FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: National City Corporation
DOCKET NO.: 05-26061.001-C-2
PARCEL NO.: 18-17-207-008-0000

The parties of record before the Property Tax Appeal Board are National City Corporation, the appellant, by attorney Terrence J. Griffin, of Eugene L. Griffin & Associates, Ltd. in Chicago; the Cook County Board of Review by assistant state's attorney William Blyth with the Cook County State's Attorneys Office in Chicago; as well as the intervenors, Lyons T.H.S.D. No. 204, Pleasantdale S.D. No. 107, and Pleasantview Fire Protection District, all by attorney Ares G. Dalianis and attorney Scott Metcalf of Franczek Radelet P.C. in Chicago.

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

LAND:	$ 134,615
IMPR.:	$ 301,413
TOTAL:	$ 436,028

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 56,680 square foot parcel or 1.3 acres of land improved with a two-story, masonry, commercial building used as a bank with four drive-thru banking lanes. The subject's building was built in 1973 and contains 10,056 square feet of above grade building area with a net rentable area of 15,084 square feet. The bank includes a semi-finished basement used as a lunchroom, vault area and storage area.

The appellant argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant submitted an appraisal report of the subject property with an effective date of January 1, 2005 and a market value of $775,000, which was identified for the record as Appellant's Exhibit #1. The appraisal was undertaken by Patrick M. Kelly, who holds the designations of a Certified General Real Estate Appraiser and Member of the Appraisal Institute as well as Thomas J. Glynn, who holds the designation of Associate Real Estate Appraiser.

The appraisal indicated that the intended use of this appraisal was to estimate the fee simple, market value of the real estate for ad valorem tax purposes. In addition, the appraisal stated that the subject property and the surrounding immediate area were inspected on November 3, 2005.

The appellant called as its witness, Patrick Kelly, who was offered as an expert in real estate valuations without objection from the remaining parties; and therefore, was accepted as such by the Board. Moreover, while indicating that he had previously worked with the Cook County Assessor's Office, Kelly also stated that he has held the designation of a Member of the Appraisal Institute since 1983 as well as a member for the Institute of Professional in Taxation, Vice-President of the State Appraisal Board, and a member of the Chicago Real Estate Council. He testified that he had undertaken approximately 1,000 commercial appraisal assignments, while approximately 100 were similar to the present subject property.

Moreover, he testified that as to the subject's appraisal, he reviewed and approved the appraisal. He explained that the staff appraiser used a variety of sources to gather market data to locate fee simple, unencumbered, arm's length transactions that are most applicable to the property, which he would then review and go over with the staff appraiser.

The Kelly appraisal indicated that the subject's parcel is an irregularly shaped, interior parcel improved with a single, two-story, masonry building used as a bank/office with four drive-thru lanes. He testified that he had undertaken a cursory inspection of the subject. Based upon this, he said that the building's first floor was used for typical banking purposes with the majority of the area used as open-office area, while the second floor was used entirely as office area. In addition, the bank's basement area contained 5,028 square feet which included 1,300 square feet of semi-finished area with the remaining area used as unfinished storage area. Therefore, he stated that the subject's net rentable area was 15,084 square feet of building area. The subject was considered to be in average condition with a land-to-building ratio of 5.64:1.

In addition, the appraisal noted that the subject's site improvements included asphalt paving, a drive-thru canopy, exterior pole mounted lighting and minimal landscaping. Moreover, the appraisers identified the subject's access points as confusing due to the one-way nature of all the curb cuts, while also stating that the subject lacked the visibility and accessibility of a corner site. Kelly testified that his associate and co-signatory on the appraisal, Thomas Glynn, also personally inspected the subject property on November 3, 2005.

The appraisal developed the three traditional approaches to value, wherein the cost approach estimate a market value of $925,000 for the subject; the income approach estimated a value of $800,000; and the sales comparison approach estimated a value of $750,000 for the subject. The reconciled value for the subject was $775,000.

As to the subject's area, the appraisal stated that although the southwest Chicago commercial market continued to show strong demand, prices of commercial properties were not expected to increase significantly in the near future. The appraisers indicated that property values would remain fairly stable given the age, marketability, and overall condition of the improvements in the subject's neighborhood. In addition, the Kelly appraisal noted that the office market recovery was in its infant stage, with the recovery's pace slow and geographically uneven. The appraisal indicated that a vacancy rate of 17.2% for office buildings at the end of the third quarter was not far below the peak of the last cycle in the early 1990s when a flood of investment capital triggered massive overbuilding. While referring to a Grubb & Ellis report, the appraisers indicated that the vacancy rate, which fell by less than 1% during 2004, is unlikely to drop any faster than 2% annually during the next few years, resulting in a vacancy level of 10% during the next three to four years.

Kelly testified that the subject's highest and best use, as if vacant, was for commercial development given the subject's location and current zoning, while the highest and best use, as if improved, was its current use as a bank or office building.

Under the cost approach, the initial step is to estimate the value of the land. Kelly used four land sale comparables located in the southwest suburbs, as is the subject property. The comparables sold from January, 2002, to February, 2004, for prices that ranged from $5.49 to $14.27 per square foot. These properties ranged in size from 15,428 to 116,400 square feet of land area. After making adjustments to the comparables, he estimated a land value for the subject of $8.00 per square foot or $455,000, rounded.

While employing the Marshall & Swift Valuation Service, Kelly identified the subject as a Class C constructed, central bank building and developed a replacement cost new for the subject's improvement of $134.38 per square foot for the above grade area or $1,351,276. An entrepreneurial incentive of 10% was added reflecting a total cost new of $1,486,404.

In determining depreciation, the appraisers opined that if the subject's building were properly maintained, it could have a total economic life in excess of 40 years. They estimated the subject's effective age at 30 years, which resulted in a remaining economic life of 10 years. The appraisers estimated physical depreciation of 55% based upon the subject's age and overall condition as well as a 15% deduction for functional obsolescence due to the restricted one-way access and the narrow roadway leading to the drive-thru areas as well as limited marketability due to its lack of a corner location. No items of external obsolescence were noted at the time of the subject's inspection in November, 2005. Therefore, the appraisers deducted 70% depreciation resulting in a depreciated value of the subject's building of $445,921.

Adding the depreciated value of the site improvements such as paving, the lighting, the canopy and the landscaping estimated at $26,250 indicated a total depreciated value of all improvements at $472,171. Adding the land value of $455,000 reflected an estimate of market value under the cost approach of $927,171 or $925,000, rounded.

Under the income approach to value, Kelly stated that he used five rental comparables located within the subject's suburb of Countryside or in LaGrange. These properties ranged in monthly asking rents from $9.50 to $12.50 per square foot. The rentals ranged in age from 25 to 40 years and in size from 1,800 to 10,000 square feet of rentable area. Kelly testified that these rental comparables were all Class C office buildings with a likely alternative use for this subject, but that none were branch bank buildings because lease data is unavailable for such buildings. He stated that branch bank buildings are usually owner-occupied buildings.

Therefore, gross potential income was estimated at $10.00 per square foot of rentable area or $100,560. The appraisers referred to vacancy and collection loss data for Class C office buildings within the West Cook Office Submarket, which indicated a vacancy and collection loss at 18%. Upon consideration of the subject's location, the appraisers opined that a vacancy or collection loss of 15% or $15,084 was appropriate. This deduction resulted in an effective gross income of $85,476. Expenses were estimated at 10% reflecting a net operating income of $76,928.

In developing a capitalization rate, Kelly employed the band of investment technique which indicated a rate of 9.48%. Using market sources, he consulted the Korpacz Real Estate Investor Survey, First Quarter 2005, as well as the Real Estate Research Corporation, Fourth Quarter 2004, for office properties, both published by Price WaterhouseCoopers LLC. and the RealtyRates.com. These market sources reflected rates from 8.21% to 9.5%. Kelly estimated a capitalization rate for the subject of 9.5%. Capitalizing the net operating income resulted in a value under the income approach of $810,000, rounded.

Under the sales comparison approach to value, Kelly utilized five sale comparables, which were located in the southwest suburbs, as is the subject property. These comparables sold from May, 2003, through June, 2005, for prices that ranged from $345,000 to $1,850,000 or from $68.52 to $81.02 per square foot. Properties #2 through #5 were improved with either a one-story or threestory, masonry, low-rise office building, while property #1 was improved with a two-story, masonry, bank building. They ranged in effective age from 15 to 35 years and in size from 4,848 to 27,000 square feet of net rentable area. They also ranged in land-to-building ratios from 1.03:1 to 9.05:1. At hearing, Kelly testified that properties #1, #3, #4 and #5 were of average condition, while property #2 was in good condition. In addition, he stated that sale #1 was a bank building which sold in June, 2005, and is located within a few blocks' radius of the subject. Moreover, he testified that he found sales #2 through #5 comparable because the subject is a bank/office building; therefore, any alternate purchaser would certainly look at the building's potential as an office building as well as the scarcity of arm's length, fee simple, bank sales to compare to this subject. Furthermore, he stated that the subject was an atypical bank building because it contained a second-story used as office area, while indicating that most bank branches are a one-story building. He also opined that this was his reasoning for considering an alternate use as an office building and why he considered rental and sale comparables which were office buildings.

After making adjustments to the suggested comparables, Kelly estimated the subject's market value was $75.00 per square foot of above grade area consisting of 10,056 square feet or $750,000, rounded.

In reconciling the three approaches to value, the Kelly appraisal accorded primary emphasis to the income and sales comparison approaches to value. Least emphasis was accorded to the cost approach to value due to the subject's age and the inherent difficulties in the determination of depreciation. Therefore, the final value estimate for the subject was $775,000. Based upon this evidence, the appellant requested a reduction in the subject's market value.

Under cross examination, Kelly stated that he did not inspect the suggested land comparables, but indicated that these comparables were larger in size than the subject's land. As to his income approach, he testified that none of his rental comparables were banks and that the properties reflected asking rents not actual rents. In this approach, he also testified that even though he believed the income approach to value less than applicable to bank buildings, which are generally owner-occupied, and despite the fact that he used asking rents for office buildings as rental comparables; he placed equal reliance upon this approach to value as well as the sales comparison approach in his reconciliation. Moreover, his vacancy and collection loss estimate was based upon office building data and not branch bank market data. As to his sales comparison approach to value, he testified that he utilized the subject's above grade area in analyzing comparability due to the market's consideration of such area. Further, he stated that the subject's basement area had been accounted for within the cost approach to value, but that in the income and sales comparison approaches to value he indicated that the comparables reflected only above grade area as a unit of comparison.

Kelly also stated that prior to signing off on the methodology and conclusions within this appraisal report, he had not stepped inside the subject's building. Moreover, as to the subject's immediate area, he testified that there were three branch banks within close proximity to the subject, with one of those banks comprising the appellant's improved sale #1. Further, he testified that the market for leased office space could affect the value of an owner-occupied branch bank building when a good portion of that bank building is office area. He also testified that most bank buildings have office area therein, but that most bank buildings area distinct from office building due to unique characteristics.

Moreover, Kelly testified that his office regularly refers to market sources for sale comparables including CoStar Comps reports, Loop Net as well as the Recorder of Deeds' Office. He was then cross-examined using various exhibits. Intervenor's Exhibit #1 is a four-page copy of a CoStar Comps printout for Kelly's sale #1. The Exhibit's data indicated that reportedly this property was not on the market at the time of the sale, while the building included drive-thru banking lanes that were adjacent but not attached to the building. Intervenor's Exhibit #2 is a multiple-page, certified printout from the Cook County Recorder of Deeds' Office identified as an Illinois Real Estate Transfer Declaration and Supplemental Form A for Kelly's sale #3. The printout's Form A appeared to indicate via a handwritten notation that the transaction was a seller leaseback, five months with a one-month extension right. Kelly stated that if what this form reflects is correct, he would probably not have used it as a sale comparable. Intervenor's Exhibit #3 is a three-page, CoStar Comps printout relating to Kelly's sale #5. The printout indicated that the property was vacant at the time of sale. All three Exhibits were admitted into evidence over the appellant's objection with the Board accorded the appropriate weight to these Exhibits.

Upon re-direct examination, Kelly testified that at the time that he undertook the subject's appraisal with an effective date of January 1, 2005, there was no data reflecting that sale #3 was a sale/leaseback transaction. In addition, he stated that he was unaware of who had made the handwritten statement on the property's Real Estate Transfer Declaration's Supplemental Form A. Further, he testified that there was no conflict in using sale #1 as a comparable whether or not it was on the market at the time of the sale. He indicated his goal was to locate fee simple, arm's length transactions to use as comparables. Moreover, he testified that after locating suggested land, rental or sale comparables he made adjustments to the comparables which is an acceptable appraisal practice. Furthermore, he testified that his staff appraiser personally inspected each of the sale comparables even though he had not viewed them.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was $436,028 for tax year 2005. The subject's assessment reflects a market value of $1,147,442 or $76.07 per square foot using the Cook County Ordinance level of assessment for Class 5a, commercial property of 38%.

The board of review submitted a memorandum as well as CoStar Comps' printouts for five suggested comparables. The properties contained either a one-story or two-story, masonry, commercial building. They sold from September, 2003, to December, 2006, for prices that ranged from $50.73 to $305.43 per square foot of building area. The buildings ranged in size from 10,250 to 15,120 square feet of building area. The printouts also reflected the following data: sale #1 related to the purchase of two parcels improved with a restaurant without submitted data for the second parcel, while the parties were not represented by real estate brokers; sale #2 is a parcel improved with an auto repair store, while the parties to the sale were not represented by real estate brokers; sale #3 related to a parcel improved with a two-story building with retail storefront on the first floor and office area on the building's second floor, while the sale transaction failed to include real estate brokers; sale #4 involved a bulk, portfolio sale of multiple properties with sale #4 improved with a one-story, masonry commercial building with a Walgreens as its tenant; and sale #5 related to a parcel improved with a vacant, retail, free-standing building.

At hearing, the board of review rested on its written evidence submission. As a result of its analysis, the board requested confirmation of the subject's assessment.

The intervenors submitted a brief in support of the subject's assessment as well as data relating to seven suggested sale comparables. The properties were improved with a one-story, masonry, commercial building, which were each used as a branch bank. Five properties were located in Cook County, as is the subject, while properties #5 and #7 were located in DuPage County. The properties ranged: in land size from 24,385 to 150,000 square feet of land; in building size from 2,239 to 7,800 square feet of building area; and in age from nine to 35 years. They sold from March, 2001, to January, 2005, for prices that ranged from $1,050,000 to $2,100,000. The data indicated that the properties included drive-thru banking lanes, but failed to identify the number of lanes at each sale property. In addition, the submitted data indicated that sales #1 through #3 were leased fee sales, while sales #4 through #7 were fee simple sale transactions. The data for sale #5 indicated a base price of $600,000 with renovations of $450,000 resulting in a total price of $1,050,000, while the data for sale #6 reflected a sale price of $2,800,000 with excess land valued at $750,000, which was deducted there from resulting in an adjusted sale price of $2,050,000. It was also noted that there was personal property related to this sale estimated at a value of $200,000.

At hearing, the intervenors rested on the written evidence submission without disclosure of the source data for the suggested comparables. As a result of its analysis, the intervenors requested confirmation of the subject's assessment.

After considering the arguments and testimony as well as reviewing 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). 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. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the evidence indicates that no reduction is warranted.

In determining the fair market value of the subject property, the Board considered the appellant's appraisal and supporting testimony as well as the CoStar Comps' service printouts submitted by the board of review and the intervenors. Overall, the Board accorded diminished weight to the board of review's and the intervenors' raw sales data. However, the Board also accorded diminished weight to the appellant's appraisal. The appraiser's frank testimony indicated that the majority of the appraisal work was undertaken by a staff appraiser; and therefore, this appraiser's testimony was occasionally hesitant and less than persuasive. This was further demonstrated by his disclosure that he had only undertaken a cursory inspection of the subject prior to the completion of the appraisal as well as his contradictory testimony regarding the usage of office buildings as rental and sale comparables. Moreover, his testimony that the subject's basement area does contribute to the value of the property was contradicted within the appraisal which only reflected value accorded to the above grade area.

The Board finds that this lack of experience by the staff appraiser is reflected in the subject's appraisal as to: the development of a speculative highest and best use as an office building, while the subject was a branch bank as of the lien date at issue; the usage of market data relating to office building markets; in the cost approach, the failure to estimate the cost new of the below grade square footage; the usage of rental comparables that were office buildings where the properties reflected only asking rents and not actual rents; the development of a potential gross income stated as applicable to rentable area, but in actuality the methodology only applied to above grade area; a vacancy and collection loss obtained from market data applicable to office buildings; a capitalization rate obtained from market data applicable to Suburban and Chicago office buildings; no explanation for the absence of basement area currently used by the subject for lunchroom, vault and storage area in the calculation of net rentable area; and the usage of inappropriate sale properties that are office buildings without proper adjustments applied thereto. Moreover, the appellant's appraiser contradicted his appraisal's reconciliation when he testified that the income approach was less than applicable to bank buildings that he stated are generally owner-occupied, while his appraisal's reconciliation placed equal reliance upon the income and sales comparison approaches to value in estimating the subject's market value. Therefore, the Board finds that the appellant's appraisal was unpersuasive.

However, the courts have stated that where there is credible evidence of comparables sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App. 3d 207 (2nd Dist. 1979), the Court further held that significant relevance should not be placed on the cost approach or the income approach especially when there is market data available. Id. Moreover, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989), the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach.

Therefore, the Board will also place significant weight on the sale comparables submitted into the record, specifically viewing the raw sales data submitted for branch bank buildings with fee simple property rights. Therefore, the Board finds that the appellant's sale #1, the intervenors' sale #4, and the intervenors sale #6 reflect the submitted fee-simple sales of branch bank buildings in Cook County. Little weight was accorded to: the appellant's remaining sales because they are low-rise office buildings; the board of review's properties due to the disparity in usage for the sale properties were either a restaurant, auto repair shop, retail storefront or a drug store involved in an undisputed bulk sale; as well as the intervenors' remaining properties due to a disparity in property rights conveyed or a location within a county different than the subject property's.

Thereby, the Board finds that appellant's sale #1, intervenors' sale #4 and intervenors' sale #6 are relevant and similar to the subject property of this appeal. These three comparables were each improved with either a one-story or two-story, branch bank building with fee simple property rights conveyed within the sales transaction. The properties sold from October, 2001, through June, 2005, for prices that ranged from $81.02 to $631.20 per square foot of net rentable area prior to adjustments. The improvements ranged: in age from 13 to 28 years; in improvement size from 3,186 to 8,300 square feet of building area; and in land size from 24,385 to 150,000 square feet of land.

After making adjustments to these comparables for variances in location, age, improvement size, land size, as well as date of sale, the Board finds that these sale comparables support the subject's current market value. Therefore, the Board finds that no reduction is warranted to the subject property's assessment.

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: October 21, 2011

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.