



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

APPELLANT: Advance Stores Company, Incorporated
DOCKET NO.: 19-08187.001-C-1
PARCEL NO.: 03-33-308-016

The parties of record before the Property Tax Appeal Board are Advance Stores Company, Incorporated, 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: \$84,300
IMPR.: \$183,420
TOTAL: \$267,720

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.

Preliminary Matters:

Prior to the hearing the parties had a discussion regarding what property was under appeal. Both the appellant's appeal petition and appraisal pertain solely to Parcel No. 03-33-308-016. The board of review Notes on Appeal only contains assessment information on Parcel No. 03-33-308-016 but the report estimating the fair market value is based not only on Parcel Nos. 03-33-308-016 but also on Parcel No. 03-33-308-010, which is a contiguous one-acre parcel containing additional parking spaces for the property in contention, along with what appears to be a large wooded area according to the aerial photographs submitted by the board of review. The board of review's Summary of Salient Facts shows a lot size of 68,161 square feet of land area, a land to building ratio of 10.06:1, and a final estimate of value of \$880,000 which is based on both tax parcels.

After a lengthy discussion, the parties agreed to exclude the valuation of Parcel No. 03-33-308-010 which was not included by the appellant in the appeal. The board of review amended its final estimate of market value for Parcel No. 03-33-308-016 to \$860,000. The testimony and evidence in this case were then limited to Parcel No. 03-33-308-016.

Findings of Fact

The subject property consists of a one-story single-tenant commercial retail building of masonry construction that was built in stages in 2005. The building contains approximately 6,777 square feet of gross building area and has an exterior height of 20 feet. The subject property has a 24,601 square foot site resulting in a land-to-building ratio of 3.63:1. The property is located in Villa Park, Addison Township, DuPage County.

Pursuant to prior written notice dated September 9, 2021 and with the consent of all of the parties stated in the record, the parties appeared virtually before the Property Tax Appeal Board on November 12, 2021 via video conference using the WebEx virtual platform. Attorney Dennis M. Nolan appeared on behalf of the appellant, and Carl Petersen, board of review member, appeared on behalf of the DuPage County Board of Review, along with his witness, 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 an appraisal prepared by Christopher R. Glenday, State Certified General Appraiser, of PahRoo Appraisal & Consultancy. At the hearing, Attorney Nolan summarized the data set forth in the appellant's appraisal as the appraiser was not called to testify. The purpose of the appraisal was for a real estate assessment appeal and the property rights appraised were the fee simple interest.

Nolan stated that, according to the appraisal report, the appraiser developed the sales comparison and income capitalization approaches to value in estimating the market value of the subject property. The appraiser documented that “the cost approach was not developed as it is given little emphasis by typical buyers when making pricing decisions involving properties of this type.” Nolan said that, according to the executive summary shown at page five of the appraisal, the appraiser concluded a fair market value of \$540,000 under the sales comparison approach to value and a fair market value of \$560,000 under the income capitalization approach to value to arrive at a final opinion of value of \$560,000 as of January 1, 2019.

Nolan summarized that, under the sales comparison approach, the report contained information on four comparable sales that were used by the appraiser. The comparables were all located in the city of Addison in Addison Township. These properties were each improved with a masonry constructed retail building ranging in size from 2,400 to 14,280 square feet of building area that was built from 1926 to 1985, with comparable #3 having been renovated in 2002. The comparables had land-to-building ratios ranging from 1.33:1 to 6.57:1. The four comparable sold from January to December 2018 for prices ranging from \$180,000 to \$1,050,000 or from \$73.53 to \$96.58 per square foot of building area, including land. After making adjustments to the comparables for condition of sale, location, land-to-building ratio, building area, age and/or condition, positioning (interior vs. corner lot location), and utility, the appraiser estimated the

subject property had a unit value under the sales comparison approach of \$80.00 per square foot of building area, including land, or a final value of \$540,000, rounded.

The appraiser also developed the income capitalization approach to value. According to the report, Nolan stated the appraiser concluded an indicated value of \$580,000 under the income capitalization approach to value.

Based on the analysis contained in the appraisal report using the sales comparison and income capitalization approaches to value, the appraiser surmised the market value of the subject was \$560,000 as of January 1, 2019.

Based on this evidence, the appellant requested the subject's total assessment be reduced to \$186,648 to reflect the appraised value.

Carl Peterson, who appeared on behalf of the board of review, asked Nolan where the estimate of land value was. Nolan answered that, as the appraiser did not utilize the cost approach to value, the land value was not stated in the appraisal report. Peterson then queried Nolan about the occupancy of each of the sale comparables used in the appraisal report. Looking at pages 46 through 49 of the report, Nolan stated that, according to the appraisal report, sale comparables #1 and #4 each had one tenant, sale comparable #3 had three tenants, and sale comparable #2 was owner-occupied, according to the report.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$267,720. The subject's assessment reflects a market value of \$811,519 or \$119.75 per square foot of living 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.

The board of review called Frank A. Marack, Jr., as its witness. The parties stipulated to Marack's qualification as an expert witness. Marack testified that he prepared the board of review's evidence for this appeal. Besides including a copy of the subject's property record card, a photograph of the subject building, two aerial maps of the subject's site, and a printout of the Apex map showing how the assessor arrived at the land size of the subject parcel, the report contains information on five comparable sales of commercial retail properties along with a summary sheet for each comparable, photographs, PTAX-203 transfer declarations related to the sales, and a market adjustment grid.

As set forth in the report, the board of review comparable sales are located from 2.25 to 17.75 miles distant from the subject in the cities of Addison, Glen Ellyn, Naperville, Oakbrook Terrace, and Wood Dale. At hearing, Marack testified that comparables #2, #4 and #5 are not located in Addison Township but were chosen because of their similarity to the subject and their uses. Comparables #1 and #3 are located in the cities of Wood Dale and Addison in Addison Township. The five comparables are situated on sites ranging in size from 10,550 to 141,134 square feet of land area. The lots have each been improved with a one-story masonry commercial retail building built between 1986 and 2007. The buildings range in size from 3,072 to 15,340 square feet of building area. The properties have land-to-building ratios ranging from 3.43:1 to 9.54:1 and range from 20 to 24 feet in exterior height. The comparables sold from May 2017 to

June 2018 for prices ranging from \$315,000 to \$2,400,000 or from \$102.54 to \$398.75 per square foot of building area, including land, with a median unadjusted price per square foot of \$154.89.

Marack testified that he made adjustments to the comparables for the differences from the subject. Marack prepared an adjustment grid in which he applied qualitative +, - and = adjustments to the five comparables for factors of location, time (date of sale), building size, land-to-building ratio, and age. From this process, Marack set forth adjusted sales prices for the five comparables ranging from \$107.67 to \$368.84 per square foot of building area, including land, with a median adjusted price of \$156.00 per square foot of building area, including land.

In estimating the subject's market value, Marack testified that he chose a value of \$127.15 per square foot of building area, including land, to conclude that the subject's market value should be \$860,000 and requested an increase in the subject's assessment.

Under cross-examination, counsel for the appellant questioned Marack about the respective building heights of the comparables compared to the subject. Marack acknowledged that board of review comparables #3 and #4, at 23 feet and 24 feet, respectively, were higher than the subject's 20-foot building height. Marack stated that, in his opinion, building height was not as important in a commercial retail building as in an industrial building as different heights appeal to different buyers depending on their intended uses, say a bookstore versus an auto supply store.

Nolan next queried Marack about the marketability of an interior lot location versus a lot with direct street frontage. Marack replied that an interior lot is just a lot that is not on a corner, not necessarily a lot accessible only via a frontage road. He testified that board of review comparables #1, #2, #3 and #5 all had direct street access and that he was not certain about direct access for board of review comparable #4. He agreed that being located on a frontage road could impact the value of a property.

Nolan asked Marack why he chose these five comparables. Marack testified that he chose comparables #1, #2 and #5 not only because of their similar size, age and utility compared to the subject, but also because they were free-standing retail buildings, like the subject, and not multi-tenant buildings located in a strip mall. Marack went on to testify that there were not a lot of sales of free-standing, single tenant properties available, which is why he had to go outside of Addison Township to locate some of these comparables.

In closing, Peterson argued that he questioned the types of sales chosen by the appraiser and the appraiser's conclusion of market value. As the appraiser did not appear at hearing to testify, Peterson objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board reserved ruling on the objection.

Based upon the foregoing evidence and argument, the board of review requested an increase of the subject's assessment to reflect a market value of \$860,000.

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.

In support of the overvaluation argument the appellant submitted an appraisal. The appraisal estimated the subject had a market value of \$560,000 as of January 1, 2019. At hearing, the board of review objected to the appraisal report contending the appraiser was not present to be cross-examined. The Board hereby sustains the objection.

The Board finds the appellant's appraiser was not present at the hearing to provide direct testimony or to be cross-examined regarding the appraisal methodology and final conclusion of value reached in his report. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn *ex parte* statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined. Based on this case law, the Board gives the conclusion of value contained in the appraisal no weight since the appraiser was not present at the hearing to be cross-examined with respect to the appraisal methodology, the selection of the comparables, the adjustment process, and the ultimate conclusion of value.

The courts have also 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, and, therefore, the Board will examine the raw sales data contained in this record, including the sales comparables contained in the appellant's appraisal.

The record contains nine comparable sales for the Board's consideration. The Board gave little weight to board of review's comparables #2, #4 and #5 which are located from 5.75 to 17.75 miles distant from the subject and, unlike the subject, are not located in Addison Township.

The Board finds the best evidence of market value to be the four appraisal comparables and board of review comparables #1 and #3 which, while having varying degrees of similarity to the subject in age, size and land to building ratio, are nonetheless the best comparables submitted for the Board's consideration. These comparables sold from May 2017 to December 2018 for prices ranging from \$315,000 to \$1,050,000 or from \$73.53 to \$116.18 per square foot of building area, including land. The subject's assessment reflects a market value of \$811,519 or \$119.75 per square foot of building area, including land, which is within the range established by the best comparable sales in the record on an overall basis but slightly above the range on a per square foot basis. However, after considering adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Based on this record, the Board finds that neither a reduction nor an increase in the subject's assessment is warranted.

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: February 15, 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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