



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

APPELLANT: OLPOA Properties, LLC-341 Factory
DOCKET NO.: 19-08120.001-I-1
PARCEL NO.: 03-33-107-001

The parties of record before the Property Tax Appeal Board are OLPOA Properties, LLC-341 Factory, 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: \$ 59,260
IMPR.: \$154,200
TOTAL: \$213,460

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 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 industrial building of masonry exterior construction with 12,000 square feet of gross building area. The structure was built in 1963 with an addition in 1967, resulting in a reported effective age of 1965. The building includes 832 square feet of office space or 6.93% of the building area, has an exterior height of 14 feet and features one loading dock. The subject property has a 23,440 square foot site resulting in a land-to-building ratio of 1.95:1. The property is located in Addison, Addison Township, DuPage County.

The parties appeared before the Property Tax Appeal Board on September 28, 2021 via video conferencing technology using the Webex virtual platform pursuant to prior written notice dated June 29, 2021. Upon inquiry at the commencement of the virtual hearing, neither party posed any objection to use of this virtual hearing format. Appearing virtually on behalf of the appellant was its attorney, Dennis M. Nolan, and appearing virtually on behalf of the DuPage County

Board of Review was Carl Petersen, board of review member, along with his witness appearing virtually, Frank A. Marack, Jr., Chief Deputy Assessor in Addison Township.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted Exhibit 1, consisting of a spreadsheet with information on five comparable sales located in Addison Township and the cities of Addison, Bensenville or Wood Dale. Included in the appellant's evidence were also copies of applicable Co-Star data sheets.

At the hearing, Attorney Nolan summarized the grid data set forth in Exhibit 1 to the appellant's appeal. The comparable properties have sites ranging in size from 22,216 to 39,520 square feet of land area which have each been improved with a one-story industrial building of masonry exterior construction built between 1956 and 1980. The buildings range in size from 8,976 to 19,351 square feet of building area. The comparables have office space ranging in size from 672 to 2,422 square feet or from 7% to 21% of building area. The buildings have exterior heights ranging from 11 feet to 20 feet and the properties present land-to-building ratios ranging from 1.91:1 to 3.61:1. The comparables reportedly sold from March 2016 to February 2018 for prices ranging from \$300,000 to \$610,000 or from \$31.52 to \$38.52 per square foot of building area, including land.¹

Upon questioning by the board of review representative, Nolan stated that the appellant's comparable properties were prepared by his law firm based upon CoStar reports and a review of assessment records. The handwriting on the various CoStar reports are notations made by Nolan's law firm through confirmation of the data with the county and/or assessor's records noting assessor's data. Nolan further explained that his law firm was not presenting testimony nor does his firm have any appraisal designations or qualifications. Nolan reiterated several times that, despite contrary language in the brief accompanying this appeal,² no adjustments were made to any of the comparable properties for differences; the "adjustments" were merely meant to be the selection of properties. He further asserted comparables were chosen that relate to the subject property in age, building height, square footage and similar salient characteristics.

As to appellant's sale #1, Nolan's information from CoStar is that the property was exposed to the open market and involved brokers; Nolan acknowledged this data is contrary to the PTAX-203 indicating it was not advertised, but Nolan stated his firm confirmed with CoStar the property was exposed to the open market; no confirmation was sought from the buyer or seller. While the tenant did purchase this property, Nolan contends there was more than eight months of exposure on the open market prior to the sale transaction. Appellant's sale #2 is located in an industrial park. Appellant's sale #3 supporting documentation does not depict a broker involved in the transaction but does display the property as a multi-tenant building while the subject is not a multi-tenant building. As to appellant's sale #4, according to Nolan actual records depicted the sale price as \$500,000 contrary to the CoStar data sheet and do not show broker involvement

¹ The parties disagreed as to the information contained in appellant's Exhibit 1 spreadsheet with regard to the sale dates of comparables #3 and #4 where the board of review contended the sale occurred several months later than was reported by the appellant. Given the totality of the record, the Board finds this slight discrepancy in the actual sale date is inconsequential to a determination in this matter.

² The appellant's brief filed herein and signed by Attorney Nolan stated, in pertinent part on page 2, Item #7, "After adjustments, a per square foot unit value of \$46.00/SF is established for the subject property"

related to the transaction. Appellant's sale #5, according to CoStar, also does not indicate involvement of a broker in the transaction.

Finally, Nolan argued that the subject building has a 14-foot exterior height and as part of the analysis and that appellant sought to select comparables with similar exterior heights which range according to the records from 11 feet to 20 feet.

Based on the foregoing evidence and argument, the appellant contends that the subject should have a reduced estimated market value of approximately \$552,000 or \$46.00 per square foot of building area, including land, using the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$213,460. The subject's assessment reflects a market value of \$647,045 or \$53.92 per square foot of building area, land included, when using the 2019 three year average median level of assessment for DuPage County of 32.99% as determined by the Illinois Department of Revenue. However, for purposes of this appeal and based on the evidence submitted, the board of review contends that an increase in the subject's estimated market value is justified to \$60.00 per square foot of building area or a market value of approximately \$720,000.

The board of review called Frank A. Marack, Jr., as its witness. Marack testified that he prepared the board of review's evidence consisting of an approximately 62-page "report" for the subject property. Marack has extensive experience in the assessment field in the Addison Township Assessor's Office. Besides including a copy of the subject's property record card and a photograph of the subject building, the report contains information on seven comparable sales of industrial properties along with a summary sheet for each comparable, photographs, PTAX-203 transfer declarations related to the sales and an adjustment grid.

As set forth in the report, each board of review comparable is located in Addison and has a parcel ranging in size from 15,000 to 42,689 square feet of land area. The lots have each been improved with a one-story masonry industrial building built between 1953 and 1998 with comparables #3 and #6 having effective ages of 1959 and 1973, respectively. The buildings range in size from 7,218 to 17,100 square feet of building area and feature from 5.59% to 15.46% of office space. The buildings present exterior heights ranging from 10 to 18 feet. The properties present land-to-building ratios ranging from 1.86:1 to 3.37:1. The comparables sold from January 2016 to January 2019 for prices ranging from \$420,000 to \$1,137,150 or from \$52.17 to \$82.43 per square foot of building area, including land.

The adjustment grid was prepared by Marack and depicted qualitative +/- and/or = adjustments applied to the seven comparables for factors of location, time (date of sale), building size, land-to-building ratio, construction, age, condition, number of units, building height and/or percentage of office space. On the adjustment grid from this process, Marack set forth adjusted sales prices for the seven comparables ranging from \$57.47 to \$78.47 per square foot of building area, including land.

Marack acknowledged that the subject's exterior building height of 14 feet was below what is typical in the marketplace and thus in estimating the subject's market value, Marack chose the

lower end of the range of adjusted sales prices to opine that the subject's market value should be \$720,000 or \$60.00 per square foot of building area, including land.

In the course of selecting comparable properties, Marack testified that he rarely finds a property that is identical to the subject in every respect. As such, he noted you have to make adjustments to the comparables for the differences.

The board of review also presented written rebuttal evidence addressing each of the appellant's five comparable sales. With supporting documentation as to each, the board of review reported that appellant's sale #1 was purchased by the tenant and the PTAX-203 transfer declaration indicates the property was not exposed on the market. Appellant's sale #2 is located in an industrial park with limited access to major travel arteries. Appellant's sale #3 according to the PTAX-203 was not exposed to the market and noted that the buyer and seller have the same last name. Appellant's sale #4 has two recorded sales in April 2018, one for \$500,000 as reported by the appellant and one for \$1,000,000; the board of review further noted that this property and the one next to it are both owned by Burnett Enterprises, which added an addition in 2019 to connect the structures. Finally, according to the PTAX-203, appellant's sale #5 was not advertised on the market. Given the foregoing, the board of review contends that only appellant's sale #2 was an arm's length transaction.

Under cross-examination, counsel for the appellant inquired why none of the board of review sales had 14-foot exterior building heights like the subject. Marack testified that there were no arm's length sale transactions of 14-foot exterior building height industrial structures that he could use nor any other sales closer in exterior building height to the subject than the ones presented in his report. Marack agreed that the exterior building height of an industrial building can have a significant impact on market value or very little impact depending upon the intended use of the structure. With all other factors being equal, a building with a greater exterior building height than the subject may sell for more than the subject.

Attorney Nolan asked Marack to differentiate between the terms exterior building height and clear ceiling height. He testified that exterior building height is a measurement from the ground to the top of the roof. Clear ceiling height is a measurement of the interior from the floor to the trestles. For the subject property with a 14-foot exterior building height, Marack surmised the subject may present a clear ceiling height of anywhere from 8 to 12 feet. Upon further inquiry, Marack testified that did not consider clear ceiling height in selection of his comparables in the report, nor does he consider clear ceiling height in the assessment of a property.

Upon cross-examination, Marack acknowledged that six of his seven comparable sales in the report present greater land-to-building ratios than the subject property. Depending upon local ordinances and the intended use of the property, the land-to-building ratio may allow for additional parking spaces which could impact market value; Marack had no knowledge of the number of parking spaces of the subject property or any of his comparables.

As to the percentage of office space for the subject and each of the board of review comparable properties which range from 5.59% to 15.46%, Marack testified that the only ones that would not be comparable to the subject would be "anything that would not be typical for this size building." In the adjustment grid that Marack prepared, for the characteristic of percentage of office space

he deemed each of the seven comparables to be equal (=) to the subject's 6.93% building as office space. Marack opined that typical office space for a 1965 building like the subject would be from 5% to 15% of building area. He acknowledged that depending upon the individual user the amount of office space could be a benefit, or it could be a detriment.

On the adjustment schedule, Marack has no specific quantitative data and/or explanation to support his respective qualitative +, - and = adjustments in the report. He testified the adjustments are based upon his experience, personal judgment and his intimate knowledge of Addison Township values that he reviews on a daily basis. When questioned about a positive adjustment for time and the resulting change in value, Marack testified that the adjustment for time is equivalent to ½% per month from the time of sale to the valuation date at issue; this percentage is based upon Marack's analysis of all the sales received within the Addison Township Assessor's Office through use of sales and resales of the same property resulting in an appreciation or depreciation calculation. When questioned about the building size adjustment, Marack acknowledged the principle of the economies of scale, where if all else is equal, a smaller building will sell for more per square foot than a similar larger building.

Upon cross-examination, Marack testified that the subject structure was originally built in 1963 and added an addition in 1967 such that the effective age became 1965. Through use of a mathematical formula involving the size of the original structure and the size of the addition, the assessor arrives at the effective age calculation. With the exception of comparable #3, each of the board of review comparables were newer in date of construction and/or effective age than the subject building. Marack could find no suitable comparables closer to the subject's effective age in Addison Township.

To Marack's knowledge, each of the seven board of review comparable sales are single-tenant buildings which were sold to be user-occupied structures which were verified with buyers/sellers. Nolan next sought to pursue a line of questioning related to the appellant's written rebuttal filing with Marack, however, the appellant's filing had not been shared with the witness Marack. As a general proposition, Marack agreed that it makes a difference whether a property is owner-occupied that is offered for sale and whether a property is leased and offered for sale; the difference is whether the property is immediately available for occupancy after the sale as opposed to a leased property may be an investment because it was above market or it may be below market because the tenant is paying below market rent.

While the appellant's rebuttal filing of a CoStar sheet for board of review sale #2 displays the property as 100% leased, Marack testified that this property was not 100% leased at the time it sold. While Marack does not have the name(s) of persons contacted, he testified the assessor's office verifies sales data with both buyer and seller. Furthermore, while this property may have been leased since the December 2016 sale, Marack finds the subsequent leasing is not relevant to the assessor's office. Nolan similarly inquired with regard to board of review sales #3, #6 and #7 concerning the property being leased at the time of sale; Marack responded his answer would be no different as to each of these properties.³

³ Contrary to this testimony, the Property Tax Appeal Board finds the PTAX-203A documents supplied with Marack's report depict that both board of review sales #6 and #7 were 100% leased at the time of the sale transaction.

The Administrative Law Judge (ALJ) made inquiry of Marack as to the rebuttal filing concerning appellant's sale #3 and specifically the highlighted line on the PTAX-203 concerning related parties, which was not checked on the form. Marack testified that he highlighted the line because it was not checked and yet the parties have the same last name. Marack further acknowledged to the ALJ that he had no other information beyond the last name presumption that the parties were related.

On redirect, Marack testified the assessing officials utilize exterior building height data because assessors cannot get into every building. Furthermore, based on appraisals that Marack has seen, he characterized the qualitative +, - and = adjustment method as being "very popular."

On re-cross examination, Marack acknowledged that he is not an MAI appraiser and the report that he prepared is not an appraisal report per se. Marack further testified that he is familiar with the USPAP requirements applicable to appraisers. When asked whether the qualitative adjustment process is condoned under USPAP without being linked to percentage adjustments, Marack testified that 90% of the appraisals passing through his office have used the +, - and = adjustments without any other justifications for them other than a summary assertion that the comparables were reviewed and believe these to be the necessary adjustments. As a further explanation, the only narrative might be that certain comparables were larger, so downward adjustments were made, and a similar type statement regarding the size of office space, but nothing quantitative to support the statements.

Based upon the foregoing evidence and argument, the board of review requests an increased estimated market value for the subject property to \$720,000 or \$60.00 per square foot of building area, including land.

In written rebuttal, the appellant specifically opposed the requested assessment increase by the board of review contending that the evidentiary submission fails to support such by criticizing the sales for lacking a full analysis; all but one comparable having superior building height in comparison to the subject; and the board of review's analysis "equates to an appraisal report" yet fails to meet USPAP requirements. The rebuttal further outlined differences in features as to the each comparable with regard to age, exterior height, office space, building size and/or land-to-building ratio. Furthermore, in reliance upon CoStar reports, the appellant highlighted assertions related to board of review comparables #2 through #7 that were leased and/or had various remarks/notations.

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 based on the evidentiary record herein that no change in the subject's assessment is warranted.

The parties submitted a total of twelve comparable sales with varying degrees of similarity to the subject in order to support their respective positions before the Property Tax Appeal Board. The Board appreciates the fact that Marack made qualitative adjustments to the comparables he selected to account for differences between the properties. However, the adjustments are subjective in nature making it difficult to place reliance on the calculations.

While in the course of hearing, various disputes were raised and contested as to whether the comparables were leased at the time of sale, the documentary evidence of either CoStar sheets or PTAX-203A filings which the respective parties have relied upon, clearly display that seven of the twelve sales presented by the parties were 100% leased. Nevertheless, without knowing the terms of the leases the Property Tax Appeal Board is not able to draw a conclusion as to how the leases may have impacted the purchase prices.

The Board has given reduced weight to appellant's sale #4 along with board of review sales #2, #6 and #7 which each present significantly more exterior building height than the subject which has a 14-foot exterior building height. The Board has also given reduced weight to appellant's sale #2 and board of review sale #5 as each of these comparables present larger percentages of office space than the subject's 6.93% of office space.

Thus, the Board finds the best evidence of market value in the record to be appellant's comparable sales #1, #3 and #5 along with board of review comparable sales #1, #3 and #4. These six comparables present varying degrees of similarity to the subject in age, exterior building height, building size, percentage of office space and/or land-to-building ratio. These most similar comparables sold between February 2016 and April 2018 for prices ranging from \$300,000 to \$700,000 or from \$31.52 to \$82.43 per square foot of building area, including land. If the low and high comparables on a per-square-foot basis are removed from the analysis, the resulting range is \$33.42 to \$70.89 per square foot of building area, including land. Additionally, if one accepts Marack's adjustments to these board of review properties, the adjusted sales price range is from \$31.52 to \$70.07 per square foot of building area, including land. The subject's assessment reflects a market value of \$647,045 or \$53.92 per square foot of building area, including land, which is within the range established by the best comparable sales in this record, is within the range considering the adjusted sales prices presented by Marack on a square foot basis and appears to be justified when considering appropriate adjustments for differences in age, building height and/or building size. Based on this evidence, the Board finds no change in the subject's assessment is 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: 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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