



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

APPELLANT: Imperial Realty Company
DOCKET NO.: 14-28579.001-C-3
PARCEL NO.: 15-14-210-013-0000

The parties of record before the Property Tax Appeal Board are Imperial Realty Company, the appellant(s), by attorney Patrick J. Cullerton, of Thompson Coburn LLP in Chicago; the Cook County Board of Review by Jeffrey B. Engstrom of the Cook County State's Attorney's Office; the Proviso Twp. H.S.D. #209, intervenor, by attorney John M. Izzo of Hauser, Izzo, Petrarca, Gleason & Stillman, LLC in Flossmoor, and S.D. #89, intervenor, by attorney Yifan Xu Sanchez of Sanchez, Daniels & Hoffman in Chicago.

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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 427,776
IMPR.: \$ 147,224
TOTAL: \$ 575,000

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2014 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a 13-story office building of steel and concrete construction with 200,068 square feet of net rentable building area. The building is 41 years old, and has an antenna on the rooftop. The property has a 253,497 square foot site, and is located in Maywood, Proviso Township, Cook County. The subject is classified as a class 5 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of

\$2,300,000 as of January 1, 2014. Based on this evidence, the appellant requested a reduction in the subject's assessment to 25.00% of the appraisal's estimate of market value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$1,025,753. The subject's assessment reflects a market value of \$4,103,012, or \$20.51 per square foot of net rentable building area, including land, when applying the 2014 statutory level of assessment for commercial property under the Cook County Real Property Assessment Classification Ordinance of 25.00%.

In support of its contention of the correct assessment, the board of review submitted information on five comparable sales from the CoStar Comps Service.

Both intervenors adopted the evidence submitted by the board of review.

At hearing, counsel for the appellant called Michael J. Kelly, M.A.I. to testify. The parties stipulated as to Mr. Kelly's qualifications as an expert in the appraisal of real estate, and the Board accepted Mr. Kelly as an expert in the appraisal of real estate. Mr. Kelly then testified that he appraised the subject property, and that he utilized the income and the sales comparison approaches to value. Under the income approach, he estimated the subject's market value was \$2,040,000. Under the sale comparison approach, he estimated the subject's market value to be \$3,000,000. In reconciling these two approaches to value, the appraisal states that "substantial consideration" was given to the income approach to value, and "moderate consideration" was given to the sales comparison approach to value. Therefore, Mr. Kelly estimated that the subject's market value as of January 1, 2014 was \$2,300,000.

During cross-examination from the assistant state's attorney, Mr. Kelly testified that he did not utilize the cost approach to value, because market participants do not put any weight on the cost approach. The witness further testified that he adjusted the rental comparables in the income approach to value for several factors, including location. Mr. Kelly testified that the location factor includes analyzing nearby amenities and local real estate tax rates. The appraiser admitted that his market rent for the subject of \$15.00 per square foot per month is "roughly the same" as the subject's actual weighted average rent of \$14.62 per square foot per month. The appraiser further admitted that the market vacancy rate for the subject of 65.00% is "roughly equal" to the subject's actual vacancy rate averaged over five years of 67.10%. The witness also testified that he did not utilize the revenue from the rooftop antenna, because, he was told by counsel for the appellant not to use this revenue stream in the appraisal. He further testified that he believes there is an Illinois court case stating that antennas are considered personal property, and not real property, for real estate tax assessment purposes. Finally, Mr. Kelly testified that there is not a fourth approach to value that can be used in determining the subject's market value, and that, when looking at the two approaches to value he utilized, the income approach had more strengths than the sales comparison approach.

Counsel for the first intervenor, H.S.D. #209, had no questions on cross-examination for Mr. Kelly. Upon cross-examination by counsel for the second intervenor, S.D. #89, Mr. Kelly stated that the subject has a billboard and a rooftop antenna, and that both generate revenue.

During redirect, Mr. Kelly testified that multi-tenant office buildings, such as the subject, are generally valued using the income approach to value.

During the board of review's case-in-chief, the assistant state's attorney reaffirmed the evidence previously submitted. Since both intervenors adopted the board of review's evidence, they did not present a case-in-chief.

Prior to closing arguments, counsel for the appellant objected to the board of review's evidence based on hearsay grounds, as the preparer of the evidence was not available for cross-examination. The Board overruled the objection, finding that the evidence submitted by the board of review (which consisted of five comparable sales from the CoStar comps service), speaks for itself, and that there were no adjustments made to these sale comparables, which would warrant the testimony of its preparer. The Board further found that the appellant's hearsay objection went more towards the evidence's weight than to the preparer's credibility, and that these sale comparables would be given the appropriate weight in the Board's decision.

During closing arguments, counsel for the appellant argued that the sale comparables submitted by the board of review were not similar to the subject for various reasons. The assistant state's attorney argued that the discrepancy between the appraiser's value conclusions under the income approach and sales comparison approach should have been reconciled by utilizing a third approach to value. In support of this argument, the assistant state's attorney argued that the appraisal's conclusions in the income approach using rental and vacancy data from the market were nearly identical to the subject's actual rental and vacancy rates. As such, the assistant state's attorney inferred that the appraiser sought rental and vacancy data from the market that would match the subject's actual rental and vacancy rates. As the appraiser substantially relied on the income approach, the assistant state's attorney argued that this approach was somewhat self-serving and should have been "checked" against the cost approach. Both intervenors declined to present a closing argument.

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 best evidence of market value to be the appraisal submitted by the appellant. The Board is not persuaded by the assistant state's attorney's argument that the cost approach should have been used. Mr. Kelly offered credible and un rebutted testimony that market participants do not rely on the cost approach when valuing improvements such as the subject. Moreover, "[h]eavy reliance upon the reproduction cost method of valuation has been frowned upon by the courts," and "reproduction cost should be given great weight only when there is no actual or potential market for the property in question." Chrysler Corp. v. State Property Tax Appeal Board, 69 Ill.App.3d 207, 211-12 (2d Dist. 1979); accord Kraft Foods, Inc. v. Illinois

Property Tax Appeal Bd., 2013 IL App (2d) 121031. No evidence was offered to show that the subject has “no actual or potential market,” such that the cost approach would be applicable.

In arguing that the cost approach should have been utilized, the assistant state’s attorney argued that the income approach was unreliable because it was self-serving. The Board is not persuaded. Again, Mr. Kelly offered credible and unrebutted testimony detailing how he obtained and adjusted market data in determining the subject’s market rent and market vacancy. No evidence was offered to show an alternative market rent or market vacancy for the subject. Having found Mr. Kelly credible on these points, the Board finds that the market rent and market vacancy found in the income approach are properly supported.

The subject's assessment reflects a market value above the best evidence of market value in the record. The Board finds the subject property had a market value of \$2,300,000 as of the assessment date at issue. Since market value has been established the 2014 statutory level of assessment for commercial property under the Cook County Real Property Assessment Classification Ordinance of 25.00% shall apply. 86 Ill.Admin.Code §1910.50(c)(3).

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 13, 2019



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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