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

APPELLANT: Garth Davies
DOCKET NO.: 06-26664.001-I-2
PARCEL NO.: 13-22-122-052-0000

The parties of record before the Property Tax Appeal Board are Garth Davies, the appellant, by attorney Arnold G. Siegel, of Siegel & Callahan, 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 ***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:** | $ 126,027 |
| **IMPR.** | $ 165,573 |
| **TOTAL:** | $ 291,600 |

Subject only to the State multiplier as applicable.

## ANALYSIS

The subject property consists of 53,858 square feet of land improved with a one-story, masonry constructed, industrial building containing 53,808 square feet of building area inclusive of approximately 2,690 square feet of finished office area.

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.

In support of the market value argument, the appellant's pleadings included copies of documentation regarding the subject's sale, such as: an affidavit, a contract for sale, a closing statement, a bill of sale and a special warranty deed. The affidavit was completed by the appellant wherein the affiant stated that he purchased the subject property on August 29, 2005 for a value of $800,000. The affiant further indicated that the parties to this sales transaction were unrelated. The sales contract and the closing statement indicated that the entire purchase consisted of real property sold to the aforementioned affiant, personally, while the business assets as well as Ontario Trucking assets were sold to the affiant's business, Midwestern

Rustproof Inc. The closing statement detailed the sales transaction with allocated values as follows: real property allocated value of $800,000; business assets allocated value of $1,430,000; and Ontario Trucking assets allocated value of $92,000. This transaction reflected a total sale price of $2,173,838.

In addition, the appellant submitted an appraisal report of the subject property with an effective date of January 1, 2006 undertaken by Thomas W. Grogan and Joseph M. Ryan, both of which hold the designations of State General Real Estate Appraiser and Member of the Appraisal Institute. The appraisers estimated a market value for the subject of $800,000.

At hearing, the appellant called one of its appraisers, Joseph Ryan, as an expert witness. Ryan testified regarding his aforementioned designations and work experience. He stated that he was employed with the county assessor's office as well as the board of review from 1985 through 1991, while working thereafter at two different appraisal companies. He indicated that he is currently president of LaSalle Appraisal Group. He also stated that he has written several thousand appraisals of industrial buildings. After additional voir dire, Ryan was offered as an expert in real estate appraisal without objection and was accepted as such by the Board.

As to the subject's appraisal, which was identified for the record as Appellant's Hearing Exhibit #1, Ryan testified that his colleague, Thomas Grogan, compiled the data reflected therein, while Ryan oversaw the complete process of undertaking the appraisal assignment. He stated that Grogan undertook a complete interior and exterior inspection of the subject on December 27, 2006. In addition, since that date, Ryan indicated that he has personally viewed the subject's exterior several times.

As to the subject, the appraisal indicated that the subject's site was nearly a rectangular-shaped, corner parcel containing 53,858 square feet of land with a land-to-building ratio of 1.00:1. The improvement was described as a one-story, masonry constructed, industrial building with 53,808 square feet of building area, which was in average condition. This area was inclusive of 2,690 square feet of finished office area constituting approximately 5% of the building's area. The appraisers indicated that the subject was built in 1962 with seven truck docks and 18 foot ceiling heights.

As to the property's history, the appraisal noted that the subject's improvement was initially constructed as an industrial building, while its current occupant, Midwestern Rust Proof, Inc. uses the building for light manufacturing. The appraisal also noted that the subject property was purchased in August, 2005, for a price of $800,000 from Western Rust-Proof Company. In addition, the appraisal indicated that even though the subject was not advertised for sale on the open market that the buyers

did rely on an appraisal to determine the value of the subject property.

Ryan testified that the subject's highest and best use as vacant was for similar industrial development consistent with surrounding uses, while the highest and best use as improved was for its current, industrial use.

The appraisers developed two of the three traditional approaches to value. The estimated market value under the income approach was $780,000 and under the sales comparison approach was $810,000.

Under the income approach, the appraisers reviewed four rental comparables from the market, three of which were listing rentals. Ryan testified that even though the subject was an owner-occupied, single-tenant industrial building, income data was available to complete this approach to value. These industrial properties ranged in rental rates from $2.50 to $5.00 per square foot on a gross lease basis, while the properties ranged in rental area from 15,000 to 167,000 square feet. Based upon this data, the appraisers estimated the subject's potential gross income at $3.50 per square foot or $188,328. Deducting a vacancy and collection loss of 6% resulted in an effective gross income of $177,028. Total expenses and replacements for reserves were estimated at $52,195 resulting in a net operating income of $124,833.

Using the band of investment methodology as well as market data from various sources including: Korpacz Real Estate Investor Survey, First Quarter, 2006, for non-institutional properties, published by PriceWaterhouseCoopers LLP, the appraisers noted a range of capitalization rates from 7.0% to 12.00%. They concluded an overall capitalization rate for the subject based upon its size, condition and location of 10.00% with a tax load of 5.88%. Applying an overall capitalization rate of 15.88% to the estimate of net operating income resulted in a final value under the income approach of $780,000, rounded.

Under the sales comparison approach to value, the appraisers utilized four sale comparables. These comparables sold from April, 2003, through October, 2004, for prices that ranged from $495,000 to $1,485,000, or from $6.77 to $20.00 per square foot.

The properties were improved with an industrial building constructed from 1901 to 1973. They ranged: in improvement size from 25,000 to 110,000 square feet of building area; in truck docks from three to five; in ceiling heights from 12 feet to 16 feet; and in land size from 26,136 to 336,719 square feet of land. After making adjustments to the suggested comparables, the appraisers estimated the subject's market value was $15.00 per square foot or $810,000, rounded.

In reconciling the approaches to value, the appellant's appraisers placed secondary consideration in the income approach

due to a lack of local capitalization rates as well as the inclusion of multi-tenant comparable leases, while primary reliance was placed on the sales comparison approach to value; thereby, reflecting a final market value of $800,000 for the subject property.

On cross examination, Ryan testified that he viewed the subject's exterior twice prior to completion of this appraisal. He also stated that to the best of his knowledge the subject did not sell in an open and competitive market and that he did not view the appraisal that the buyer relied upon in purchasing the subject. As to Ryan's sale comparables, he testified that he had personally viewed each of these comparables and that each sale's building included office space therein. As to Ryan's income approach, he testified that his rental comparables were multi-tenant leases because typically property similar to the subject is owner-occupied.

On re-direct examination, Ryan clarified that in reviewing the subject's history for his appraisal, that his colleague and he viewed the subject's bill of sale, the sales contract, and the real estate closing contract. He stated that the subject property sold when the business sold; thereby, the real estate was not advertised for sale on the open market. Moreover, he testified that the appellant stated that the subject's real estate was appraised at the time of sale for a value of $800,000. Ryan also stated that the appellant indicated that he had purchased an on-going business entity, which is why allocated values determined by the parties to the subject's sale were provided to Ryan. Ryan also stated that he undertook this appraisal assignment independent of the subject's sale or any prior appraisal of the subject. Lastly, Ryan indicated that typically an asking price sets the higher end of a value range, while as to the subject, he stated that his value estimate would not vary from tax year 2006 through tax year 2008.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was $435,842 for tax year 2006. The subject's assessment reflects a market value of $1,210,672 or $22.50 per square foot using the Cook County Ordinance Level of Assessment for Class 5b, industrial property of 36%. As to the subject, the board submitted copies of the subject's property record cards. In addition, the board's memorandum asserted that the subject property was sold via a Special Warranty Deed that was executed in August, 2005, for $800,000 or $14.89 per square foot. Further, the board of review submitted copies of the aforementioned deed, the Illinois Real Estate Transfer Declaration, and a printout from the Cook County Recorder of Deeds website indicating that the aforementioned deed was recorded on January 1, 1006 and was accorded document #0600618026. Moreover, the board submitted a copy of a mortgage for the subject dated August 31, 2005 for a value of $2,040,000 described as being for real property.

In support of the subject's market value, raw sales data was submitted for eight industrial or industrial/manufacturing 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 from March, 2001, to April, 2004, in an unadjusted range from $623,025 to $2,150,000, or from $13.26 to $50.03 per square foot of building area. The properties contained buildings that ranged in size from 40,000 to 55,000 square feet and in age from 28 to 61 years. The printouts also indicate that sales #3 through #5 failed to include any real estate brokers for the parties involved in the transactions, while the parties in sale #2 contained the same real estate broker. In addition, the printouts stated that the property involved in sale #4 was occupied by the buyer prior to the sale.

Moreover, the board of review's memorandum stated that it was not intended to be an appraisal or an estimate of value and should not be construed as such. It indicated that the information provided in the memorandum was collected from various sources and assumed to be factual, accurate or reliable. However, the memorandum disclosed that the writer had not verified the information or sources referenced; and therefore, did not warrant its accuracy. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the assistant state's attorney argued that the subject's sale was not reflective of the market, was not advertised on the open market, and contained an allocated value.

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 met this burden and that a reduction is warranted.

In determining the fair market value of the subject property, the Board accorded little weight to the subject's sale price. The unrebutted documentation submitted by both parties as well as the appraiser's testimony indicated that the subject was not advertised for sale on the open market; that there was no conclusive evidence indicating that the parties to this sale were unrelated; and that the subject's real estate and business assets

were accorded allocated values without data supporting this allocation process.

Therefore, the Board finds the best evidence to be the sales comparison approach reflected in the appellant's appraisal as well as supporting testimony from the appellant's expert appraiser. The Board accorded diminished weight to the appraiser's development of an income approach as the subject property is an owner-occupied, industrial building, while the appraisers utilized four rental comparables with only one containing actual rental data. Three of the four rental comparables were asking rents of multi-tenant buildings. Even though the appraisers accorded the income approach secondary consideration, the Board finds the usage of these rental comparables as inappropriate, even with adjustments thereto, further inhibiting the credibility of this approach to value.

Nevertheless, 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 will also place significant weight on the sale comparables submitted into the record by all of the parties. Initially, the Board accords diminished weight to properties submitted by the board of review as the evidence provided unconfirmed, raw data on properties.

In contrast, the Board finds persuasive the sales comparison approach developed by the appraisers as well as the expert's supporting testimony regarding: the methodology used in this approach, the market data reflected in the improved sale comparables, and the adjustments accorded to these sale comparables. The appraisers estimated the subject's market value under the sales comparison approach at $810,000, rounded, for tax years 2006 through 2008 as indicated by Ryan's testimony. The Board further finds this approach to value to be persuasive for the appraisers personally inspected the subject property as well as viewing the sale comparables.

Therefore, the Board finds that the subject property contained a market value of $810,000 for tax year 2006. Since the market value of the subject has been established, the Cook County Ordinance level of assessment for Class 5b, industrial property of 36% will apply. In applying this level of assessment to the subject, the total assessed value is $291,600, while the subject's current total assessed value is above this amount at

$435,842. Therefore, the Board finds that a reduction 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: June 22, 2012

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.