves for replacements of \$6,420, resulting in a net operating income of \$259,984.

In developing an overall capitalization rate, the board of review utilized the CoStar Central North Office report which is specific to the subject's market and indicates a range of 6.3% to 9.2%, or an average capitalization rate of 6.9%. The board of review also considered the subject's actual capitalization rate from the December 2016 sale of 6.27%. Based on this data, the board of review applied a 7.5% capitalization rate which was loaded with the 2019 actual tax rate of 9.0329360% resulting in a loaded capitalization rate of 10.5107%. Applying the loaded rate to the subject's net operating income results in a conclusion of \$2,473,526, when using the income approach to value according to the board of review.

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/did not meet* this burden of proof and a reduction in the subject's assessment *is/is not* warranted.

The appellant submitted an appraisal of the subject property with an opinion of value as of January 1, 2019 and the board of review submitted data to criticize the appraisal and did its own calculation of a sales comparison approach and an income approach based upon new comparable data presented in support of the subject's assessment.

The appellant submitted an appraisal of the subject property which relied upon both the sales and income approaches to value, with primary emphasis ultimately placed on the sales comparison approach to value by Kling in arriving at a value of \$1,750,000 for the subject. Upon examining the four comparable sales utilized in the appraisal report and consideration of the purported adjustments, the Board finds that due to a lack of similarity between each of the comparables and the subject property in building size and lot size, the appraiser made extraordinary adjustments and on page 33 opined a high-end value conclusion of \$107.57 per square foot when none of the sales presented this value. Due to the questionable nature of adjustments, the Board finds the appraiser's value conclusion using the sales comparison approach is not well-supported by the comparable sales in the report.

Furthermore, the Board finds the income approach to value utilized by Kling lacked any appropriate consideration for expenses incurred by the lessor for management and/or reserves for replacements. As such, the Board finds the income approach conclusion also appears to be questionable even though this approach was only given secondary consideration by Kling in the final value conclusion.

Having determined that the appraised value conclusion does not appear credible in several respects, the Board will examine the raw sales data presented in the appraisal along with the raw sales presented by the board of review. 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. Thus, the Board will place most weight on this evidence.

The appellant's appraisal contains four comparable sales which each differ significantly from the subject in land area and/or building size. As such, the Board gives little weight to appraisal sales #1 through #4. The board of review provided six comparable sales, where comparable #6 was the December 2016 leased-fee sale of the subject property. The Board has given reduced weight to board of review sales #1, #2 and #6 which each reflect leased-fee sale transactions which are not indicative of fee simple market values.

On this record, the Board finds the best evidence of market value to be the board of review comparable sales #3, #4 and #5. These comparables range in size from 20,675 to 45,400 square feet of building area and thus bracket the subject's building size of 25,680 square feet. The board of review comparable sales sold between February 2016 and February 2018 for prices ranging from \$2,500,000 to \$4,700,000 or from \$83.33 to \$135.43 per square foot of building area, including land. The subject's assessment reflects a market value of \$2,183,664 or \$85.03 per square foot of gross building area, land included, which is below the range established by the best comparable sales in the record in terms of overall value and at the low-end of the range on a price per square foot basis. Based on the foregoing evidence and analysis, after considering appropriate adjustments to the best comparables for differences when compared to the subject, 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: January 18, 2022



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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