



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

APPELLANT: 1213 Capitol, LLC
DOCKET NO.: 20-07834.001-C-1
PARCEL NO.: 03-30-402-021

The parties of record before the Property Tax Appeal Board are 1213 Capitol, LLC, the appellant, by attorney Jeffrey N. Kowalkowski, of Lanphier & Kowalkowski in Elmhurst; 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: \$169,350
IMPR.: \$267,470
TOTAL: \$436,820

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 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 industrial building of brick exterior construction with 17,784 square feet of gross building area. The building was constructed in 1980. Features include concrete slab foundation, gas forced heat and air conditioning in offices, ceiling mounted gas heaters in warehouse/shop, six two fixture bathrooms, 18 foot ceilings, office space of 16.40% and a land to building ratio of 3.67:1. The property has a 65,340 square foot site and is located in Addison, Addison Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation as the basis of the appeal. The appellant marked their appeal as recent sale and recent appraisal. The appellant did not complete Section IV – Recent Sale Data on page 2 of the appeal form nor submit any evidence in support of a recent sale.

Kowalkowski stated that he represents the current owners of the property and that they purchased the property in November 2020 for \$1,200,000. Kowalkowski also stated that the property was not purchased on the open market, that the new owners were actually the tenants of the building at the time of the sale.

In support of this argument the appellant submitted an appraisal of the subject property prepared by William A. Falkanger, Certified General Real Estate Appraiser. Falkanger was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Using the sale comparison approach to value and income approach to value, the appraiser estimated the subject property had a market value of \$1,105,000 as of July 2, 2019.

Under the sales comparison approach, the appellant's appraiser selected five suggested comparable properties located in Addison, that were comprised of commercial/industrial buildings ranging in size from 12,800 to 30,573 square feet of gross building area and range in age from 39 to 54 years old. The comparable have sites ranging in size from 30,573 to 50,000 square feet of land area. The comparables have land to building ratios ranging from 1.58:1 to 2.59:1 and ceiling heights ranging from 11 to 14 feet. Comparable #1 lists office space as 4,900 square feet of building area and the buyer and seller each represented themselves in the transaction. Comparable #1 also contains three buildings. The comparables sold from July 2016 to October 2018 for prices ranging from \$695,000 to \$1,750,000 or from \$46.90 to \$61.33 per square foot of gross building area, land included. The appraiser adjusted the comparables for differences from the subject to arrive at adjusted sale prices per square foot and stated that the subject falls in the \$61.00 to \$63.00 per square foot range. The appraiser used \$62.00 the mid-point range to arrive at an indicated value for the subject by the sales comparison approach of \$1,100,000.

In developing the income approach, the appraiser utilized leases of 10 industrial properties to arrive at a net operating income of \$82,910. The appraiser calculated an overall rate using a Mortgage Equity Analysis and calculated an overall capitalization rate of .075. The appraiser then calculated the indicated value by dividing the \$82,910 (net operating income) by the .075 (overall rate) to arrive at the value \$1,105,467 rounded to \$1,105,000. The appraiser then stated that the value indicated by the Income Approach is \$1,130,000.

In reconciliation of the two approaches to value, the appraiser gave most weight to the income approach to value and estimated the subject property had a market value of \$1,105,000 as of July 2, 2019.

Based on the sale of the subject property and the appraisal report, the appellant is requesting a reduction.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$436,820. The subject's assessment reflects a market value of \$1,307,844 or \$73.54 per square foot of gross building area, land included, when using the 2020 three year average median level of assessment for DuPage County of 33.40% as determined by the Illinois Department of Revenue.

Representing the board of review was member, Carl Peterson.

Peterson called his witness, Frank A. Marack, Jr., Chief Deputy Assessor in Addison Township to testify.

In support of its contention of the correct assessment the board of review submitted property record cards, PTAX-203 Real Estate Transfer Declaration for each comparable, a market adjustment grid and a market comp grid on five suggested comparable sales located in Addison. Marack summarized the evidence submitted. The comparable properties have sites ranging in size from 26,250 to 54,750 square feet of land area which have each been improved with a one-story industrial building of masonry or masonry and metal exterior construction built between 1972 and 1986. The buildings range in size from 12,000 to 24,444 square feet of gross building area. The comparables have office space from 4.09% to 12.46% of gross building area. The comparables have exterior heights ranging from 17 to 21 feet and have land-to-building ratios ranging from 1.99:1 to 2.61:1. The comparables reportedly sold from March 2018 to March 2019 for prices ranging from \$840,000 to \$1,770,000 or from \$66.62 to \$78.13 per square foot of gross building area, land included.

An adjustment grid was prepared by Marack and depicted qualitative +/- and/or = adjustments applied to the five 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 five comparables ranging from \$85.61 to \$97.75 per square foot of gross building area, land included.

The board of review requested that the assessment be confirmed.

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.

The Board finds the appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. 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. However, the Board will examine the raw sales data contained in this record, including the sales in the appellant's appraisal.

The parties submitted 10 suggested comparable sales for the Board's consideration. The Board gave less weight to the appraiser's comparable #1 based on larger building size along with being three actual buildings when compared to the subject's single building. The Board gave less weight to the appraiser's comparables #2 through #5 based on the sale dates ranging from July 2016 to December 2017, which occurred less proximate to the assessment date at issue. The Board gave less weight to the board of review comparables #1 and #5 as these properties differ considerably in building size when compared to the subject.

The Board finds the best evidence of market value to be the board of review comparable sales #2, #3 and #4. These comparables have varying degrees of similarity when compared to the subject and sold more proximate in time to the assessment date at issue. These most similar comparables sold for prices ranging from \$1,025,000 to \$1,680,000 or from \$66.62 to \$78.13 per square foot of gross building area, including land. The subject's assessment reflects a market value of \$1,307,844 or \$73.54 per square foot of gross building area, including land, which is within the range as established by the best comparable sales in this record. After considering adjustments to the comparable sales for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by the assessment is supported. Based on this evidence the Board finds no reduction 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: _____

December 19, 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

AGENCY

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