

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: UFS Savings
DOCKET NO.: 06-00159.001-C-1
PARCEL NO.: 18-17-210-003

The parties of record before the Property Tax Appeal Board are UFS Savings, the appellant, by attorney Robert W. McQuellon III of Peoria, and the Peoria County Board of Review.

The subject parcel of 5,904 square feet has been improved with a one-story commercial retail building of metal sandwich construction which was built in 2003. The structure contains 30,188 square feet of building area of which 4,956 square feet is warehouse space.¹ The building features a sprinkler system and is located in Peoria.

The appellant appeared through counsel before the Property Tax Appeal Board arguing that the fair market value of the subject was not accurately reflected in its assessed value of \$356,390. In the appeal petition, appellant requested that the subject property have a total assessment of \$260,000. In the evidence submitted, appellant argues the subject property should be assessed for no more than \$300,000 in total. Appellant raised no dispute with the subject's land assessment. In further support of the appellant's contentions regarding associated parcel numbers and what actually comprises the whole property, an aerial photograph of the subject building with parcel identification numbers superimposed was submitted along with data on the assessed valuations of the ten associated parcels. Data on the 2006 assessed valuations of the additional ten parcels was included in the evidence totaling \$48,050 in assessed valuation.

The sole market value evidence offered by the appellant in support of the petition was developed by Robert W. McQuellon Jr.,

¹ Only parcel 18-17-210-003 was appealed and the entire assessment of the building was assigned to this parcel number consisting of 5,904 square feet of land area. Prior to combining of PINs, the structure was actually spread out over a total of eight parcel identification numbers (18-17-210-001 through 18-17-210-008) each of which was assessed for land only; there were also three parcels (-014, -015, and -016) comprising the attached parking areas which had both land and improvement (paving) assessments.

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

LAND:	\$	4,200
IMPR.:	\$	352,190
TOTAL:	\$	356,390

Subject only to the State multiplier as applicable.

M.B.A., of Real Estate Appraisers & Consultants. McQuellon Jr. was called to testify and identified his experience and credentials including 35 years in real estate brokerage and consulting work, specializing in real estate tax appeal work. He further testified he is a member of the National Association of Real Estate Appraisers.

As to the data presented, McQuellon Jr. testified that he utilized only the cost approach to value in his analysis. The one-page analysis indicated that this approach was "developed in rebuttal to the assessor's cost approach to value." McQuellon Jr. further wrote in the analysis that a departure provision of USPAP [Uniform Standards of Professional Appraisal Practice] was invoked as this was a "limited use approach to value." In summary, McQuellon Jr. estimated that the subject building, land and site improvements had an estimated market value of \$900,000, rounded. McQuellon Jr. further contended that the subject and ten related parcels² should be considered as a whole for valuation purposes, although his cost analysis did not account for the additional lands and/or paved areas making up those ten parcels; he further noted in testimony that since this appeal, the parcels have been combined.

To arrive at this conclusion under the cost approach, McQuellon Jr. analyzed the subject under the category of a Class D warehouse showroom structure in the Marshall & Swift Calculator. From this, McQuellon Jr. utilized a base cost of \$34.95 per square foot of building area with additional costs for cooling of \$2.00 per square foot and sprinklers of \$2.88 per square foot. Thus, he estimated a total base cost of \$1,202,388 or \$39.83 per square foot of building area.

Next, McQuellon Jr. calculated the subject's replacement cost new by multiplying the above base cost by 1.079 which he defined as the "historical multiplier." In the analysis, McQuellon Jr. further wrote, "Historical Multiplier (for January 2004) was calculated using known current, local, and comparative cost multipliers." Based upon this analysis, McQuellon Jr. arrived at a replacement cost new of \$1,297,377 for the subject improvement.

Physical depreciation was next calculated at 6.67% based on the age/life method using an effective age of 2 years and an economic life of 30 years. In testimony, McQuellon Jr. noted the big factor in the analysis of this property was economic obsolescence which he asserted had not been calculated in the assessor's cost approach to value. He further testified economic obsolescence was due to the subject's location on the south side of Peoria; he described the surrounding area as primarily industrial with very little retail. He further asserted there was no market for similar type properties in the area of the subject. McQuellon

² These parcels were not on appeal before the Property Tax Appeal Board; appellant contended the total fair market value of the subject and parcel numbers 18-17-210-001, -002, -004, -005, -006, -007, -008, -014, -015, and -016 needed to be considered.

Jr. applied depreciation of 25% for economic obsolescence for total estimated depreciation of 31.67% or \$410,879, resulting in a depreciated value of the building of \$886,498.

McQuellon Jr.'s cost approach next estimated a land value of \$11,820 plus site improvements of \$5,000. McQuellon Jr. noted in his testimony that no challenge was being made to the land value for the parcel on appeal which was assessed at \$4,200. Totaling the depreciated value of the building plus the land and site improvements, McQuellon Jr. determined an estimated market value under the cost approach of \$903,318.

On cross-examination regarding his fee arrangement, McQuellon Jr. testified that only a portion of his fee was contingent on the outcome of the appeal; he has a fixed fee arrangement with a portion being contingent. As to his determination of economic obsolescence, McQuellon Jr. explained his selection of 25% was his "guess-timate"; when asked if he had performed market research or gathered data of sales to arrive at this depreciation figure, McQuellon Jr. responded that it was probably based on the overall area for retail. He further asserted on cross-examination that he derived this figure from his experience and the depreciation was probably actually more than 25%; he anecdotally reported that his own family closed a retail business in the area in the mid-1980's because of a lack of business.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$356,390 was disclosed. The 2006 total assessment reflects an estimated fair market value of the subject property (building and 5,904 square feet of land) of \$1,073,787 based on the 2006 three-year median level of assessments for Peoria County of 33.19% as determined by the Illinois Department of Revenue. In support of the assessment, the board of review presented a grid analysis of three suggested equity comparables along with a letter in rebuttal to the appellant's evidence.

At hearing, the board of review called Max Shafly, the City of Peoria Township Assessor, with regard to the manner in which the subject property had been assessed. He noted initially that he could not specifically explain the current value which had been adjusted downward by the board of review. As to the underlying assessment, Shafly testified the cost value was based on records of a replacement cost new of \$1,351,350 which was then adjusted at the "current" values of approximately \$1,056,000 with the deduction being taken primarily for the location of the property. The assessor further confirmed that all of the parcels related to the subject have been combined as of the 2008 assessment.

Next, Supervisor of Assessments Dave Ryan was called to testify with regard to the property record card notation that a building permit for the construction of the subject building was issued in October 2002 for an estimated cost of \$1,200,000.

In the grid analysis, the board of review presented equity data in response to this appeal and argued that its comparable #1 was the most similar property to the subject. Three suggested comparable properties located from 0.3 to 1 mile from the subject were described. The comparables had land sizes ranging from 12,312 to 155,509 square feet. These comparables had land assessments ranging from \$6,540 to \$109,960 or from \$0.53 to \$0.71 per square foot of land area. The subject had a land assessment of \$4,200 or \$0.71 per square foot of land area. Each comparable was improved with a one-story steel/concrete building ranging in age from 5 to 18 years old which was categorized as warehouse/office. The comparables included sprinkler systems and ranged in size from 14,664 to 30,148 square feet of building area. Two of the comparables had areas devoted to office space and each had warehouse space ranging from 12,376 to 23,405 square feet. These comparables had improvement assessments ranging from \$206,700 to \$516,150 or from \$11.54 to \$17.12 per square foot of building area. The subject had an improvement assessment of \$352,190 or \$11.67 per square foot of building area.

In rebuttal to the appellant's cost approach analysis, the board of review noted that use of only one of the three traditional approaches to value was inappropriate. Moreover, the board of review questioned the basis for depreciation as there was no indication of market based data. The board of review also asserted that it was confused by the format of the appellant's appeal and did not understand the basis of the appeal. Thus, the board of review presented evidence to establish that the subject had been treated equitably. Based on its data, the board of review requested confirmation of the subject's assessment.

On cross-examination, the township assessor acknowledged that the assessor considers economic obsolescence in assessing properties. He further acknowledged that rents in the subject's area may be slightly lower than in other areas of Peoria. Further questioning also confirmed that despite a building permit value of \$1,200,000, for assessment purposes the original replacement cost new of the building was recorded as over \$1,300,000.

On further cross-examination, the board of review acknowledged that its comparable #3 was very similar to the subject in location and use, although the building was significantly smaller than the subject. Questioning further pointed out that the per square foot improvement assessment of board of review comparable #3 was slightly less than the subject's per square foot improvement assessment, although the board of review also noted comparable #3 was 18 years old compared to the 3 year old subject.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

The taxpayer argued that the subject property's market value was not accurately reflected in its assessed valuation. When

overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 728 N.E.2d 1256 (2nd Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002. Having considered the testimony and evidence presented, the Board finds the appellant has not overcome this burden and a reduction is not warranted.

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). Additionally, Section 1-50 of the Property Tax Code defines fair cash value as:

The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50).

Except in counties with more than 200,000 inhabitants which classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)).

The Property Tax Appeal Board finds that the board of review's submission of an equity grid analysis in response to this appeal fails to address the appellant's market value argument as to the building only. Where the appeal is based on overvaluation, responsive equity evidence fails to address the issue raised and thus the Board has given no weight to this evidence. However, the board of review did provide a copy of the property record card for the subject property which includes its cost approach to valuation.

The subject's total assessment reflects an estimated fair market value of \$1,073,787 based on the 2006 three-year median level of assessments for Peoria County of 33.19%. The Board finds the best evidence of the replacement cost new of the subject improvement is set forth in the cost analysis performed by McQuellon Jr. wherein he utilized the Marshall & Swift Calculator to determine an estimate to replace the building of \$1,297,377. The Board further finds that for physical depreciation the age/life method was properly applied by McQuellon Jr. to result in 6.67% physical depreciation. However, as to economic obsolescence as asserted by McQuellon Jr., the Property Tax Appeal Board finds there is no support for 25% depreciation and thus the calculation is found to be problematic.

As to the validity of his economic obsolescence analysis which was a key component in his determination under the cost approach to value, the Property Tax Appeal Board finds, in reliance upon his own testimony, that McQuellon Jr.'s determination of economic

obsolescence was no more than his "guess-timate." Furthermore, upon questioning to justify the calculation, McQuellon Jr. provided absolutely no substantiation from market derived data. Further detracting from the reliability and credibility of his economic obsolescence determination was the fact that McQuellon Jr. acknowledged that his fee includes a partial contingency hinged upon the outcome of the appeal. In this regard, the Board finds the fact the appellant's sole opinion witness' fee is partially contingent on the tax savings to be gained from the appeal undermines his objectivity to give unbiased testimony and further detracts from the credibility of his analysis. Ultimately, the Board finds that McQuellon Jr.'s inability to specify the methodology and data utilized to develop his economic obsolescence deduction, which was a key component in his determination, simply detracts from any credibility or reliability in his final conclusion of value.

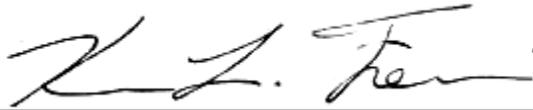
On the other hand, the record is clear that both parties believed the subject property has suffered from economic obsolescence. Close examination of the subject's property record card presented by the board of review reveals a 10% deduction for economic obsolescence has been made by the township assessor. In the absence of valid countervailing data from the appellant, the Board finds a 10% economic obsolescence deduction to be more reasonable and justified on this record.

Therefore, deducting total depreciation of 16.67% from McQuellon Jr.'s estimated replacement cost new value of \$1,297,377 to account for both physical and economic obsolescence results in a depreciated value of improvements of \$1,081,104. Adding back the agreed upon land value of \$11,820 and residual value of site improvements of \$5,000 results in an estimated market value for the subject property of \$1,097,924. Applying the 2006 three-year median level of assessments in Peoria County of 33.19% to this market value finding would result in a total assessment of \$364,401. Based on the foregoing analysis, the Property Tax Appeal Board finds that the subject's current assessment of \$356,390 is justified and appropriately reflects the property's estimated fair market value. Thus, based on this record, the Board finds no 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.



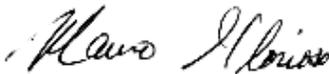
Chairman



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 28, 2009



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.