

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Agracel, Inc.
DOCKET NO.: 05-02519.001-C-3
PARCEL NO.: 03-11-032-110

The parties of record before the Property Tax Appeal Board are Agracel, Inc., the appellant; by attorney Q. Anthony Siemer of Siemer, Austin, Resch, Fuhr & Totten, in Effingham, and the Effingham County Board of Review.

The subject property consists of a 1,933,695 square foot parcel improved with a one-story industrial building that was built in 1969 and contains 575,598 square feet of building area. The building is constructed of steel and tilt up concrete panels and is located in Effingham, Effingham County, Illinois.

The appellant appeared before the Property Tax Appeal Board with counsel claiming overvaluation and unequal treatment in the assessment process regarding the subject's land and improvements as the bases of the appeal. In support of the overvaluation argument, the appellant submitted a settlement statement detailing the subject's sale on January 26, 2005 for \$2,100,000. In further support of the overvaluation argument, the appellant submitted information on three comparable properties. The comparables range in age from 31 to 42 years and are located in the cities of Taylorville, Mt. Vernon and Centralia, Illinois, which are 65 to 75 miles from the subject's location in Effingham, Illinois. The comparable sites range in size from 274,995 to 1,964,250 square feet and are improved with pre-engineered steel, or block and metal one-story buildings that range in size from 144,518 to 441,480 square feet of building area. The comparables sold between September 2002 and January 2005 for prices ranging from \$499,192 to \$1,575,900 or from \$3.45 to \$4.15 per square foot of building area including land.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Effingham County Board of Review is warranted. The correct assessed valuation of the property is:

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|--------|----|---------|
| LAND: | \$ | 153,530 |
| IMPR.: | \$ | 626,410 |
| TOTAL: | \$ | 779,940 |

Subject only to the State multiplier as applicable.

PTAB/MRT/12/11/07

In support of the inequity argument regarding the subject's land assessment, the appellant submitted land assessment information on the same three comparables used to support the overvaluation contention. The comparables had land assessments ranging from \$10,485 to \$26,974 or from \$0.01 to \$0.10 per square foot of land area. The subject has a land assessment of \$153,530 or \$0.08 per square foot of land area.

In support of the improvement inequity argument, the appellant submitted improvement assessment information on the same three comparables used to support the overvaluation contention. The comparables had improvement assessments ranging from \$164,766 to \$514,815 or \$1.14 or \$1.17 per square foot of building area. The subject has an improvement assessment of \$2,422,980 or \$4.21 per square foot. Based on this evidence, the appellant requested the subject's total assessment be reduced to \$700,000.

During the hearing, the appellant submitted an affidavit, without objection by the board of review, prepared by Todd Hull, Economic Development Director for the City of Effingham. Hull's affidavit states that one of his duties involves attempting to market industrial sites to prospective buyers. Hull stated he was personally familiar with the subject and was actively involved in marketing it to the general public from August 2004 until the subject was purchased by the appellant in January 2005. Finally, Hull's affidavit stated he "specifically marketed the property to four prospective purchasers during this time frame".

The appellant then called Dean Bingham to testify. Bingham testified he was originally in manufacturing as an engineer, but for 13 years, has been involved in real estate with the appellant company, which buys industrial properties like the subject, rehabilitates them and then sells or leases them. Bingham also testified the subject's January 2005 sale was an arm's length transaction, that no relationship between buyer and seller existed prior to the sale and that the seller had its own real estate marketing department, with whom he dealt directly, in negotiating the appellant's purchase of the subject. Bingham further testified he learned of the subject's availability for sale through the efforts of Todd Hull. Additionally, Bingham testified the subject was in poor condition at the time of its sale, that over \$2,000,000 was spent by the appellant in repairing the roof and that \$700,000 was spent demolishing improvements in the building that were specific to the seller's printing operation and were of no further use to prospective buyers. The witness also testified most of the dock doors were inoperable, that the floors were cracked in many areas and that a leaking underground storage tank and lagoons required remedial work to satisfy requirements of the Illinois Environmental Protection Agency before the appellant could market the subject

for sale. Bingham opined that the subject's poor condition at the time of sale was reflected in its \$2,100,000 sale price.

In cross examination, the board of review's representative questioned the appellant regarding the preparation of the Real Estate Transfer Declaration documenting the subject's sale. The appellant's attorney responded that he prepared the declaration and acknowledged the subject had not been advertised for sale in major newspapers, nor had it been listed for sale by a realtor. However, the attorney referred to a letter he prepared and which had been submitted with the appellant's evidence, that the seller aggressively marketed the subject through "its own internal real estate marketing arm and doesn't normally use brokers".

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$2,576,510 was disclosed. The subject has an estimated market value of \$6,937,291 or \$12.05 per square foot of building area including land, as reflected by its assessment and Effingham County's 2005 three-year median level of assessments of 37.14%.

In support of the subject's assessment, the board of review's evidence claimed the Real Estate Transfer Declaration that details the subject's January 2005 indicates the subject was not advertised for sale by a newspaper, trade publication, electronic media, or signs and that it was not sold through a realtor. The board of review contends that for these reasons, the subject's sale was not an arm's length transaction and does not accurately reflect the subject's market value.

In further support of the subject's estimated market value, the board of review submitted property record cards and a grid analysis of three comparable properties located in Effingham, Illinois. The comparable sites range in size from 215,478 to 574,120 square feet of land area and are improved with one-story metal industrial buildings that range in age from 11 to 13 years and range in size from 26,137 to 177,340 square feet of building area. The comparables sold between August 2002 and March 2005 for prices ranging from \$750,000 to \$4,954,000 or from \$18.05 to \$28.69 per square feet of building area including land.

In support of the subject's land assessment, the board of review submitted land information on the same three comparables used to support the subject's estimated market value. The comparable sites range in size from 215,478 to 574,120 square feet of land area and have land assessments ranging from \$21,860 to \$47,970 or from \$0.08 to \$0.10 per square foot of land area.

In support of the subject's improvement assessment, the board of review submitted improvement information on the same three

comparables used to support the subject's estimated market value. The comparables had improvement assessments ranging from \$196,830 to \$1,337,230 or from \$7.53 to \$7.80 per square feet of building area. Based on this evidence the board of review requested the subject's total assessment be confirmed.

During the hearing, the board of review's representative testified the comparables submitted by the board of review were located in Effingham like the subject.

In rebuttal, the appellant argued the market area for industrial properties like the subject may often extend several hundred miles or more from the subject's location.

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 this appeal. The Board further finds a reduction in the subject property's assessment is warranted. The appellant argued the subject's market value is not accurately reflected in its assessment. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2nd 1256 (2nd Dist. 2000). The Board finds the appellant has overcome this burden.

The Property Tax Appeal Board finds the subject sold in January 2005 for \$2,100,000. The appellant contends this sale was an arm's length transaction because the subject was marketed by the City of Effingham and that the buyer and seller were not related parties or corporations. The appellant submitted an affidavit by City of Effingham Economic Development Director Todd Hull. In his affidavit, Hull stated his duties include marketing industrial sites to prospective purchasers and tenants, that he was engaged in marketing the subject between August 2004 and the time of the subject's sale and that he "specifically marketed the property to four prospective purchasers during this time frame". The appellant contends the seller of the subject has its own real estate marketing department and that the seller doesn't normally use brokers. The appellant became aware of the subject's availability through Hull's marketing efforts.

The board of review contends that because the subject was not advertised for sale in a newspaper or other media and was not sold through a realtor, the January 2005 sale of the subject was not an arm's length transaction and did not accurately reflect the subject's market value. The Board finds that Hull's marketing efforts demonstrate that the City of Effingham was actively seeking a buyer or lessee for the subject property and that four prospective buyers were considering purchase of the

subject. The Board finds Bingham testified he negotiated directly with the seller's marketing department after having been notified of the subject's availability by Hull's office. The Board further finds Bingham's testimony concerning the subject's poor condition at the time of sale and the extensive remedial costs absorbed by the appellant to bring the subject into marketable condition underscores the appellant's contention that the subject's January 2005 sale price of \$2,100,000 reflected its true market value. Notwithstanding the board of review's reliance on the Real Estate Transfer Declaration in its claim the subject's sale was not arm's length, the Board finds the subject was adequately exposed for sale on the market and that its January 2005 sale for \$2,100,000 reflects its market value.

The Board also finds the parties submitted six comparable sales for its consideration. The Board gave less weight to the comparables submitted by the board of review because they were considerably newer than the subject and were significantly smaller than the subject. The Board finds the appellant's comparables were more similar in age and size when compared to the subject. The comparables sold for prices ranging from \$3.45 to \$4.15 per square foot of building area including land. The subject's estimated market value of \$12.05 per square foot including land falls well above the range of the most similar comparables in the record.

However, the Property Tax Appeal Board finds the best evidence of the subject's market value is its January 2005 sale for \$2,100,000. As stated above, the Board finds the subject was adequately exposed on the market and that the City of Effingham was actively involved in attempts to find a buyer or lessee of the subject property and that this sale was an arm's length transaction.

The Illinois Supreme Court 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). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and is practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill.424 (1945).

The appellant also argued unequal treatment in the assessment process regarding the subject's land and improvements as a basis of the appeal. The Property Tax Appeal Board finds none of the comparables submitted by the appellant were located in Effingham County, where the subject is located. The Board finds the appellant's reliance on properties in different assessment jurisdictions is inappropriate and insufficient to demonstrate inequity and gives this argument no weight. Cherry Bowl, Inc. v. Property Tax Appeal Bd., 100 Ill.App.3d 326, 426 N.E.2d 618, 55 Ill.Dec. 472 (2nd Dist. 1981).

In summary, the Property Tax Appeal Board finds the appellant has proven overvaluation by a preponderance of the evidence and a reduction in the subject's assessment is warranted on that basis. Since market value has been established, Effingham County's 2005 median assessment level of 37.14% shall apply.

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

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: December 21, 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 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.