



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

APPELLANT: Walter Naziemiec
DOCKET NO.: 19-08189.001-I-1
PARCEL NO.: 03-33-302-013

The parties of record before the Property Tax Appeal Board are Walter Naziemiec, 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: \$63,890
IMPR.: \$185,080
TOTAL: \$248,970

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 10,713 square feet of gross building area that was built in 1968. The building contains 2,152 square feet of office space or 20% of the building area and has an exterior height of 14 feet. The subject property has a 25,265 square foot site resulting in a land-to-building ratio of 2.36:1. The property is located in Addison, 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 a spreadsheet with information on 15 comparable sales of properties all located in Addison Township, in the cities of Addison, Bensenville, Elk Grove Village or Wood Dale, along with copies of CoStar data sheets for each of the 15 sales.

At the hearing, Attorney Nolan summarized the grid data set forth in the appellant's appeal. The comparable properties have sites ranging in size from 22,216 to 49,201 square feet of land area, each of which is improved with a one-story industrial building of masonry exterior construction that range in size from 8,976 to 20,800 square feet of building area. The properties present land-to-building ratios ranging from 1.74:1 to 3.61:1. The buildings were built between 1956 and 1983 and have from 672 to 3,600 square feet of office space or from 6% to 21% of the building area. The comparables reportedly sold from March 2016 to September 2018 for prices ranging from \$300,000 to \$1,250,000 or from \$31.52 to \$66.49 per square foot of building area, including land.

Upon questioning by Carl Peterson, the board of review representative, Nolan stated that the appellant's comparable properties were chosen by his law firm and that the sale data on the CoStar reports was reviewed against the township assessment records and amended or corrected as shown in the handwritten notes found on some of the CoStar reports submitted into evidence. Nolan further explained that his law firm was not presenting testimony and that neither he nor his firm have any appraisal designations or qualifications. When questioned about the statement found in the appellant's brief on page 2, Item #7, that "[a]fter adjustments, a per square foot unit value of \$44.80/SF is established for the subject property....," Nolan replied that, despite language to the contrary in the brief accompanying this appeal, no adjustments were made to any of the comparable properties; the "adjustments" referred to in that statement were merely meant to refer the selection of the comparable properties. He further asserted that comparables were chosen for their similarity to the subject property in factors such as location, building size, age, building height, square footage and similar salient characteristics.

As to appellant's sale #1, Mr. Peterson asked Nolan if the tenant purchased the property. Nolan stated that according to the Co-Star report the buyer leased the property for 4-1/2 years prior to the sale but the Co-Star report also shows that both a listing broker and a buyer's broker were involved in the transaction. Peterson then queried Nolan about whether each of the comparables was owner-occupied or leased at the time of sale. Nolan replied that, according to the CoStar report for each sale, comparables #2, #3, #4, #5, #6, #7, #8, #10, #12 and #13 were each identified as single-tenant, 100% leased at the time of sale. Comparable #9 is shown as single-tenant, 0% leased, comparable #11 is shown as multi-tenant, 94.8% leased, and comparables #14 and #15 are shown as multi-tenant, 100% leased. Nolan asserted that having an income-stream at the time of sale typically results in a higher price per square foot. Peterson questioned Nolan about the handwritten change of the purchase price for comparable #4, shown as \$333,333 on the CoStar report, to \$500,000. Nolan stated that the change was made to reflect the correct purchase price after a review of the assessor's record.

Based on the foregoing evidence and argument, the appellant contends that the subject should have a reduced estimated market value of approximately \$480,000 or \$44.80 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 \$248,970. The subject's assessment reflects a market value of \$754,683 or \$70.45 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.

The board of review called Frank A. Marack, Jr., as its witness. Marack testified that he prepared the board of review's evidence for the subject property. Marack has been employed by the Addison Township Assessor's Office since 1979 and has extensive experience in the assessment field. Besides including a copy of the subject's property record card and a photograph of the subject building, the report contains information on five comparable sales of industrial 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, each board of review comparable is located in Addison and is situated on a site ranging in size from 20,078 to 32,058 square feet of land area. The lots have each been improved with a one-story masonry industrial building built between 1968 and 1979. The buildings range in size from 7,218 to 14,500 square feet of building area and contain from 7.65% to 15.74% of office space. The properties have land-to-building ratios ranging from 2.14:1 to 3.37:1 and have exterior heights ranging from 16 to 18 feet. The comparables sold from June 2016 to April 2018 for prices ranging from \$450,000 to \$1,079,000 or from \$60.81 to \$82.43 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. Marack prepared an adjustment grid in which he applied qualitative +, - and = adjustments to the five comparables for factors of time (date of sale), building size, land-to-building ratio, age, and/or building height. From this process, Marack set forth adjusted sales prices for the five comparables ranging from \$56.22 to \$75.04 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 conclude that the subject's market value should be \$750,000 or \$70.00 per square foot of building area, including land.

Under cross-examination, counsel for the appellant directed Marack's attention to board of review comparables #1 and #2, which at 7,218 and 7,400 square feet of building area, are smaller than the subject which has 10,713 square feet of building area. Marack acknowledged that smaller buildings typically sell for a higher price per square foot, all things being equal. Nolan then queried Marack about four of the five board of review comparables being newer than the subject. Marack testified that he adjusted each comparable for age at 1/2% per year, which is based on an office practice but not stated anywhere in the record.

Nolan next 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 transaction of industrial structures with an exterior building height of 14 feet 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 either have a significant impact or very little impact upon market value depending on 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.

Nolan asked Marack to differentiate between the terms “exterior building height” and “clear ceiling height.” Marack 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 trusses. As the subject property has a 14-foot exterior building height, Marack surmised that this may equate to a clear ceiling height of anywhere from 8 to 12 feet. Upon further inquiry, Marack testified that he did not consider clear ceiling height in the selection of his comparables, nor does he consider clear ceiling height in the assessment of a property, as the assessor does not have access to the interiors of the buildings. The assessor’s office relies on the exterior building height.

On the adjustment schedule, Marack presented no specific quantitative data and/or explanation to support the respective qualitative +, - and = adjustments in his report. He testified the adjustments are based upon his experience, personal judgment, and his intimate knowledge of Addison Township values which he reviews on a daily basis. Marack testified that all of the board of review comparables have greater ceiling heights than the subject. When questioned about the adjustments for ceiling height, Marack testified that he used an adjustment of 2% per foot, which he agreed was not stated anywhere in the record.

Nolan cross-examined Marack about his use of two comparables sales from 2016. Marack testified that he chose those comparables for their proximity to the subject and their similarities to the subject in size, age, number of units in building, and building height. He acknowledged that he had made adjustments for sale date but that the percentage of adjustment was not stated on his grid.

Nolan next pursued a line of questioning related to whether the board of review comparables were leased or owner-occupied at the time of sale. As a general proposition, Marack agreed that it makes a difference whether a property is owner-occupied or leased when it is offered for sale; the difference being whether the property is immediately available for occupancy after the sale as opposed to a leased property already having an income stream which may be attractive to a buyer. Nolan questioned Marack as to whether each of the five board of review comparables were leased or owner-occupied at the time of sale. Marack testified that he did not know if comparable #1 was leased at the time of sale. He testified that comparable #2 was not leased at the time of sale, whereupon Nolan presented Marack with a rebuttal filing of a CoStar report that stated the property was 100% leased at the time of sale. Marack testified that board of review comparables #3, #4 and #5 were each owner-occupied at the time of sale. He testified he got that information for comparable #3 from its property record card which he acknowledged was not in evidence. Nolan presented Marack with the CoStar report filed in rebuttal for comparable #5 which states that it was 100% leased at the time of sale.

Based upon the foregoing evidence and argument, the board of review requested an estimated market value for the subject property of \$750,000 or \$70.00 per square foot of building area, including land.

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 contained herein that no change in the subject's assessment is warranted.

The parties submitted a total of twenty 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 acknowledges that Marack made qualitative adjustments to the comparables he selected to account for differences between the properties, which were not refuted by the appellant.

In the course of the hearing various disputes were raised and contested as to whether the comparables were leased at the time of sale. The parties submitted documentary evidence of either CoStar sheets or PTAX-203A filings which they relied upon in determining that several of the twenty sales presented by the parties were 100% leased at the time of sale. However, without knowing the terms of the leases, the Property Tax Appeal Board is not able to draw a conclusion as to how, if at all, the leases may have impacted the purchase prices.

The Board has given reduced weight to appellant's sales #1, #5 through #12 and #15, along with board of review sales #1, #2 and #5, which differ from the subject in building size, site size, and/or age.

Thus, the Board finds the best evidence of market value in the record to be appellant's comparable sales #2, #3, #4, #13 and #14, along with board of review comparable sales #3 and #4, which present varying degrees of similarity to the subject in age, exterior building height, building size, site size, percentage of office space, and/or land-to-building ratio. These seven most similar comparables sold between May 2016 and December 2017 for prices ranging from \$300,000 to \$930,000 or from \$31.82 to \$80.51 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 \$75.04 per square foot of building area, including land. The subject's assessment reflects a market value of \$754,683 or \$70.45 per square foot of building area, including land, which is within the range established by the best comparable sales in this record and, when 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 time, age, and/or building height. 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:

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

AGENCY

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