



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

APPELLANT: Tarsal Properties LLC
DOCKET NO.: 20-07005.001-C-1
PARCEL NO.: 14-34-154-013

The parties of record before the Property Tax Appeal Board are Tarsal Properties LLC, the appellant, by attorney Craig S. Krandel, of Timm & Garfinkel, LLC in Crystal Lake, and the McHenry 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 **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$20,604
IMPR.: \$54,659
TOTAL: \$75,263

Subject only to the State multiplier as applicable.

Preliminary Matter

A consolidated hearing was conducted as to four appeals identified as Docket Nos. 20-07009.001-C-2, 20-07010.001-C-2, 20-07005.001-C-1 and 20-07011.001-C-2. Each of these four properties are located within the same commercial office condominium building and involve two appellants, each of whom are represented by the same attorney.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the McHenry County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2020 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 commercial office condominium unit of frame and brick exterior construction with 2,051 square feet of building area, commonly known as Unit D. The building was constructed in approximately 2001 and is 19 years old. The building is fully sprinklered and features include two common bathrooms and a common basement area of

approximately 2,861 square feet. The entire condominium building has a 2.81-acre site and is located in Crystal Lake, Nunda Township, McHenry County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation of the subject property based upon a recent purchase price. In support of this argument, the appellant completed Section IV – Recent Sale Data of the Commercial Appeal petition disclosing the subject property was purchased on December 28, 2018 for a price of \$73,956 as part of a two-parcel total sale price of \$289,000. The seller was Danro, LLC, the parties to the transaction were not related and the property was advertised with the Multiple Listing Service (MLS) by Berkshire Hathaway HSSRE, agent Jack Minero, prior to the sale transaction for a period of 24 months. As supporting documentation, the appellant provided a copy of the Final Settlement Statement which reiterated the combined sale price for Units C and D along with the sale date, which included the distribution of commissions to two realty entities. The document depicts that the seller paid in excess of \$500,000 in order to close the sale transaction given the closing costs and an outstanding mortgage of over \$700,000. (TR. p. 35)¹

At hearing, counsel indicate the sale price of \$289,000 was “apportioned across the board” for the two units based solely upon the current assessments of the two respective parcels.² Counsel argued, as depicted in Board of Review Hearing Exhibit #1, that the subject unit had been on the market for a very long time. Furthermore, reportedly when the asking price was reduced in the listing, the appellant came forward resulting in the sale of the two units. The buyer, a podiatrist from Cary, was expanding the medical practice to Crystal Lake. At the time of sale, the unit was vacant as the previous occupant, Ortho Illinois, had relocated its practice as stated in the listing sheet. Although offered in the listing, there was no leaseback of Unit D after the sale transaction. (TR. p. 32 – 34, 37 - 39)

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price for the Unit D, which is the subject matter of this appeal, and the appellant contends is \$73,956.³

The board of review appeared at hearing by board member, Sharon Bagby. The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$88,380. The subject's assessment reflects a market value of \$264,928 or \$129.17 per square foot of building area, land included, when using the 2020 three year average median level of assessment for McHenry County of 33.36% as determined by the Illinois Department of Revenue.

At hearing and without objection, the board of review introduced Board of Review Hearing Exhibit #1, a Multiple Listing Service (MLS) data sheet concerning the May 16, 2017 offering of Unit C (based on the stated property address) in the subject complex, although in the remarks section it is noted in pertinent part, “relocation sale, 10,876 SF medical office space, **2 suites** constructed for orthopedics and rehab.” [Emphasis added.] The document depicts an original

¹ References to the transcript of the proceedings are identified by “TR.” follow by page citation(s).

² The 2020 assessment of Unit C is \$256,983 and the 2020 assessment of Unit D is \$88,380 which translates into percentages of 74% and 26%, respectively.

³ Applying 26% to the cumulative sale price of \$289,000 would result in a value of \$75,140 for Unit D.

asking price of \$1,250,740 which was eventually reduced to \$299,000, at which time the appellant made inquiry and Units C and D eventually sold for a combined sale price of \$289,000 after being on the market for 553 days.

The board of review called Nunda Township Assessor Mark S. Dzemske as its witness. Dzemske testified that the subject office condominium building contains four units with individual parcel numbers. Dzemske opined that this is one of the highest quality condominium buildings in the township. Other than its location, which hinders the property, it is Dzemske's opinion that it would probably qualify as a Class A facility; however, due to its location, Dzemske characterized the building as a Class B facility. (TR. p. 17 – 19)

At an unknown date, Dzemske testified that the building was vacant; the witness did not have a specific date for that vacancy. In the course of reviewing the property for the 2019 reassessment year, Dzemske became aware of the sale of Units C and D. The witness testified that he was "quite hesitant to put any weight on that sale based on what I knew of the property." Dzemske testified that he also was provided with an appraisal report for Units C and D with an opinion of value significantly different from the sales prices.⁴ (TR. p. 20 – 21)

Dzemske further acknowledged the sale of the subject property, "but, again, we were hung up on the fact that when you get to the end of this thing to consider that, you know, is it reasonable. It just did not come across anything that we had seen in the township or any sales activity that we looked at as a reasonable indication of value." The assessor testified he examined the market to see if we could find something that would lead us to that conclusion. (TR. p. 21 – 22)

In a letter submitted as evidence by the board of review, the assessor acknowledged the recorded January 2019 sale of Unit D and parcel 14-34-154-013 for \$289,000 which indicated it was an advertised transfer. The assessor further noted in that letter that Unit D had previously sold seventeen years earlier in March 2003 as a non-advertised sale for a price of \$2,085,505.

In support of its contention of the correct assessment, the board of review submitted documentation gathered by Dzemske with information on four comparable sales located from nearby to 8.2-miles from the subject property, two of which are outside of the township along with one property identified "for reference." The reference property is located 6.1-miles from the subject in McHenry. [For ease of identification as necessary in this decision, the reference property will be identified as R1]. Each of the five comparables consist of one-story office condominium units ranging in size from 1,580 to 3,891 square feet of building area. The units range in age from 11 to 31 years old. Except for R1 which was identified as a "100% raw shell (no floor)," the comparables were described like the subject as having good utility. Four of the comparables were sprinklered like the subject and none of the comparables has a basement like the subject. The five identified properties sold from April 2018 to September 2019 for prices ranging from \$199,000 to \$443,000 or from \$73.76 to \$151.56 per square foot of building area, including land.

⁴ The board of review submitted copies of this appraisal in Docket Nos. 20-07005 and 20-07011. The report prepared by appraiser Michael J. Crum with supporting data from appraisers Peter Helland and Edward Kling, opined estimated market values as of January 1, 2019 for Unit C of \$800,000 and for Unit D of \$250,000. The report was intended to estimate the fee simple interest in the property at the request of Tarsal Properties LLC by Dr. Patrick McEneaney. The intended use was for an assessment appeal.

According to Dzemske, he was unable to find one “exact” comparable, although not in the same building, comparable sale #1 which is similar in size and location to the subject. From the assessor’s analysis, he reconciled the market value of Unit D at \$130 per square foot of building area or \$266,600. (TR. p. 48-50)

Based on the foregoing evidence, the board of review requested confirmation of the subject’s estimated market value as reflected by its 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 record evidence establishes that a reduction in the subject’s assessment is warranted.

As defined in the Property Tax Code, fair cash value means “[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller.” (35 ILCS 200/1-50) The Illinois Supreme Court has construed “fair cash value” to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm’s length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

On this record, the Property Tax Appeal Board finds the subject’s sale does not meet at least one of the fundamental requirements to be considered an arm’s-length transaction reflective of fair cash value. The Board finds the undisputed evidence as to Unit D’s sale establishes the subject property did not sell in the typical manner in that the seller brought cash to the sale to conclude the transaction as the outstanding mortgage was greater than the sale price of Units C and D combined. Therefore, the subject’s sale price has been given reduced weight and is not solely considered indicative of fair market value of Unit D.

Although the appellant’s evidence suggests the subject’s transaction was between a willing, knowledgeable buyer and seller, the Board finds the transaction was not typical of the due course of business and trade. The Board also finds there are other credible sources that specify a property must be advertised for sale in the open market to be considered an arm’s-length transaction. The Dictionary of Real Estate Appraisal [American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 8th ed. (Chicago American Institute of Real Estate Appraisers, 1983), provides in pertinent part:

The most probable **price in cash, terms equivalent to cash, or in other precisely revealed terms**, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale; The property is exposed for a reasonable time on the open market. [Emphasis added.]

Additionally, the Property Assessment Valuation, 2nd edition, states: Market value is the most probable price, expressed in terms of money, **that a property would bring** if exposed for sale in the open market [Emphasis added] **in an arm's-length transaction** between a willing seller and a willing buyer; a reasonable time is allowed for exposure to the open market. [Emphasis added]. (International Association of Assessing Officers, Property Assessment Valuation, 2nd edition, Pgs. 18, 35, (1996)). Although the subject property was advertised for sale and exposed to the open market, the closing statement reveals that it was the seller that brought more than \$500,000 cash to the closing to address the closing costs and outstanding mortgage. Therefore, the Board has given only some consideration to the subject's sale transaction for market value purposes as the sale transaction was far from typical in the marketplace where a seller would ordinarily expect to be given sale proceeds.

Therefore, the Board finds the subject Unit D sold in an advertised transaction for approximately \$75,140 or \$36.64 per square foot of building area, including land, in December 2018 which was the appellant's sole market value evidence and using the same apportioned estimate of the combined sale price of \$289,000. In response, the board of review provided evidence of four comparable sales and one reference property to support its position before the Property Tax Appeal Board. Based upon location, the Board has given greatest weight to board of review comparable sale #1, which despite being an older condominium unit than the subject, this comparable is located in the same complex as the subject, although not in the same building, and somewhat similar in size, albeit smaller than the subject. The record establishes that board of review comparable sale #1, a 1,580 square foot unit, sold in September 2019 for \$199,000 or \$125.95 per square foot of building area, including land.

The Board has given little consideration to the remaining sale comparables presented by the board of review as they range from 1.9-miles to more than 8 miles distant from the subject which the Board finds to be an important consideration. In further support of the issue of location, the township assessor testified that the subject was a high-quality property but for its location.

Having placed greatest weight on board of review comparable #1, the Board finds a reduction in the subject's assessment is warranted. The Board finds the purchase price of \$75,140 or \$36.64 per square foot of building area, including land, appears to be an outlier given its closing statement where the seller "took a loss." However, the subject's current estimated market value as reflected by its assessment of \$264,928 or \$129.17 per square foot of building area, including land, also appears to be excessive. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. Based on this record, the Board finds a reduction 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

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: June 27, 2023



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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