



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

APPELLANT: MH Exchange V LLC
DOCKET NO.: 21-06546.001-C-3
PARCEL NO.: 03-25.0-301-010

The parties of record before the Property Tax Appeal Board are MH Exchange V LLC, the appellant, by attorney Ryan J. Mason, of Mason Law Firm LLC in St. Louis, and the St. Clair 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 **St. Clair** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$622,892
IMPR.: \$1,043,608
TOTAL: \$1,666,500

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the St. Clair County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2021 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 single-story movie theater property of concrete block exterior construction with a concrete slab foundation. The 54,339 square foot building was constructed in 1997 and renovated in 2017. Features include a wet fire sprinkler system, 16 movie screens, restrooms, a ticket counter, a concession stand, a bar area and a two-level mezzanine. The property has an 8.57-acre site has asphalt with 630 parking spaces and is located in O'Fallon, Caseyville Township, St. Clair County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Robert D. Becker, a Certified General Real Estate Appraiser, estimating the subject property had a market value of \$4 million as of January 1, 2021.

The purpose of the appraisal was for an *ad valorem* tax appeal where the property rights appraised were fee simple. As part of the report, the appraiser opined a land value of \$2,200,000 or \$6.00 per square foot of land area after analyzing four land sales (Appraisal, p. 52-56). Commencing on page 57 of the appraisal, Becker developed the cost approach to value to estimate the subject's market value at \$4,300,000 (Appraisal p. 61). Using the sales comparison approach to value, the appraiser examined six sales of suggested comparable cinema properties that were located in Omaha, Nebraska, Vernon Hills, Columbus, Ohio, Hickory Creek, Texas, Fairview Heights and Oswego. Having adjusted these sales prices for differences from the subject, the appraiser arrived at adjusted sales prices ranging from \$34 to \$83 per square foot to arrive at an estimated market value for the subject of \$4,100,000 or \$75 per square foot. The appraiser also prepared the income approach to value by analyzing six rental comparables located in Chicago, Normal, Columbus, Ohio, Sandusky, Ohio and Snellville, Georgia. Through this process, the appraiser opined the subject's market value under the income approach to be \$3,800,000.

In reconciling the three approaches to value, the appraiser placed most weight on the sales comparison approach (Appraisal, p. 77) and concluded a value for the subject of \$4,000,000.

Based on this evidence the appellant requested the subject's assessment be reduced to \$1,666,500 which would reflect a market value of \$5,000,000 when utilizing the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of \$2,207,832. The subject's assessment reflects a market value of \$6,612,255 or \$121.69 per square foot of building area, land included, when using the 2021 three year average median level of assessment for St. Clair County of 33.39% as determined by the Illinois Department of Revenue.

In response to the appeal and in support of the correct assessment, the board of review submitted a statement that the "board of review feels that the depreciation rate of 2% per year since this building was first built in 1997 that is a 50% rate of depreciation; that the appraiser rate of 84% is far too high. Giving 50% depreciation on the building and improvement using the RCN from the appraisal adding in the land value from appraisal of 2,200,000 the market value should be \$7,614,725 which is higher than the [assessment]." As part of additional documentation, the board of review set forth various calculations using the appraisal's replacement cost new (RCN) of \$10,829,451 less 50% depreciation for a RCN of \$5,414,725 plus the land value of \$2,200,000 for a total of \$7,614,725.

The board of review also asserted that the property record card depicts a RCN of \$6,215,560 with 18% depreciation or \$5,096,759, plus site improvements of \$611,136 would show a depreciated RCN of \$6,826,696 plus land value of \$1,868,677 for a total value of \$8,695,373.

In addition, the board of review submitted a copy of the sales comparables from the appellant's appraisal and "circled" the locations of comparables #1, #3 and #4 in Nebraska, Ohio and Texas along with a comment "all sales comps are closed down unused buildings at the time of the sales."

A copy of the subject's property record card submitted by the board of review includes the following hand-written remarks: "They purchased this property in 12/16 for \$5,900,000 and have put \$2,500,000 into it since" with permits from August 2017 and October 2018 also highlighted on the document.

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 met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of \$4,000,000 as of January 1, 2021, while the board of review submitted no appraisal or market value evidence, but only criticized various aspects of the appellant's appraisal. The Property Tax Appeal Board finds the criticisms presented by the board of review are either irrelevant to a market value determination, erroneous assertions, or criticized factual statements which were not sufficiently supported to overcome the facts presented in the appraisal. Moreover, the board of review provided no sales data to refute these sales in the appraisal report.

Ordinarily, property is valued based on its fair cash value (also referred to as fair market value), "meaning the amount the property would bring at a voluntary sale where the owner is ready, willing, and able to sell; the buyer is ready, willing, and able to buy; and neither is under a compulsion to do so." Illini Country Club, 263 Ill.App.3d at 418, 635 N.E.2d at 1353; see also 35 ILCS 200/9-145(a). Fair cash value is defined in the Property Tax Code as "[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 defined fair cash value as 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 to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428 (1970). In this appeal, the board of review provided no substantive market data to support their contention that the appraised value conclusion was not a credible or reliable indicator of the subject's estimated market value as of the lien date. Therefore, on this record, the Property Tax Appeal Board finds that the board of review has failed to support the criticisms of the appraisal with any substantive market data.

The Board finds that the appraisal submitted by the appellant estimating the subject's market value of \$4,000,000 is still the best and only substantive evidence of the subject's market value in the record. Moreover, the appraisal's opinion of value was not substantively challenged with any market value evidence presented by the board of review.

Based upon the market value as stated above, the Property Tax Appeal Board finds that a reduction is warranted commensurate with the appellant's request.

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:

November 21, 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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