FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Square D Company
DOCKET NO.: 05-20941.001-C-3 through 05-20941.002-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Square D Company, the appellant(s), by attorney Gregory J. Lafakis and Peter Verros, of Verros, Lafakis & Berkshire, P.C. in Chicago; the Cook County Board of Review by Assistant Cook County State's Attorney Ralph Proietti; and Township H.S.D. #211, the intervenor, by attorney Robert E. Swain of Hodges Loizzi Eisenhammer Rodick & Kohn in Arlington Heights.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
05-20941.001-C-3	02-28-300-027-0000	605,187	1,808,228	$2,413,415
05-20941.002-C-3	02-28-300-032-0000	188,172	200,913	$389,085

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two parcels of land totaling 596,509 square feet and improved with a 25-year-old, three-story, glass and concrete constructed, single-tenant office building containing 154,706 square feet of gross building area. The appellant argued that the fair market value of the subject is not accurately reflected in its assessed value.

In support of this market value argument, the appellant submitted a complete, self-contained appraisal of the subject with an effective date of January 1, 2004 and an estimated market value of $7,375,000.

At hearing, the appellant's witness was the appraiser, Michael Kelly. Mr. Kelly testified that he is employed by Real Estate Analysis Corporation. He testified he has been working there for 34 years. He indicated that he is a state-certified appraiser in

Illinois, Indiana, and Michigan and holds the designation of a MAI from the Appraisal Institute. Mr. Kelly testified that he has appraised in excess of 100 single-tenant office properties.

On further voir dire by Mr. Swain, Mr. Kelly testified he has a degree in business finance and a graduate degree in business from the University of Chicago; he asserted these programs included several classes relative to valuations. Mr. Kelly testified he has taken all the required courses for the Appraisal Institute's designation of an MAI as well as continuing education programs for all his licenses as well as his MAI designation; roughly 50 hours every recertification period. As to experience, he testified he worked at the Cook County Assessor's Office for two and one-half years. Once in private practice, Mr. Kelly asserted he appraised a variety of types of properties. Kelly was admitted as an expert in the field of property valuation without objection of the remaining parties.

The appellant's appraisal gave an estimate of market value as of the effective date of January 1, 2004 of $7,375,000. The appraisal notes a complete interior inspection was conducted on October 13, 2004 and Kelly testified he inspected the property again in preparation of the hearing. The appraisal identifies and fully describes the subject property's improvements.

Kelly testified that the subject property is the Square D headquarters located in the Palatine. He testified the subject contains 596,509 square feet of land improved with a three-story, 25 year old, single-tenant office building with a gross floor area of 154,000 square feet and 123,000 square feet of net rentable area. He considered the improvement to be in good condition with no identifiable elements of deferred maintenance.

He opined that the there is a very important distinction between a single-tenant and multi-tenant building because they have different economic and physical characteristics. He asserted a multi-tenant building has an extensive amount of partitioning up and down the floors which allows a higher rent per square foot, electrical meters for each tenant which increases the costs to build, and more HVAC controls so each tenant has control over their own heating and cooling. Economically, he asserted that multi-tenant buildings generate higher rents, all other things being equal, on a per square foot basis.

Kelly opined that a single-tenant building has more risk because when it goes vacant, if it's used as an investment, its 100% vacant as opposed to differing vacancy levels for a multi-tenant.

Kelly opined that the highest and best use of the subject as vacant and improved would be its current use as a single-tenant office building.

Kelly developed the three traditional approaches to value in estimating the subject’s market value. The cost approach indicated a value of $7,600,000, rounded, while the income approach indicated a value of $7,360,000, rounded. The sales comparison approach indicated a value of $7,375,000, rounded. The appraiser concluded a market value of $7,375,000 for the subject property as of January 1, 2004.

The initial step under the cost approach was to estimate the value of the site at $3,280,000, or $5.50 per square foot. In doing so, Kelly testified he considered five land sales that ranged in sale prices from $1.41 to $6.88 per square foot. The appraisal noted the differences in the properties in estimating a land value.

Using the <u>RS Means Cost Manual</u> and the <u>Marshall and Swift Valuation Service</u>, Kelly estimated the replacement cost new to be $15,975,000 or $103.26 per square foot of gross buildable area. Kelly testified he applied all the required adjustment to these manual costs to make them applicable to the subject. In establishing a rate of depreciation, Kelly testified he used the market-abstracted depreciation method. He testified he reviewed the nine single-tenant office buildings he utilized in the sales comparison approach; he abstracted both the total amount of depreciation as well as the annual rate of depreciation for these comparables. He testified he deducted the land value from the sales prices and the remainder is the residual for the improvements and this is compared with the replacement cost new of those improvements to identify the total amount of depreciation. Kelly asserted that he was familiar with the land markets in the comparables area and even appraised several of the properties. Based on his analysis, Kelly opined a depreciation rate of 73% for value for the improvement less depreciation of $4,313,250. He asserted this amount of depreciation was typical of large single-tenant buildings. Adding the land value resulted in a final value estimate of value under the cost approach of $7,600,000, rounded.

Under the income approach, the appraiser reviewed the leases of eight office buildings in the suburban market. The rents ranged from $19.38 to $27.47 per square foot of rentable area. Kelly testified he estimated a total potential gross income of $23.00 per square foot of rentable area or $2,827,275.

Kelly testified that he reviewed the typical vacancy rates of office buildings in the Northwest Corridor from *Studley Reports and Space Data* and arrived at a vacancy and collection rate for the subject of 20%. As a result of this, the appraisal indicates a total effective gross income of $2,260,000, rounded.

For expenses, Kelly testified he reviewed the typical operating expenses as reported by the *Building Owners and Managers Association Study* for the Chicago suburban market and made deductions totaling $905,000 for a net operating income of $1,355,000.

In determining the appropriate capitalization (CAP) rate, Kelly testified he considered three methods. First, he testified, he extracted a CAP rate from the sales comparisons submitted under that approach. Kelly stated that, for eight of the nine sales, the rates ranged from 10% to 11.5%. Kelly also considered the band of investment method which indicated a CAP rate of 8.8%. Kelly testified he also reviewed the CAP rates from Korpacz for multi-tenant office buildings and that this CAP rate was 8.9%. He opined that this report would show overall rates that would apply to properties similar to the subject, large, single-tenant buildings. Kelly testified that after consideration of all the data, he selected a CAP rate of 10%. After adding in the effective tax rate of 8.4% an overall CAP rate of 18.4% was applied to the net operating income to estimate the market value for the subject under this approach at $7,360,000, rounded.

The final method developed was the sales comparison approach. Kelly testified that, under this approach, he examined nine single-tenant, corporate headquarters, office buildings. The properties range in building size from 102,775 to 481,028 square feet of rentable area and sold from May 1999 to December 2003 for adjusted prices ranging from $5,572,800 to $46,650,000, or from $20.26 to $97.23 per square foot of rentable area. The properties ranged in age from two to 19 years. Kelly testified the comparables were of a low-rise design of two to four-stories. He opined that sale #7 was very similar to the subject in location and date of value. He testified he made qualitative adjustments based on their characteristics. Based on these sales, Kelly testified he estimated the value of the subject at $60.00 per square foot of rentable area, including land. This yields a value for the subject property under the sales comparison approach at $7,375,000, rounded.

In reconciling the various approaches, Kelly testified he gave moderate weight to the cost and income approaches and substantial weight to the sales comparison approach. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2004 to be $7,375,000.

Kelly asserted that there were no known changes to the property or any significant changes in the market between January 2004 and January 2006. He opined that the value of the subject property would be substantially the same for 2004, 2005 and 2006.

Under cross-examination by the board of review, Kelly reiterated his reliance on the sales comparison approach because there was a significant amount of data. He also opined that the subject property is typically purchased by an owner-user so the income approach was included, but the data available for the sales approach is more reliable. He described the process used for undertaking an appraisal for ad valorem tax purposes.

Under cross-examination by the intervenor, Kelly described how the appraisal was written. Kelly acknowledged he inspected the property in 1989 and again in 2009 and testified that there had been no change to the physical structure in that period of time. He explained that he was referring to the size of the building, its use as a single-tenant, and the important characteristics. He asserted that item such as the carpeting have changed several times over the years, but that all the relevant factors are still the same. He opined that over 25 years there would be need for some replacement of mechanical, but that this would not necessarily have an impact on the value; if the is in normal condition and the maintenance kept the property in normal condition.

Kelly explained his rational for determining the land sales were sufficient for estimating the subject's land value under the cost approach. He acknowledged that land sale #1, #2 and #3 were in the same development area, but explained that there were not many land sales because the construction of office buildings was low. He asserted that, as an appraiser, one has to work with the data that is available. Kelly also acknowledged that land sale #4 and #5 are part of the same development area in Hoffman Estates. He testified that there were tax incentives tied to the purchase and development of the properties for one of the parties to the sale. But Kelly asserted that the benefit was not to the purchaser of the property, but to the seller. He opined that the fact that the properties were on the market for over ten years reflects that the incentives made no difference to the market.

In clarifying the cost replacement new, Kelly testified as to how the cost manuals list the different components of a building and arrive at the costs. He asserted that the cost manual makes assumptions for the two cafeterias in the subject because this area is within the square footage and the equipment in a cafeteria is personal property and would not be part of the calculations of the cost to build. Kelly opined that the workout space, locker rooms, and television studio areas in the building were open rooms with personal property, such as treadmills, located in them; he asserted that the square footage of these spaces were included in the cost to replace.

In developing the depreciation, Kelly clarified the market abstraction method he undertook. He testified that he used the sales in the sales comparison approach to extract a depreciation rate. Kelly testified he concluded the land values in the sales based on land sales in the area of the comparable. He acknowledged that the conclusion for the rate of depreciation depends upon the conclusion reached as the land value for each sale. Kelly testified that the land sales used to develop a land value for each comparable are not included in the summary appraisal.

As to the income approach, Kelly testified that larger, single-tenant office buildings will have a lower rent per square foot than the rent for smaller tenants. He acknowledged that six of the eight rental comparables were not single-tenant properties. He testified that this was all the data available. He also testified that the case studies were to show that rents have been declining since 2001. Kelly asserted that there were two main types of buildings in the suburban market, class A buildings and class B buildings and that A buildings are generally better than B buildings. He opined that he used all types of buildings in analyzing the markets to show, again, that rental rates were declining. He acknowledged that the reports have a lower vacancy rate for the class B buildings. He testified that the vacancy rate grid used for determining the subject's vacancy is for class A buildings, but that he concluded a rate of 20% which is lower than both class A and class B buildings. He asserted that he took both building types into consideration. He acknowledged the subject is a class B building.

Kelly acknowledged that the data used in the capitalization rate to impute a net rent for the comparables was not included in the summary appraisal.

As to the sales comparison approach, Kelly opined that, for sale #1, the fact that the net rentable area could have been expanded was not really material at the time of sale.

Kelly acknowledged that sale #2 was a leaseback, but opined that the 25 % of the building that was leased back was at market rent. He testified that the data to show the rent was at market was not included in the summary appraisal.

Kelly acknowledged that sale #3 was part of a larger sale between the buyer and seller and part of negotiations to accelerate a lease deal.

Kelly testified that vacancy of a building does not have an impact on the market value when the sale is for an owner-occupied, single-tenant building.

As to sale #5, Kelly testified that the history of the sale is in the summary appraisal and that there were offers for the property, but that ultimately the property sold for less than those offers.

Sale #8, according to Kelly's testimony, was encumbered by a long-term ground lease. He explained that the buildings are located in close proximity to O'Hare Airport and the buyer is purchasing the leasehold and assuming the ground lease; he testified he capitalized that liability and added it to the price to account for it. This is explained in the summary appraisal. Kelly testified he reduced the future lease payments to a present value by the use of a 10% discount rate. He testified he develop this rate using the Korpacz reports for office investments, but that this report is not in the summary appraisal.

Kelly testified that sale #9 did not involve a bankruptcy sale. He asserted that the first buyer of the property went into bankruptcy and the property was placed back on the market and eventually purchased. He also testified he adjusted the sale upward to account for the second and fourth floor buildouts. He acknowledged the build-out costs were not included in the summary appraisal, but testified he appraised this building and had the costs in his file.

The board of review submitted "Board of Review-Notes on Appeal" that reflect the subject's total assessment of $3,503,360 yielding a market value of $9,219,368 or $75.00 per square foot of rentable area, including land, using the Cook County Real Property Classification Ordinance for Class 5A property of 38%. The board also submitted raw sales data on a total of ten properties suggested as comparable to the subject. These properties had sale prices ranging from $27.16 to $191.15 per square foot of building area. As a result of its analysis, the board requested confirmation of the subject's assessment. At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions.

In support of the intervenor's position, the intervenor submitted a retrospective appraisal. The appraiser, Jeffrey M. Hortsch, utilized the income and sales comparison approaches to value to estimate the value of the subject property at $11,065,000 as of January 1, 2004. As a result of its analysis, the intervenor requested confirmation of the subject's assessments. At the hearing, the intervenor did not call any witnesses and rested its case upon its written evidence submissions.

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.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. *Property Tax Appeal Board Rule* 1910.63(e). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Property Tax Appeal Board Rule* 1910.65(c).

Having considered the evidence presented, the PTAB concludes that the appellant has satisfied this burden and that a reduction is warranted.

In determining the fair market value of the subject property for the 2005 tax year, the PTAB closely examined the evidence submitted by the parties. The PTAB accords little weight to the board of review's comparables as the information provided was unadjusted raw sales data without any testimony as to the properties' characteristics. In addition, the PTAB gives little weight to the intervenor's appraisal for the report lacked the preparer's testimony to explain the methodology used therein. That having been said, the PTAB then looks to the remaining evidence that comprises the Kelly appraisal.

The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. Chrysler Corp. v. Illinois Property

Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989). Therefore, the PTAB will give primary weight to the sales comparison approach within the appraisal. Moreover, Kelly testified he gave primary weight to this approach in arriving at a value for the subject.

The appellant's appraisal analyzed nine sales comparables. The PTAB gives less weight to sale #3 as this sale was part of an incentive to accelerate a lease deal between the buyer and seller for a different property. In addition, the PTAB gives less weight to sale #8 as this sale was encumbered by a long term ground lease and the appraiser had to capitalize this to present value; the PTAB finds this sale too speculative to accurately reflect the present value.

The PTAB gives the most weight to the remaining six sales. These six properties had a sales range of $20.26 to $97.23 per square foot of rentable area, including land. The PTAB finds the appraiser testified credibly as to sale #2 and the fact that the lease back of 25% of the building was at market value and therefore, the sale price of this comparable is reflective of the market. The PTAB also finds credible the testimony involving sale #4 that a building that is owner-user, single-tenant and is vacant at the time of sale will have little or no effect on the market value price. The PTAB gives significant weight to the testimony of the appraiser as to the adjustments necessary to these comparables.

After considering all the evidence, including the expert's testimony and submitted documentation, as well as the adjustments and differences for characteristics in the appellant's comparables, the PTAB finds that the subject's current assessment is not supported by the evidence contained in this record.

As a result of this analysis, the PTAB finds that the evidence and testimony has demonstrated that the subject property was overvalued and that a reduction in the subject's assessment is 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

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: July 23, 2010

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.