

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: UFS Savings  
DOCKET NO.: 06-00173.001-C-1  
PARCEL NO.: 18-17-212-003

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 46,440 square feet has been improved with a one-story commercial retail building of concrete block construction which was built in 1968. The structure contains 32,240 square feet of building area and there is a 20,150 square foot basement warehouse. The building features central air conditioning on the main level and sprinkler systems in both the basement and ground floor areas.

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 \$181,420.<sup>1</sup> In the appeal petition, appellant requested that the subject property have a total assessment of \$150,000. In the evidence submitted, appellant argues both the land and improvement assessment are excessive.

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

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<sup>1</sup> By agreement with Attorney McQuellon and the board of review, witnesses were sworn once for several cases and witness credentials were presented only once for several matters held on the same date.

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

LAND:	\$	25,300
IMPR.:	\$	127,751
TOTAL:	\$	153,051

Subject only to the State multiplier as applicable.

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 \$460,000, rounded.

To arrive at this conclusion under the cost approach, McQuellon Jr. analyzed the subject under the category of a Class D warehouse discount store in the Marshall & Swift Calculator. From this, McQuellon Jr. utilized a base cost of \$32.08 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, each of which was calculated on 32,240 square feet of building area. The cost of the 20,150 square foot basement was estimated at \$10.00 per square foot. Thus, he estimated a total base cost of the improvement of \$1,393,090.

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 2005) was calculated using known current, local, and comparative cost multipliers." Based upon this analysis, McQuellon Jr. arrived at a replacement cost new of \$1,503,144 for the subject improvement.

Physical depreciation was next calculated at 50% based on the age/life method using an effective age of 25 years and an economic life of 30 years. No deduction was made for functional obsolescence. In testimony, McQuellon Jr. noted that while for the subject he utilized a 25% economic obsolescence factor, he asserted that the assessor utilized a 20% economic obsolescence factor for a property directly across the street from the subject. In summary, McQuellon Jr. applied total estimated depreciation of 75% or \$1,127,3589, resulting in a depreciated value of the building of \$375,786.

McQuellon Jr.'s cost approach next estimated a land value of \$73,950 plus site improvements of paving for \$11,400. McQuellon Jr. in his accompanying documentation contended that the "land value also seems excessive considering the fact that land in Pioneer Park is valued at \$1.35/sq.ft." However, in a separate summary of "fair cash value" McQuellon Jr. set forth an estimated land value of \$62,694, making it unclear what the estimated land value for the subject actually was. In the one-page cost approach, totaling the depreciated value of the building of \$375,786 plus the land at \$73,950 and site improvements at \$11,400, McQuellon Jr. determined an estimated market value under the cost approach of \$461,136.

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.

Next, the fact of Attorney McQuellon's execution of a stipulated 2005 total assessment for the subject property of \$181,420 was raised and in that regard, McQuellon Jr. was questioned as to what market research he had performed to justify a further decrease in value as of January 1, 2006. McQuellon Jr. responded that he performed a cost approach to value.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$181,420 was disclosed. The 2006 total assessment reflects an estimated fair market value of the subject property of \$546,610 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 submitted a letter and a grid analysis of three suggested equity comparables with applicable property record cards.

At the hearing, a board of review representative professed confusion as to the appellant's claim given the evidence of a cost approach to value and the bases of appeal marked on the appeal form of "recent sale" and assessment equity. In the letter, however, the board of review specifically criticized the appellant's submission of a cost approach as "inappropriate without doing an appraisal because there is no basis for the amount of depreciation deducted from the cost which needs to be measured from the market."

The board of review called Max Shafly, the City of Peoria Township Assessor, to testify. He noted initially that he could not specifically speak to any prior reduction in assessment granted by the board of review. He stated, however, that with commercial properties subject to multipliers, the assessor's cost approach on the subject property as reflected on its property record card is fairly close to the 2006 assessment. From Shafly's observation, it appeared that the multiplier had been removed from this property by the board of review. The property record card for the subject property which had been submitted by the board of review reflects a total estimated replacement cost new of \$1,441,550 for which physical depreciation calculations were made separately for the basement of 79% and 49% for the ground floor. This resulted in a depreciated cost new of \$618,300 which then had a local cost factor of 1.38 applied or \$853,254. Next, the depreciated cost new was reduced by a 10% grade factor and reduced again by an economic obsolescence factor of 40% for a depreciated replacement cost new of the improvement of \$460,750. The property record card further reflected an estimated market value of the land of \$74,300 and an estimated value of the asphalt paving areas of \$11,400.

In the grid analysis, the board of review presented equity data in response to this appeal. Three comparables described as "office warehouse" were located from 0.3 to 1 mile from the subject. 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 \$25,300 or \$0.54 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. 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; there was no indication the comparables had basements. 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 \$156,120 or \$4.84 per square foot of building area.

Based on its data, the board of review requested confirmation of the subject's assessment.

On cross-examination, the township assessor was asked if the multiplier is derived from analysis of sales. Shafly testified that as he understood it, the commercial multiplier was a county-wide average with commercial/industrial sales included. Shafly further agreed that there has been economic or functional obsolescence applied to the subject property because of the 20,150 square foot basement area. He further acknowledged the calculation was a judgment call by the assessor.

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 (2<sup>nd</sup> Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3<sup>rd</sup> Dist. 2002). Having considered the testimony and evidence presented, the Board finds the appellant has overcome this burden and a reduction is 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 \$546,610 based on the 2006 three-year median level of assessments for Peoria County of 33.19%. Analyzing the cost approach to value prepared by McQuellon Jr. to the cost approach set forth in the property record card of the subject, there are similarities in the two analyses. McQuellon Jr. presented a replacement cost new as determined from the Marshall & Swift Calculator of \$1,503,144; meanwhile the property record card reflects a replacement cost new estimate of \$1,441,550. While the record is unclear as to whether McQuellon Jr. accounted for the sprinkler system in the basement, the two calculations are sufficiently similar to dismiss the difference in values as minor. It is also noteworthy that McQuellon Jr. applied a historical multiplier of 1.079 whereas the assessor applied a "local modifier" of 1.38.

Both McQuellon Jr. and the assessor made substantial physical depreciation deductions; McQuellon Jr. deducted 50% based on the age/life method and the assessor reduced the basement cost new by 79% and the main level cost new by 49%. While the cost approach to value as applied pursuant to appraisal standards would not deduct physical depreciation initially before applying the "local modifier" as was done on the property record card, the Board finds the primary point is that both parties applied a significant physical depreciation deduction. Moreover, the Board recognizes that the assessor also takes an additional deduction for grade of 10%.

Both McQuellon Jr. and the assessor agree the subject property has suffered from economic obsolescence. The assessor made a deduction of 40% for economic obsolescence while McQuellon Jr. made a 25% economic obsolescence deduction. McQuellon Jr. was not questioned regarding how he arrived at that figure. Based on this record, the Board cannot find fault with either deduction.

After these respective deductions within the cost approach to value as to the improvement, McQuellon Jr. concludes a depreciated value of the improvement of \$375,786 whereas the assessor arrives at \$460,750. Based on the foregoing analysis, the Property Tax Appeal 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. Both parties equally deemed the subject property to have significant physical depreciation. Both parties also deemed the subject property to have significant economic obsolescence. While the Property Tax Appeal Board finds the fact that the appellant's sole opinion witness' fee is partially contingent on the tax savings to be gained from the appeal to be problematic and a factor undermining his objectivity and/or ability to give unbiased testimony, in the foregoing analysis of the respective cost approaches to value and in light of the non-responsive data submitted by the board of review to this appeal, the Property Tax Appeal Board cannot find fault with McQuellon Jr.'s final value conclusion as reflected in his one-page cost approach to value.

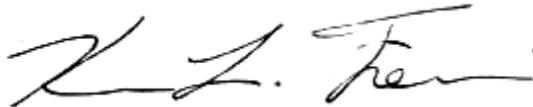
The Property Tax Appeal Board does, however, reject the summary argument made in one of McQuellon Jr.'s attachments that the subject land is overvalued. First, the assertion of an excessive land value has been directly contradicted by McQuellon Jr.'s own adoption of an estimated land value of \$73,950 in his cost approach. Second, while McQuellon Jr. made a summary argument concerning land assessments/values in "Pioneer Park" and presented a contention of a land value of \$62,694 for the subject property, there was no substantive evidence on this record of any such market value, location, similarity of properties, etc. In summary, the Property Tax Appeal Board finds there is not a preponderance of the evidence to challenge the fair market value of the subject land on this record.

In conclusion, the Property Tax Appeal Board finds the best evidence of the subject's market value on this record is the cost approach to value prepared by Robert W. McQuellon Jr. Thus, the Board finds the subject property had a total estimated fair market value as of January 1, 2006 of \$461,136. Since fair market value has been established, the three year weighted average median level of assessments for Peoria County of 33.19% 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.



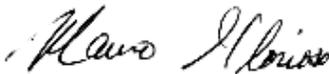
Chairman



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: 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.