FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Mark Glazer
DOCKET NO.: 05-27628.001-C-2
PARCEL NO.: 07-16-200-030-0000

The parties of record before the Property Tax Appeal Board are Mark Glazer, the appellant, by attorney James P. Regan, of Fisk Kart Katz and Regan, Ltd. in Chicago; the Cook County Board of Review; as well as the intervenors, Palatine Township H.S.D. #211, and Schaumburg Community Consolidated S. D. #54, both by attorney Michael J. Hernandez 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 ***a reduction*** in the assessment of the property as established by the **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$ 430,907
IMPR.:	$ 420,346
TOTAL:	$ 851,253

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 107,997 square feet of land improved with a 32-year old, one-story, masonry, commercial building. The building is a single-tenant, retail building used as a furniture store with 28,905 square feet of building area.

As to the basis of this appeal, the appellant argued that the fair market value of the subject property is not accurately reflected in its assessed value.

As to the overvaluation argument, the appellant submitted a complete, summary appraisal report reflecting an effective date of January 1, 2005 estimating a market value for the subject property of $2,170,000 as of the assessment date at issue. The appellant choose not to call its appraisers as witnesses in these proceedings.

The appraisal was undertaken by two appraisers: Harry Fishman, a Certified Real Estate Appraiser licensed in Illinois, and Mitchell Perlow, a Certified General Real Estate Appraiser in Illinois who also is accorded the designation of Member of the Appraisal Institute (hereinafter MAI). The appraisal states that the subject property was inspected on January 13, 2006. The appellant's appraisal addresses the three traditional approaches to value. The cost approach reflected a value of $2,200,000, rounded; the income approach reflected a value of $2,170,000, rounded; while the sales comparison approach indicated a value of $2,170,000, rounded. In reconciling these approaches to value, the appraisers placed main reliance on the sales comparison approach to reflect a final value of $2,170,000 for the subject.

The appraisal stated that the subject property consisted of a 32-year old, one-story, 28,905 square foot, furniture store with masonry exterior construction and a land-to-building ratio of 3.74:1. The appraisers indicated that the subject's site contains a highly irregular-shaped site with 107,997 square feet. The appraisers indicated that the building was of average condition with fair functional utility. The appraisal stated that the subject's building has minimal partitioning adding to the difficulty of leasing to multiple tenants.

In addition, the appraisal indicated that the subject was purchased by the current owner in May, 2003, for $3,500,000, but the appraisers indicated that the property had never been exposed to the open market resulting in an inflated acquisition price; and therefore, the appraisers' opined that this transaction did not meet the definition of market value.

In developing a highest and best use, the appraisal stated that as vacant, the subject's highest and best use would be for a commercial-type facility in conformance with applicable zoning and building codes as well as consistent with surrounding land uses. As to the subject's highest and best use as improved, the appraisal stated this would be the continued use of the subject as a commercial building as remedied of all short-lived physical deterioration. In addition, the appraisal indicated that the appraisers estimated that the subject's effective age was 25 years with a remaining economic life of 25 years.

The first approach to value developed by the appraisers was the cost approach wherein six land sales were used located within the subject's neighborhood. These sales occurred from August, 2001, through February, 2005, for prices that ranged from $7.38 to $11.86 per square foot of land area. The land sizes ranged from 42,480 to 292,244 square feet. The appraisers considered an estimated value of $10.50 per square foot reasonable and supportable for the subject reflecting a land value of $1,135,000, rounded. Using the Marshal Valuation Service and considering the subject a Class C Retail Building, a replacement cost new was developed indicating an $80.00 per square foot value or $2,312,400. The appraisers estimated 50% physical depreciation and 5% functional and external obsolescence reflecting a total depreciation of $1,271,820. Adding the on-site improvement value of $25,000 indicated a total depreciated value of the improvements and land of $2,200,000, rounded.

The appraisal indicated that the income approach to value is based upon the principle of anticipation. The appraisers indicated that since the subject property is currently leased at an annual rent of $289,280 or $10.00 per square foot with the lease initiated in June, 2000. However, the appraisal noted that in order to obtain a tenant, the landlord was required to put a new façade on the building and provide a rent credit of $136,807 over the first four years of the lease in order to reimburse the tenant for tenant improvements. Therefore, the appraisal stated that $176,807 was required to obtain the rental rate, while amortizing this amount over the lease term resulted in an effective annual rent of $277,493 or $9.60 per square foot.

The second approach developed was the income approach to value wherein five rental properties were reviewed. They ranged in size from 12,361 to 34,302 square feet of building area and in unadjusted rental rates from $7.91 to $10.00 per square foot. After amortizing the subject's current lease, the appraisers opined that the current lease is basically at market value and therefore, the appraisers used that rate of $9.60 in their analysis reflecting a potential rental income of $277,493. Less a 10% vacancy and collection loss of $27,749 resulted in an effective gross income of $249,744. Total projected expenses were estimated at $54,236 including $20,233 designated as the owner's share of expense while vacant. Projected net operating income was estimated at $195,508. Applying a 9.0% capitalization rate reflected a value estimate under this approach of $2,170,000, rounded.

Under the sales comparison approach to value, the appellant's appraisers utilized seven suggested comparables of commercial properties in the subject's immediate area. The properties sold from May, 2002, through February, 2004, for prices that ranged from $885,000 to $5,725,000 or from $51.63 to $76.68 per square foot before adjustments. The improvements ranged in size from 12,900 to 79,000 square feet and in age from seven to 40 years. In addition, the properties ranged in land-to-building ratios from 1.54:1 to 6.63:1. The improvements were all a one-story, masonry building, while sale #2 included two such buildings. Sale #2 and #7 involved single-tenant occupancy, while the remaining sales related to multi-tenant buildings. Sale #3 involved a sale with a leaseback option. After making adjustments, the appraisers considered a unit value of $75.00 per square foot to be appropriate for the subject resulting in an estimated market value of $2,170,000, rounded.

In reconciling the three approaches to value, the appraisers accorded the least weight to the cost approach to value. The appraisal stated that the income approach is weighed more heavily when a property is purchased for its income producing attributes. Since the subject property is a single-user commercial building, the appraisers accorded this approach secondary weight. The appraisal stated that the sales comparison approach also considered the income potential of the property; and therefore, was given most weight in determining the final value estimate. Therefore, the appraisers opined that the market value of the subject was $2,170,000 as of January 1, 2005.

The board of review timely submitted "Board of Review Notes on Appeal" wherein the subject's final assessment of $934,799 was disclosed. This assessment indicates a market value of $2,459,997 or $85.11 per square foot applying the ordinance level of assessment at 38% for class 5a property as designated by Cook County Real Property Assessment Classification Ordinance.

In addition, the board of review submitted a market analysis prepared by Ralph DiFebo relating to the subject's property. However, he was not presented to testify regarding either his qualifications or the methodology used in his report. The report indicated that the subject was improved with a one-story, building constructed in 1973 with 28,905 square feet of building area. The subject's land area comprises 107,997 square feet.

Further, the board of review submitted copies of CoStar printouts for four sale properties; however, it was noted that sale #2 was the subject property. Therefore, the raw sales data on the three properties indicated that they sold from February, 2002 to October, 2004, for prices from $1,550,000 to $3,375,000 or from $77.50 to $124.97 per square foot. The properties range in improvement size from 20,000 to 35,655 square feet of building area. The printouts further indicate that sale #1 contained no real estate brokers while containing a single-tenant; while sale #3 identified the buyer as the owner-user of the property. As to sale #4, the printouts indicated that the building contained multiple tenants therein.

At hearing, the state's attorney argued that the subject's sale in 2003 was relevant to the market value of the subject property even though the appellant's appraisers stated that the sale transaction did not meet the definition of market value. Therefore, the state's attorney argued that the subject's current assessment and market value be sustained.

Intervenors' attorney submitted a brief as well as copies of CoStar printouts for four sale properties even though a grid analysis only dealt with three properties. The brief indicated that the subject contained a multi-tenant, strip retail center with 28,905 square feet of building area sited on a 107,997 square foot parcel of land.

As to the sale properties, the raw sales data indicated that the properties sold from January, 2002 to July, 2004, for prices from $1,793,000 to $4,425,000 or from $93.39 to $138.13 per square foot. The properties range in improvement size from 19,200 to 36,894 square feet of building area and were built from 1971 to 1988. The printouts indicate that all four properties were multi-tenant, retail strip centers. As to sale #1, the printouts disclosed 14 tenants within this retail strip center, while sale #3 contained nine tenants therein. At hearing, the intervenors' attorney argued that the subject's assessment be maintained.

In rebuttal at hearing, the appellant's attorney argued that the board of review and the two intervenors had failed to proffer sufficient evidence regarding the suggested sale properties to meet the burden of supporting the subject property's assessment and market value because the evidence submissions consist solely of raw data.

After hearing the testimony and/or arguments as well as 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 the basis of the appeal, the value of the property must be proved by a preponderance of the evidence. *86 Ill.Admin.Code 1910.63(e)*. Proof of market value may consist of an appraisal, 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, with a focus on the comparable sales, the PTAB finds that a reduction is warranted.

In determining the fair market value of the subject property for tax year 2005, the PTAB closely examined the parties' evidence submissions.

The PTAB accorded diminished weight to the intervenors evidence due to the fact that the evidence submitted consisted of raw data regarding four sales of retail strip centers in contrast to the subject property's highest and best use as a single-tenant commercial building.

As to the appellant's appraisal, the PTAB accorded this appraisal diminished weight due to unanswered questions regarding the development of two approaches to value: the subject's inspection; the subject's site description; the classification of the subject as a class C retail building in the cost approach; actual rental data from the subject; absence of detailed rental data for the rental comparables; expense deductions taken in the income approach to value; and details relating to the subject's sale.

Further, the board of review and the intervenors' asserted that the subject's sale could be probative regarding the subject's fair market value; however, the PTAB finds that all three of these parties failed to proffer any documentation reflecting that the subject's sale in 2003 was an arm's length transaction. This is in contrast to the appellant's appraisal wherein the appraisers indicated that the property had never been exposed to the open market resulting in an inflated acquisition price; and therefore, the appraisers' opined that this transaction did not meet the definition of market value.

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. 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 parties' sale comparables submitted into evidence.

In totality, the appellant and the board of review submitted a total of 10 suggested sale comparables. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9, 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. Thus, the PTAB finds that the best evidence of value is the market data submitted by the parties.

The PTAB accorded little weight to the board of review's properties #1 and #4 due to: the contradiction in highest and best use; lack of real estate brokers involved in the property's sale; and/or a disparity in the property's size or age. Therefore, the PTAB accorded most weight to the appellant's sales #1 through #7 as well as the board of review's sale #3. These comparables established an unadjusted market value range from $51.63 to $77.50 per square foot of building area. After making adjustments to these comparables, the PTAB determined that the subject property contained a market value of $2,240,138 or $77.50 per square foot of building area.

Based on this analysis, the PTAB finds that the subject's assessment and market value for tax year 2005 is not supported by the sale comparables in this record and that a reduction was warranted. Since fair market value has been established, the ordinance level of assessment for Cook County as reflected in the Cook County Real Property Assessment Classification Ordinance for class 5a property of 38% 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: February 18, 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.