

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Piasa Harbor-Western Boats & Motors, Inc.
DOCKET NO.: 04-00661.001-C-2 & 05-00485.001-C-2
PARCEL NO.: 01-395-003-10

The parties of record before the Property Tax Appeal Board are Piasa Harbor-Western Boats & Motors, Inc. (Piasa Harbor), the appellant, by attorney Jeremy Brummond of Lewis, Rice & Fingersh, L.C., St. Louis, Missouri; and the Jersey County Board of Review.

The subject property is improved with a two-story commercial building with 6,980 square feet of ground area, a 2,916 square foot steel canopy, four fuel dispensers, three submerged pumps, 23,650 square feet of asphalt paving, and 14,000 square feet of concrete paving. The building was constructed during 2001 and is used as a combination office, restaurant and convenience store. The property is located in Grafton, Elsay Township, Jersey County.

The 2004 and 2005 assessment appeals were consolidated for hearing purposes. At the hearing the appellant's counsel tendered a notebook containing the exhibits presented by the parties that were previously submitted and identified with various tabs. During the hearing the witnesses made use of this notebook and where appropriate the Board will refer to the various "tabs" used to denote the exhibits the witnesses were referring to.

The appellant contends overvaluation as the basis of the appeal. The first witness called on behalf of the appellant was John O. Kjar, President of Piasa-Harbor Western Boats & Motors, Inc. (Piasa Harbor). The witness testified that Piasa Harbor was the owner of the improvements located on the subject parcel. He testified the improvements include a restaurant, gas station and canopy. He identified the improvements owned by Piasa Harbor as the structures that have green roofs (Appellant's Evidence Tab

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Jersey County Board of Review is warranted. The correct assessed valuation of the property is:

Docket No.	Land	Impr.	Total
04-00661.001-C-2	\$0	\$406,295	\$406,295
05-00485.001-C-2	\$0	\$413,770	\$413,770

Subject only to the State multiplier as applicable.

2). Kjar testified only the improvements are assessed because they are located on land that is leased from the federal government. The witness was of the opinion the government lease is not an asset but adversely affects the market value of the improvements.

The witness identified the cost disbursement control record associated with the construction of the subject property. (Appellant's Evidence Tab 3.) Items 50 through 53 are the items that relate to the disbursements for the gas system at Piasa Harbor. The total disbursements associated with these items were \$166,839, rounded. He testified that some items included in the disbursements are not being assessed such as computer systems, tank monitoring systems, fuel lines that extend to the boat slips, and certain dispensers even though included in the disbursements.

Kjar also identified the copy of the \$1.6 million dollar mortgage document filed in the Jersey County Recorders office. (Jersey County Evidence Tab 3). The mortgage was between Piasa Harbor and the Jersey State Bank. He testified that the \$1.6 million was not all used to construct the improvements at issue. He testified the mortgage included costs associated with the septic system, the water system, the roads, docks, a maintenance building, inventory, tables, fixtures and cooking equipment.

The witness next identified the 2002 through 2004 income tax returns for the appellant. (Appellant's Evidence Tab 6.) He testified that all the income and expenses for Piasa Harbor went through Western Boats & Motors, Inc., the entity listed on the income tax returns. Kjar testified that in 2004 Piasa Harbor opened a gun and ammunition shop. Ammunition sales went through Western Boats & Motors, Inc. while gun sales went through a separate corporation called Diamond Island Marina. The witness testified the gun sales totaled approximately \$12,000. The witness testified these sales were included in the data given its valuation witness, LaJuana Morris, and included in her Income and Expense Analysis for 2005.

Under cross-examination Kjar testified he has no credentials in the field of real estate appraisal but had been a real estate broker in Missouri for 27 years, which expired approximately one year ago. The witness also stated that the disbursement control record was provided to real estate broker, Jo An D. Corbett. The witness was also questioned whether the disbursement schedule submitted by the appellant included the total costs associated with the subject property. The witness also testified \$1.6 million included the purchase of a dredge, two fee simple lots and the 55 acre lease. Kjar also testified there was an appraisal done for the complete project, which included more than the property under appeal. Mr. Kjar testified that the total

expenditures included on the project were approximately \$1,600,000.

The next witness called by the appellant was LaJuana Morris. Ms. Morris is employed by Property Tax Pro. Prior to her current employment she was employed with the Alton Township Assessor's office. While with the Alton Township Assessor's office she had the Certified Illinois Assessment Official's (CIAO) designation, which she held for 12 years.

She testified on a day-to-day basis she currently determines market value by pulling comparable sales, she does an income analysis and a cost analysis. She further testified that she prepared a report regarding the improvements and concluded the property was worth approximately \$690,000. She identified "Tab 4" as being the summary of the sales comparison approach. (Appellant's Evidence Tab 4.) She identified "Tab 5" as the comparable sales that indicate the value of the improvements at Piasa Harbor. (Appellant's Evidence Tab 5.) The information prepared by Ms. Morris indicated the subject building has 20,940 square feet of gross building area and 9,560 square feet of rentable area. Her comparable sale number one was located in Kansas City, Missouri. The building was constructed in 1976 and contained 8,170 square feet. This property sold in March 2002 for a price of \$550,000 or \$67.32 per square foot of building area. The second sale was located in Raytown, Missouri. This building contained 3,369 square feet and was constructed in 1995. This property sold in December 2000 for a price of \$585,000 or \$173.64 per square foot. The third comparable was located in Dunlap, Illinois and contained 3,372 square feet of building area. This property sold in June 1999 for a price of \$300,000 or \$88.97 per square foot of building area. She testified the two sales in Missouri were comparable because they were sit-down restaurants. She further testified that sale number three was a wine and bar grill located in rural Illinois. She testified no adjustments were made to the sales. Based on these sales the estimated market value for the subject improvements was \$850,000 resulting in an assessment of \$283,234.

Ms. Morris identified "Tab 6" and "Tab 7" as being the income approaches to value she prepared on the subject property for 2004 and 2005, respectively. (Appellant's Evidence Tab 6 and Tab 7.) For 2004 she estimated the subject had an indicated value under the income approach of \$690,000 while in 2005 she estimated the subject had an indicated value under the income approach of \$642,560. She was of the opinion the assessed value of the subject property decreased from 2004 to 2005 based on the income approach she prepared.

Ms. Morris also reviewed the data prepared on behalf of the Jersey County Board of Review. (Jersey County Evidence Tab 1.)

With respect to the comment that the Marshall Valuation Service was used as a source to develop the replacement cost of the subject she testified that she could not find where a local multiplier was applied. She also questioned the value attributed to the pavement since the appellant does not own the land. She also was of the opinion the steel canopy that was valued at \$61,965 was exorbitant. She was of the opinion the cost for the steel canopy should be around \$9 to \$12 per square foot. She also disagreed with the Chief County Assessment Officer's (CCAO's) criticism of her comparable number one because the parking lot needed repair. She also disagreed with the CCAO's criticism that income approach may have included construction costs. She also was of the opinion that the CCAO's sales discussed in paragraphs 7 through 9 of the board of review's submission supported her conclusion. She was of the opinion the CCAO's reported sale located in Venice, Illinois was not comparable because of its size, 1,400 square feet, and use as a convenience store gas station. She also disagreed with the CCAO's income approach outlined in paragraphs 11 through 13 of the board of review's submission. She noted the rental comparables used by the CCAO were not used as restaurants as is the subject.

Under cross-examination Ms. Morris testified she no longer has the CIAO designation. She also testified she is not an appraiser and has no appraisal certification or appraisal designations. She testified she is a salaried employee but Property Tax Pro's fee is contingent on the outcome of the appeal. Ms. Morris testified that she did not develop a cost approach in her analysis. She testified that she did not personally inspect the comparable sales she utilized in the sales comparison approach. The sales were selected using Property Line, an on-line company, as well as Marshall and Swift, which also has sales available on line. She agreed that Kansas City and Raytown, the location of her first two comparable sales, were more than 200 miles from the subject. She also noted that Dunlap was located approximately 100 miles from the subject but she did not know in what county in Illinois. Each of the sales was older than the subject property and were significantly smaller than the subject. None of the sales were located adjacent to water as is the subject or associated with any kind of docking business as is the subject.

She also agreed that in the income approach she utilized the subject's actual income and expenses and provided no comparable rental data. She testified that she did not examine any comparable rentals because the subject is somewhat unique. With respect to the vacancy allowance, she testified that a 10% allowance was built into the program but was corrected by the appellant's attorney who pointed out her analysis indicated there was a 5% vacancy and collection allowance. She agreed that in an income approach one should focus on expenses and income

associated with the building and not the business. The witness agreed that she did not include the research used to support the capitalization rate of 15% used in the income approach. Additionally, the effective tax rate calculation in the income approach resulted in a loaded rate of 2.32%, however, in reviewing the income approach 1.898% was used as the tax load factor in the capitalization rate.

Ms. Morris further agreed that concrete paving is an improvement to the real estate if the real estate land is being assessed.

The board of review submitted its "Board of Review Notes on Appeal" for each of the years under appeal. For 2004 the subject had a total assessment of \$406,295 which reflects a market value of \$1,220,105 using the 2004 three year median level of assessments for Jersey County of 33.30%. For 2005 the subject had a total assessment of \$413,770 which reflects a market value of \$1,249,305 using the 2005 three year median level of assessments for Jersey County of 33.12%.

The Chief County Assessment Officer (CCAO) was present as the representative and witness on behalf of the board of review. He indicated the subject building is a two-story structure with a ground floor area of approximately 6,980 square feet and a total building area of approximately 13,960 square feet. The witness also agreed the second floor area is not completely finished and agreed that the building finished area totaled approximately 9,560 square feet. He indicated the subject building also has a 6,980 square foot basement. The basement is poured concrete with the building being of frame construction with some native stone and stucco veneer exterior. The witness testified approximately 1/3 of the second floor was finished with office space and a gun enclosure area that can be locked.

In support of the subject's assessment the board of review submitted copies of property record cards on other properties improved with gas stations to demonstrate the historical practice of classifying and assessing underground storage tanks and pumps as real estate prior to 1979. (Jersey County's Evidence Tab 5.)

In reviewing a copy of the subject's property record card submitted by the appellant, the CCAO testified the subject's property record card was the basis for the subject's original assessment. (Appellant's Evidence Tab 1.) The property record card had a cost calculation for the building of \$1,308,967 which would result in a building assessment of \$436,322. The supervisor of assessments testified the Marshall Valuation Service was used as a source to calculate the cost approach on the property record card.

The CCAO also submitted a written statement summarizing the board of review's evidence and a critique of the appellant's evidence. (Jersey County's Evidence Tab 1.) The statement indicated that the Marshall Valuation Service was used as a source under the classification of mini-mart; bar & grill, service station as a guide for cost purposes. A copy of the page from the Marshall Valuation Service was submitted by the board of review. (Jersey County Evidence Tab 4.) The statement also indicated the board of review considered that an estimated 4,400 square feet on the second floor of the subject building was not completed.

The critique of the appellant's evidence included comments pertaining to the lack of appraisal qualifications by the preparer of the analysis. The CCAO asserted that sale #1 was located in Kansas City and was a sale to the tenant. The witness also asserted that none of the comparable sales used by the appellant had features that included a basement, gas pump dispensers, pump islands, underground tanks with monitor wells and an overhead canopy as the subject has, which would have some contributory value. The board of review's submission also argued the income approach developed by the appellant's unlicensed appraiser was not acceptable. The witness asserted in the document that typical appraisal practice estimates economic rent less typical expenses and extracts a market derived capitalization rate. This was not done in the appellant's valuation analysis.

The board of review's submission also contained four comparable sales located in the Illinois communities of Bethalto, Grafton and Venice, five to twenty miles from the subject. The first three comparables were commercial buildings being used as a bar/dance hall, market and restaurant. These buildings ranged in size from 2,600 to 8,000 square feet and in age from 4 to 31 years old at the time of sale. The sales occurred from January 2005 to May 2005 for prices ranging from \$208,000 to \$550,000 or from \$50.79 to \$80.00 per square foot of building area. The board of review acknowledged these comparables were older, in a lesser state of repair and had fewer features than the subject without the modern gas station with canopy, underground storage tanks, well monitors, extensive concrete paving and pump islands and dispensers.

The board of review's fourth sale is a gas station - convenience store located in Venice, Illinois. This property sold in June 2001 and was improved with a 1,400 square foot convenience store with 2 gas pump islands. This property sold for a price of \$255,000 or \$177.08 per square foot.

The board of review argued that the subject's assessment equates to a market value of approximately \$127.50 per square foot of usable space. It argued these sales supported the subject's

indicated value after considering the subject's superior features.

The board of review also used three rental comparables that had rental rates ranging from \$5.83 to \$9.00 per square foot and gross rent multipliers ranging of 7.10 and 8.73. Using a market rent of \$9.00 per square foot for the subject's finished 9,560 square feet and a gross rent multiplier of 9.00 the CCAO arrived at a value of \$774,360. To this he added \$220,000 as the contributory value of the gas station facilities and \$50,000 as to contributory value of the concrete drive, unfinished basement and unfinished second floor area to arrive at a total value under the income analysis of \$1,044,360. Based on this data the board of review contends the subject's assessment for each of the years under appeal is reasonable and representative of market value.

Under cross-examination the CCAO agreed that the comparable sales were not truly comparable to the subject and acknowledge comparable sales similar to the subject were difficult to find. Because of this factor more reliance was given to the cost approach. The witness was also questioned with respect to his assertion that \$220,000 would be the contributory value of the subject's gas system contained in the written statement as contrast to what was listed on the subject's property record card of \$61,965 for the steel canopy, \$23,000 for the four gas dispensers, and \$2,700 for the three submerged pumps. The CCAO also testified he had visited each of his comparable sales. The witness was also question why in his analysis of the comparable sales he added \$220,000 for additional features whereas in his analysis of the income he added \$270,000 for the additional features the subject had.

The CCAO testified that he was relying primarily on the cost approach to value but he did not redo the cost approach on the subject's property record card or develop his own independent cost approach to value.

After hearing the testimony and considering the evidence the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds a reduction in the assessment of the subject property is not warranted.

The appellant contends the subject property's assessment is excessive in relation to its market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the board of review met this burden of proof and a reduction in the subject's assessment is not warranted.

First, the Board gives no weight to evidence and testimony presented by the appellant's valuation witness, LaJuana Morris. The Board finds the testimony and evidence revealed that Ms. Morris had no appraisal or assessment credentials. She further testified that she was not an appraiser. She testified she is a salaried employee but her employer's fee is contingent on the outcome of the appeal. These factors undermine the weight and credibility that can be accorded the conclusions of value tendered by Ms. Morris and those contained in the report submitted by her employer.

Second, with respect to the sales that were presented by Ms. Morris, she testified that she did not personally inspect the comparable sales contained in the Property Tax Pro analysis. She also agreed that Kansas City and Raytown, the location of her first two comparable sales, were more than 200 miles from the subject. She also noted that Dunlap was located approximately 100 miles from the subject but she did not know in what county in Illinois. Each of the sales was older than the subject property and were significantly smaller than the subject. None of the sales were located adjacent to water as is the subject or associated with any kind of docking business as is the subject. Because of these factors no weight was given this evidence by the Property Tax Appeal Board.

With respect to the income approach Ms. Morris testified that she used the subject's actual income and expenses and provided no comparable rental data. She testified that she did not examine any comparable rentals because the subject is somewhat unique. The witness also indicated that she did not provide the research used to support the capitalization rate of 15% used in the income approach. The Board finds the appellant's witness' estimate of value using the income capitalization approach in this appeal based on the subject's actual income and expenses unconvincing and not supported by evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning

capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown they are reflective of the market. The appellant did not demonstrate through a qualified expert appraisal witness that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence; therefore, the Property Tax Appeal Board gives this aspect of the appellant's argument no weight.

The appellant also presented the testimony of John O. Kjar, President of Piasa-Harbor Western Boats & Motors, Inc. (Piasa Harbor). The witness testified that Piasa Harbor was the owner of the improvements located on the subject parcel. Mr. Kjar testified that the total expenditures included on the project were approximately \$1,600,000. Mr. Kjar also identified the copy of the \$1.6 million dollar mortgage document filed in the Jersey County Recorder's office. The mortgage was between Piasa Harbor and the Jersey State Bank. He testified that the \$1.6 million was not all used to construct the improvements at issue. He testified the mortgage included costs associated with the septic system, the water system, the roads, docks, a maintenance building, inventory, tables, fixtures and cooking equipment. No separate breakdown of the costs associated with these items was provided.

The record in this appeal also contained the subject's property record card containing a cost approach prepared by the township assessor using the Marshall Valuation Service. The property record card indicated a full value for the buildings of \$1,308,967.

The Property Tax Appeal Board also finds the board of review presented information on four comparables located in Grafton, Bethalto and Venice, Illinois. These comparables were not particularly similar to the subject but do provide indicia of market activity in the subject's general area. The first three comparables were commercial buildings being used as a bar/dance hall, market and restaurant. These buildings ranged in size from 2,600 to 8,000 square feet and in age from 4 to 31 years old at the time of sale. The sales occurred from January 2005 to May

2005 for prices ranging from \$208,000 to \$550,000 or from \$50.79 to \$80.00 per square foot of building area. The board of review's fourth sale is a gas station - convenience store located in Venice, Illinois. This property sold in June 2001 and was improved with a 1,400 square foot convenience store with 2 gas pump islands. This property sold for a price of \$255,000 or \$177.08 per square foot. The Board finds these comparables were generally inferior to the subject in age and features, thus their unit values should be lower on a per square foot basis compared to the subject.

For 2004 the subject had a total assessment of \$406,295 which reflects a market value of \$1,220,105 using the 2004 three year median level of assessments for Jersey County of 33.30%. This value equates to a unit value of \$87.40 per square foot of total building area of 13,960 square feet or \$127.62 per square foot using the subject's finished building area of 9,560 square feet. For 2005 the subject had a total assessment of \$413,770 which reflects a market value of \$1,249,305 using the 2005 three year median level of assessments for Jersey County of 33.12%. This equates to a unit value of \$89.49 per square foot of total building area or \$130.68 per square foot using the subject's finished building area.

Based on this record, the Board finds the subject's assessments for the two years at issue reflecting market values of \$1,220,105 and \$1,249,305, respectively, are reasonable and reflective of the property's market value. These values are supported by Mr. Kjar's testimony with respect to the \$1.6 million cost of the project, which the Board acknowledges is inclusive of some non-realty items. Second, these values are supported by the cost approach contained on the subject's property record card wherein a total building value of \$1,308,967 was calculated. Third, the board of review's sales of inferior comparables that were located in the subject's general area with unit prices ranging from \$50.79 to \$177.08 per square foot of building area are supportive of the subject's overall value after considering the subject's superior features.

Therefore, the Board finds that the subject's assessments as determined by the board of review for each of the years at issue are correct and reductions are not 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.



Chairman



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

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: October 26, 2007



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

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complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year 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 the subsequent year 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.

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.