



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Charles Poulakis
DOCKET NO.: 06-24472.001-C-2 through 06-24472.002-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Charles Poulakis, the appellant, by attorney Brian P. Liston and Andrew Katsoulos, of Law Offices of Liston & Tsantilis, P.C. in Chicago; and the Cook County Board of Review.

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:

| DOCKET NO | PARCEL NUMBER | LAND | IMPRVMT | TOTAL |
|------------------|--------------------|---------|---------|-----------|
| 06-24472.001-C-2 | 19-15-230-078-0000 | 59,557 | 261,237 | \$320,794 |
| 06-24472.002-C-2 | 19-15-228-101-0000 | 107,264 | 209,720 | \$316,984 |

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story, masonry, commercial building built in 1960 and containing 13,500 square feet of building area. The building is located on two land parcels containing 50,172 square feet of land.

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.

Procedurally at hearing, the state's attorney representing the board of review objected to the appellant's appraisal due to absence of testimony from the appellant's appraiser. The appellant's attorney asserted that the appraisal was timely filed pursuant to the official rules of the Board. Upon due consideration of the parties' positions, the Board overruled the board of review's objection regarding the appellant's evidence indicating that the Board would determine the appropriate weight to be accorded the evidence submissions.

In support of the market value argument, the appellant submitted an appraisal report of the subject property with an effective

date of January 1, 2006 undertaken by David M. Richmond, who holds the designations of State General Real Estate Appraiser as well as SRA from the Appraisal Institute. The appraiser estimated a market value for the subject of \$1,250,000.

As to the subject, the appraiser indicated that the subject's building was located on a slab and was used as a commercial retail facility, specifically a supermarket. In addition, he indicated that the building was divided into three areas: office area, product display/check-out area, and the product storage/receiving area. Asphalt parking area was also located on the subject's parcels. On December 1, 2006, the appraiser conducted an interior and exterior inspection of subject's improvements. As to the subject's history, the appraiser indicated that the present owners purchased the subject property and other business related items for \$2,500,000 on May 12, 2005. The appraiser disclosed that he could not confirm with the owner, the business components included in the sale price. The appraiser opined that the purchase price appeared to be in excess of what market sales would indicate. The appraisal stated that the purchase price represented items other than real estate that include: inventory, business equipment, personal property, goodwill and other considerations. In addition, the appraisal included copies of plats of survey, area maps, and zoning maps.

The appraiser indicated that the subject's highest and best use as vacant was for commercial development, while the highest and best use as improved was for its current, commercial use.

The appraiser developed one of the three traditional approaches to value. Under the sales comparison approach to value, the appraiser utilized five sales comparables. These comparables sold from October, 2003, through January, 2005, for prices that ranged from \$500,000 to \$1,400,000, or from \$63.29 to \$97.09 per square foot. The properties were improved with a one-story or two-story, retail building. They ranged in age from 12 to 73 years and in size from 7,500 to 14,700 square feet of building area. The supporting data indicated that four of the five properties were either not on the market or contained no real estate brokers for the buyer and seller.

Moreover, as to sale #1 the data indicated that this property was a retail convenience store which sold for \$1,000,000 including personal property and store equipment. Therefore, a value of \$570,000 was designated at the real estate value. As to sale #2, the data indicated that this sale included one tenant, Patio World. As to sale #3, the data indicated that this sale included one tenant, Family Dollar. As to sale #4, the data indicated that at the time of sale there were two tenants, and that the sale was a sale-leaseback transaction. As to sale #5, the data indicated that at the time of sale there was one tenant, Paul's Furniture.

The appraisal stated that from the data, the appraiser opined that all of the sales were conveying fee simple ownership rights

and were arm's length transactions; therefore, no adjustments were made for any of these factors. After making other adjustments to the suggested comparables, the appraiser estimated the subject's market value to range from \$90.00 to \$95.00 per square foot or an average value of \$1,250,000.

At hearing, the appellant's attorney rested upon its written evidence submission of the subject's appraisal.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$637,778 for tax year 2006. The subject's assessment reflects a market value of \$1,678,363 or \$124.32 per square foot using the Cook County Ordinance Level of Assessment for Class 5a, commercial property of 38%. As to the subject, the board submitted copies of the subject's property record cards as well as documents relating to the subject's sale, including: the warranty deed, the Illinois Real Estate Transfer Declaration (hereafter PTAX-203), the Illinois Real Estate Transfer Declaration - Supplemental Form A, and a copy of the subject's CoStar Comps sale printouts.

At hearing, the state's attorney argued that these supporting documents reflect that the subject's sale contained no personal property. Specifically, he noted that the PTAX-203, line 11, discloses the full actual consideration for the subject as \$2,500,000, while line 12a discloses the amount of personal property included in the purchase as \$0.00. In addition, he noted that line 13 identifies the net consideration for the real property as \$2,500,000. Moreover, line 7 indicated that this property was not advertised for sale or sold using a real estate agent.

Further, the Illinois Real Estate Transfer Declaration - Supplemental Form A, line 6, indicated that there was no transfer of personal property related to the subject's sale. In addition, line 8, indicated that the buyer believed that the net consideration for the real property entered on Line 13 of Form PTAX-203 was a fair reflection of the market value on the sale date.

The subject's CoStar Comps printouts indicated that there were no real estate brokers for either the buyer or seller involved in the subject's sale. The printouts also state that the buyer is the owner/user and that said buyer purchased the neighboring property. They also state that the seller reported buyer's motivation for purchase was to provide parking for the neighboring grocery store. However, at the time of publishing this printout, the printout stated that the seller reported that the buyer was undecided as to which parcel would become the parking lot and this sale was also the seller's downleg in a starker exchange.

The assessor's printouts for this subject also include copies of permits relating to the property. Cook County Permit #996205 dated November 18, 2002, indicated that parcel -101 which

contained the original building was to be wrecked. Moreover, Cook County Permit #996205 dated December 16, 2002 for \$930,000 was for interior alteration to an existing building, additions and fencing of parcel -078.

In support of the subject's market value, raw sales data was submitted for 16 commercial properties. The data from the CoStar Comps service sheets reflect that the research was licensed to the assessor's office, but failed to indicate that there was any verification of the information or sources of data. The properties sold in an unadjusted range from \$800,000 to \$6,854,000, or from \$60.61 to \$453.31 per square foot of building area. The properties contained retail buildings ranging in usage from drug stores or supermarkets to general freestanding, retail buildings and in size from 10,200 to 15,120 square feet of building area. The printouts indicate that 11 of the 16 sales were not advertised on the open market or contained no real estate broker's for the parties, while 8 of the 16 sales were of leased fee property rights.

The board of review did not proffer a witness to testify regarding its evidence submissions. As a result of its analysis, the board requested confirmation of the subject's assessment.

The state's attorney asserted that the subject property was a grocery store and in conducting such a business, ample parking is necessary. Thereby, he opined that the appellant's improved sale properties lack comparability due to their smaller size. As to the appellant's properties, he further noted: that sale #3 was not on the market prior to the sale; that sale #4 is improved and used as a medical office building with the sale identified as a sale-leaseback transaction; as well as sales #1 and #5 containing significantly smaller land area. In contrast, he asserted that the board of review submitted 16 improved sale properties which bolster the subject's recent sale price.

In rebuttal, the appellant's attorney argued that 11 of the 16 sale properties submitted by the board of review contain sale prices with a lower market value per square foot than the current market value of the subject, which is at \$124.32 per square foot. Further, he argued that the appellant's appraiser was of the opinion that the subject's sale price included goodwill, personal property and other items even though this was not indicated on the PTAX-203 form.

Lastly, the state's attorney argued that the appellant's appraiser's opinion that the sale price included something other than the realty in unsupported.

After considering the arguments and 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 appellant has not met this burden and that a reduction is not warranted.

In determining the fair market value of the subject property, the Board accorded diminished weight to the appellant's appraisal due to: the appraiser's lack of verification of the subject's recent sale; the appraiser's lack of documentation in the addendum supporting his position that the subject's sale included other items than the realty; and the usage of inappropriate improved sale comparables without applying proper adjustments to these comparables.

Specifically, the appellant's appraiser utilized only one of the three traditional approaches to value in determining the subject's market value, the sales comparison approach. In developing this sales approach, the appraiser used five suggested comparables. Four of the five properties were leased fee sales with either one or two tenants as of the sale date. Specifically, the improvement in: sale #2 was leased to Patio World, sale #3 was leased to Family Dollar, sale #5 was leased to Paul's Furniture, while the improvement in sale #4 contained two undisclosed tenants. The appraiser's data also indicated that sales #2 through #4 were either not advertised for sale on the open market or contained no real estate broker's representing the buyer and seller. In addition, the appellant's appraisal stated that based upon the aforementioned data, he believed that these sales were conveying fee simple ownership rights and/or were arm's length transactions; therefore, the appraiser made no adjustments for any of these factors. Moreover, the Board finds that the appellant failed to proffer the appraiser as a witness to provide testimony explaining his methodology.

Based upon this analysis, the Board finds that the appraiser erred in not making appropriate adjustments based upon the variance in property rights. The Board further finds that this omission taints the other adjustments undertaken by this appraiser regarding his suggested comparables. Thereby, the Board accords minimal weight to sale properties #2 through #5 as well as the appellant's appraisal.

As to the subject's sale in May of 2005, the parties' evidence relating to this sale is contradictory. The PTAX-203 and supplemental forms reflect that the selling price of \$2,500,000 was for the realty without including any personal property. However, these declarations also indicated that the subject was not advertised on the open market; thereby, placing into question the arm's length nature of the transaction. In addition, the appellant's appraiser opined that the subject's price was not

reflective of the market and would have included other items, such as: inventory, business equipment, personal property, goodwill and other considerations.

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 found that the only credible evidence of market data submitted by the appellant related to sale #1 which contained a market value of \$76.00 per square foot. The Board also finds that the board of review provided unconfirmed, raw data on 16 suggested sale properties in support of the subject's assessment. However, these 16 sale properties contained an unadjusted range of sale prices from \$60.61 to \$453.31 per square. These properties as well as appellant's sale #1 reflect an unadjusted market value range from \$60.61 to \$453.31 per square foot. Nevertheless, the Board finds that 11 of these 16 properties were not advertised on the open market, while 8 of the 16 properties were sales of leased fee property interests.

After making adjustments to the sale comparables, the Board finds that the evidence supports the subject property's current market value of \$1,678,363 or \$124.32 per square foot, which is within the range established by the sale properties for tax year 2006. Moreover, the Board finds that the subject's purchase price supports the subject's current market value. Therefore, the Board finds that a reduction is not 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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: June 24, 2011

Allen Castrovillari

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.