



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

APPELLANT: Tarsal Properties LLC
DOCKET NO.: 20-07009.001-C-2
PARCEL NO.: 14-34-154-010

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: \$ 51,796
IMPR.: \$121,576
TOTAL: \$173,372

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 5,197 square feet of building area, commonly known as Unit A. The building was constructed in approximately 2001 and is 19 years old. The building is fully sprinklered and features 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 by counsel before the Property Tax Appeal Board 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 August 4, 2020 for a price of \$188,000. The seller was The Regan Fin Family Limited Partnership, the parties to the transaction were not related and it was reported that the property was not advertised prior to the sale transaction. As supporting documentation, the appellant provided a copy of the one-page Closing Statement which reiterated the sale price and sale date.

Counsel for the appellant argued that the sale of this unit was not a distressed transaction, but rather was a sale following a change in the medical practice of the user. The appellant first purchased Units C and D in the same office condominium complex (see BOR Hearing Exhibit #1, below) and then the appellant purchased Unit A, the subject of this appeal. Admittedly, Unit A was not listed for sale prior to the transaction.

For purposes of the sales closing transaction, Attorney Krandel represented the sellers. Although one attorney briefly communicated with counsel on the transaction, at the closing, the buyer appeared with checks and closing statements executed with Attorney Krandel.

Upon questioning by the board of review representative, counsel for the appellant indicated that the appellant had already purchased Units C and D. Counsel did not know whether the seller approached the buyer or whether the buyer approached the seller concerning Unit A. Counsel believes Unit A was vacant and in good condition at the time of sale; the prior tenant had closed down and relocated the medical practice. (TR. p. 14 – 17)¹

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price at the statutory level of assessment.

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 \$190,608. The subject's assessment reflects a market value of \$571,367 or \$109.94 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 single 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 a listing broker of Jack Minero with an original asking price of \$1,250,740 which was eventually reduced reflecting a selling price of \$289,000 after being on the market for 553 days.

¹ References to the transcript of the hearing are identified as “TR.” followed by page citation(s).

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. The subject Unit A was previously occupied by Dr. Nager, a neurologist. Dzemske had personal familiarity with this parcel having been a patient of the physician. 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. The witness opined that perhaps Unit A had been listed for sale as he had observed a broker's sign on the property for Minero. (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.² (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 September 2020 sale of Unit A for \$188,000 which indicated it was a non-advertised transfer. The assessor further noted in that letter that Unit A had previously sold seventeen years earlier in March 2003 as an advertised sale for a price of \$1,135,438.

In support of its contention of the correct assessment, the board of review submitted documentation gathered by Dzemske with information on three comparable sales located either 8 or 8.2-miles from the subject property outside of the township along with two properties identified "for reference." Of the two reference properties, one is located in the same complex but in a separate building and one is located 6.1 miles from the subject in McHenry. [For ease of identification as necessary in this decision, the two reference properties will be identified as R1 and R2]. Each of the five comparables consist of one-story office condominium units ranging in size from 1,580 to 4,598 square feet of building area. The units range in age from 13 to 31 years old. Except for R2 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

² 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 McEaney. The intended use was for an assessment appeal.

properties sold from April 2018 to September 2019 for prices ranging from \$199,000 to \$540,000 or from \$73.76 to \$151.56 per square foot of building area, including land.

According to Dzemske, he was unable to find information on professional office condominiums without making substantial adjustments which seemed too far out of range, thus the two properties were only cited as a reference. From the assessor's analysis, he reconciled the market value of Unit A at \$112 per square foot of building area or \$582,000. (TR. p. 22-23)

The witness acknowledged that some other sales were excluded as they were smaller condominium units within the township that Dzemske deemed to be inferior to the subject in terms of quality and amenities. (TR. p. 23)

In closing as to Unit A, Bagby asserted that while the property did not sell due to foreclosure, it was a below-market sale, not supported by other things taking place in the market and being sold by an owner who had relocated, wanted to get out and thus sold for convenience rather than a market sale. (TR. p. 25 – 26)

Based on the foregoing evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

For a rebuttal argument, appellant's counsel noted that for any particular piece of property, a sale between a willing seller and a willing buyer reflects the market value for that property in the absence of evidence that it was not an arm's length transaction or there was some kind of distress or duress involved in the transaction.

Bagby, as a licensed appraiser, replied that the import of these four consolidated appeals is to argue the creation of your own market, with presentation of the sale of three of the building's units and the fourth unit arguing for like valuation based upon those three sales prices.

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 A's sale establishes the subject property was not advertised or exposed for sale on the open market prior to the conclusion of the sale transaction. Therefore, the subject's sale price has been given reduced weight and is not solely considered indicative of fair market value of Unit A.

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 advertised for sale in the open market and thus is not typical of the due course of business and trade. Both the subject's Real Estate Transfer Declaration and the appellant's appeal petition clearly establish that the subject property was not advertised for sale. Therefore, the general public did not have the same opportunity to purchase the subject Unit A at any negotiated sale price. 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)). Since the record establishes that the subject property was not advertised for sale or exposed to the open market in an arm's-length transaction, the Board has given only some consideration to the subject's sale transaction for market value purposes in light of the township assessor's observation of a broker's sign on the property.

Therefore, the Board finds the subject Unit A sold in an unadvertised transaction for \$188,000 or \$36.17 per square foot of building area, including land, in August 2020 which was the appellant's sole market value evidence. In response, the board of review provided evidence of five comparable sales 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 R1, which despite being an older and smaller condominium than the subject, this comparable is located in the same complex as the subject, although not in the same building. The record establishes that board of review comparable R1, 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 more than 6 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 R1, the Board finds a reduction in the subject's assessment is warranted. The Board finds the purchase price of \$188,000 or \$36.17 per square foot of building area, including land, appears to be an outlier given its lack of advertising and sale to an adjoining owner. However, the subject's current estimated market value as reflected by its assessment of \$571,367 or \$109.94 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

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.

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