

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Anthony Karakas
DOCKET NO.: 06-01944.001-C-1
PARCEL NO.: 22-22.0-200-015

The parties of record before the Property Tax Appeal Board are Anthony Karakas, the appellant, by attorney Robert T. Lawley of Delano Law Offices, LLC, Springfield, Illinois; and the Sangamon County Board of Review, by Assistant State's Attorney Robert Powers.

The subject property consists of a one-story commercial building of frame construction that was built in approximately 1930. The building has 172,800 square feet of building with a 1,000 square foot office. The building is operated as a self storage facility and is located Capital Township, Sangamon County, Illinois.

The appellant appeared before the Property Tax Appeal Board contending the subject's assessment is not reflective of its fair market value. In support of this argument, the appellant submitted a Real Estate Transfer Declaration, a real estate sales contract, and a settlement statement. The Real Estate Transfer Declaration shows the appellant purchased the subject property for \$1,320,000 in March 2005. The document also indicates the sale price included \$600,000 of personal property, resulting in a net sale price of \$720,000. An addendum to the Real Estate Transfer Declaration (PTAX-203-A) lists \$5,000 for office equipment and \$595,000 goodwill (business value) totaling the \$600,000 of personal property. Page 2 of the sales contract specifically lists the subject's purchase price of \$1,325,000, which was allocated as \$720,000 for the land and building; \$5,000 for equipment; and \$600,000 for goodwill. The settlement statement lists the subject's March 2005 sale price of \$1,320,000, but no deduction for personal property was listed. The documents submitted by the appellant indicate the buyer and seller were unrelated and the subject property was advertised for sale or sold using a real estate agent.

The appellant testified the subject property was listed for sale through the Multiple Listing Service and local paper for at least six months prior to purchase. The appellant testified the

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

LAND:	\$	40,088
IMPR.:	\$	199,672
TOTAL:	\$	239,760

Subject only to the State multiplier as applicable.

subject's sale price, personal property and business value (goodwill) was negotiated between both parties legal counsel over five months. The appellant testified the subject's final sale price for the real estate and goodwill was based on an analysis of the operating business value using the subject's income and operating expenses from 2001 to 2004. The analysis was prepared by a Certified Public Accountant (CPA), which estimated the subject's business value to be \$640,000. The appellant testified he purchased a large wood frame unheated warehouse that was used as a munitions depot during World War II, but is now used as a self storage facility for recreational vehicles, cars, and boats. In addition, there are larger vendor storage areas ranging in size from 600 to 1,000 square feet and individual mini storage garage size units. There is no ongoing commercial manufacturing activity within the subject property like the comparable submitted by the board of review.

The appellant described the subject property as being in "decrepit" condition due to a lack of maintenance, noting a leaking roof, the replacement of the sprinkler system, and cracking and decaying concrete loading docks. The appellant also testified regarding the subject's low ceiling heights, the low clearance between the various sections of the building, and the close proximity of the wooden piers that support the building, which reduces the amount of useable area. Finally, the appellant offered various definitions of "goodwill", which provides in summary that the excess of the purchase price of a company over its book value which represents the value of goodwill as an intangible asset for accounting purposes; an intangible asset of a company that includes factors such as reputation, contacts, and expertise, for which a buyer of the company may have to pay a premium; and an intangible asset valued according to the advantage or reputation a business has acquired (over and above its tangible assets).

Under cross-examination, Karakas testified the CPA used the subject's actual income derived from leases to calculate the business value at approximately \$640,000. Karakas testified the bank had an appraisal prepared of the subject property to secure the loan amount, but he has not viewed nor possesses the report.

Barry Taft, a local real estate appraiser, was called as a witness to address the evidence submitted by the board of review. The parties stipulated regarding Taft's professional qualifications to provide testimony in this appeal. Taft testified the suggested comparable sales submitted by the board of review are dissimilar when compared to the subject due to their smaller size and newer age. More importantly, Taft testified the comparables are superior to the subject in quality of construction and overall condition. Photographs of the comparables utilized by the board of review were submitted by the appellant at the hearing. Taft explained the subject property is an old frame constructed building that is in poor to fair condition unlike the comparables submitted by the board of

review. Taft next attempted to provide testimony in connection with three suggested comparable sales and a discounted cash flow analysis of the subject property. After objection, the Property Tax Appeal Board barred this evidence from the record. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in guise of rebuttal evidence. (86 Ill.Admin.Code §1910.66(c)).

Pursuant to Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board, the Board finds it cannot consider this new evidence. Appellant's counsel made an offer of proof regarding the rebuttal submission.

Under cross-examination, Taft agreed the comparables submitted by the board of review could be adjusted for differences when compared to the subject. After reviewing the Real Estate Transfer Declaration, Taft agreed he did not perform independent calculations, investigate or verify the \$600,000 allocated for personal property and goodwill. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of \$296,059 was disclosed. The subject's assessment reflects an estimated market value of \$889,066 using Sangamon County's 2006 three-year median level of assessment of 33.30%.

In support of the subject's assessment, the board of review submitted nine suggested comparable sales. The evidence was prepared by the Capital Township Assessor. The comparables consist of steel frame or masonry constructed warehouses located throughout Springfield, Illinois. The buildings were built from 1956 to 1984 and range in size from 30,000 to 96,316 square feet of building area. Their land sizes or features were not disclosed. They sold from February 1999 to April 2007 for prices ranging from \$600,000 to \$3,500,000 or from \$13.33 to \$43.71 per square foot of building area including land.

In order to account for any potential value differences due to location or land to building ratio, the assessor deducted the comparables estimated land values from their sale prices to develop a residual building value for each sale. The deduction amounts were based on each comparables' estimated land value as reflected by their land assessments. As a result, the comparable sales had residual or adjusted building sale prices ranging from \$460,000 to \$3,375,000 or from \$11.67 to \$42.15 per square foot of building area excluding land. The assessor calculated that the subject's improvement assessment of \$255,971 reflects an estimated market value of \$739,728 or \$4.28 per square foot of

building excluding land, which falls well below the range established by the comparable sales on a per square foot basis.

The township assessor testified he agreed all the comparable sales utilized are superior to the subject. However, the assessor argued the subject's assessed valuation is one-half the amount on a per square foot basis than the lowest per square sale price of the comparables. The assessor also testified there were no sales within Capital Township of buildings as large as the subject property. Even though the comparables are superior to the subject, the assessor testified that since the subject property's estimated market value on a per square foot basis falls well under the range established by the comparable sales the only conclusion that can be drawn is that its assessed valuation is correct. With respect to the goodwill business value of \$640,000, the assessor argued the CPA capitalized income that is attributable to the real estate, not personal property. Based on this evidence, the board of review requested confirmation of the subject's assessed valuation.

Under cross-examination, the assessor testified clear ceiling heights are considered when assessing warehouses. The assessor agreed all the comparables are superior to the subject in ceiling height. Since the CPA capitalized income attributable to the real estate, the assessor did not consider the \$600,000 deduction for personal property from the subject's sale price to be valid. However, the assessor considered the subject sale to be an arm's-length transaction. He agreed the subject's transaction was a leased fee transaction due to hundreds a rental agreements that were in place at the time of sale resulting in a stabilized income stream.

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. The Board further finds a reduction in the subject property's assessment is warranted.

The appellant argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant has overcome this burden.

The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the seller 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). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is

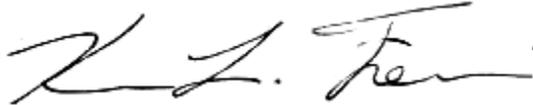
reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). The evidence in this record indicates the subject's transaction was a voluntary sale where the seller was ready, willing, and able to sell but not compelled to do so, and the buyer was ready, willing and able to buy but not forced to do so. The Board finds the subject's sale price of \$1,320,000 was negotiated, including the value of personal property and ongoing goodwill business value, by unrelated parties involved in the transaction, which further supports the arm's-length nature of the subject's leased fee transaction. The Board further finds the deduction for personal property and ongoing business value of \$600,000 is well supported by the evidence and testimony in this record. Based on this analysis, the Board finds the best evidence of the subject's fair market value is its March 2005 net sale price of \$720,000.

The Property Tax Appeal Board gave diminished weight to the comparable sales submitted by the board of review. Notwithstanding the lack of descriptive information regarding the comparable sales for comparison to the subject, all the comparables are of superior construction materials; are considerably newer in age; and are smaller in size when compared to the subject. Additionally, four comparables sold from 1999 to 2002, which are considered less indicative of the subject's fair market value as of its January 1, 2006, assessment date.

Based on this analysis, the Property Tax Appeal Board finds the appellant has proven that the subject property is overvalued by a preponderance of the evidence. Since fair market has been established, Sangamon County's 2006 three-year median level of assessment of 33.30% 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.

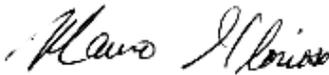
Chairman



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: May 27, 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

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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.