FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: 999 Lake Shore Drive Corporation
DOCKET NO.: 06-29689.001-R-3
PARCEL NO.: 17-03-208-008-0000

The parties of record before the Property Tax Appeal Board are 999 Lake Shore Drive Corporation, the appellant, by attorney Richard D. Worsek, of Worsek & Vihon 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:	$	135,849
IMPR.:	$	2,191,751
TOTAL:	$	2,327,600

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 18,165 square feet of land improved with a 10-story, high-rise, apartment cooperative with brick and stone exterior construction that was built in 1912. The improvement contains of 121,800 square feet of gross building area comprising 27 units as well as minor site improvements and on-site surface parking for nine cars.

The appellant, via counsel, argued that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis for this appeal.

In support of this market value argument, the appellant submitted a complete, self-contained appraisal of the subject with an effective date of January 1, 2006 and an estimated market value of $23,000,000. The appraiser is Robert Schlitz. Mr. Schlitz holds the designation of a state-certified appraiser in Illinois as well as in three other states. In addition, he holds the following designations: a Member of the Appraisal Institute; a Certified Assessment Evaluator; a Residential Evaluation Specialist; and that of a Certified Illinois Assessing Official.

The appraisal identifies the scope of the appraisal assignment as rendering a retrospective fair market value of the fee simple 'joint tenancy in common interest' inclusive of the proprietary leases of the subject cooperative as of January 1, 2006. Based upon the appraiser's on-site interior and exterior inspection undertaken on January 9, 2006, he indicated that the subject's residential cooperative included 27 living units. In addition, the appraisal indicated that not all of the units were inspected, even though a representative sampling of the different units were viewed as well as the subject's surrounding area.

As to the subject property, the appraisal indicated that the subject site is a trapezoidal-shaped, corner site bound by East Lake Shore Drive and North Lake Shore Drive. The subject is sited on the 'S' curve of Lake Shore Drive with excellent visibility as well as minor improvements consisting of: a covered canopy front drive-up entrance and a one-story drive through tunnel to the rear paved, nine-car parking area. The appraisal also noted that that subject is designated within a Special Flood Hazard Zone due to its proximity to Oak Street Beach and Lake Michigan. In addition, the appraisal stated that the subject is not adversely affected by this location due to its protection from flooding by an extensive lakefront protection plan.

The subject's improvement consists of a 10-story, brick and stone constructed, apartment building. The improvement was built in 1912 with 27 units inclusive of a one and one-half story penthouse. The unfinished basement consists of 2,118 square feet and houses the building's mechanicals as well as a bike storage area. The ground floor features 780 square feet of tunnel drive leading to the rear paved parking as well as 2,500 square feet of a covered canopied drive-up entrance, a secured lobby, mail room and two small living units. Floors 2 through 9 have three living units per floor with each ranging in size from 2,600 to 4,000 square feet. The 10^{th} floor has approximately 10,150 square feet which houses storage closets for each unit. The penthouse contains approximately 2,945 square feet comprising both a penthouse residence of 2,500 square feet as well as elevator mechanicals. The appraisal indicated that each apartment unit is built-out to the owner's tastes as to number of rooms, bedrooms, and baths.

While the subject's actual age was 94 years, the appraiser accorded the subject an effective age from 90 to 95 years; a remaining economic life from 20 to 25 years; and a total economic life from 110 to 120 years.

The Schlitz appraisal defined American cooperatives as falling into two categories: conventional and publicly-assisted. It stated that in the former the promotion of housing is a private affair limited mainly by local zoning and building codes with prices fixed by the law of supply and demand. In the later, the government-aided segment there is a customary limited profit permitted to the price or organizational sponsor as a condition of the grant of governmental aid. Each type involves issuance of shares of stock to cooperators who subject themselves to a tenancy status under a lease which defines their rights and obligations with respect to each apartment and commonly-used facilities, referred to as a proprietary lease. In addition, to this explanation, the appraisal further explained: cooperative financing, profit control, tax benefits to cooperators, cooperative ownerships, as well as buying, selling or reselling cooperatives.

Based upon the appraiser's explanation, he opined that any value indications that simply averages sales or applications of equalization ratios can increase inequity, adversely affect assessment uniformity, and/or result in greater regressivity; that non-real estate factors are included in the conditions of sale; that factors relating to market trends and exposure time need adjustment; and that physical factors and condition within the development need to be addressed. Therefore, the appraisal stated that due to the aforementioned factors associated with cooperative type ownership and the fact that more than just real estate is involved in any sale transfer, these considerations would be reflected in the sales comparison approach to value.

The Schlitz appraisal indicated that the best way to value the subject based on all these variances is to utilize the multiple regression analysis. It stated that this method looks at sales within the development as well as other sales, but primarily those in the development, and then weighs those sales against the characteristics of each unit to determine the impact or affect on value each of those characteristics has. Thereby, the sales of units within the cooperative development are used to predict the sales value of the unsold units in the same development. The appraisal indicated that it was crucial to a proper valuation, that one look at sales of individual units and make appropriate adjustments to the unsold units, which is merely an adaptation of the sales comparison approach to value.

The appraisal reflected that the highest and best use of the subject, as improved, would be its current use. While the highest and best use as vacant, would be for similar residential development.

The appellant's appraiser developed the three traditional approaches to value in estimating the subject’s market value as well as a multiple regression analysis. In the appellant's appraisal, the subject's history identified the number and type of units sold which were used in the appraiser's regression analysis. There have been 28 historic sales and/or resales from 1991 to 2006 with only four resales from 2003 through 2006 for sales prices ranging from $250,000 to $1,400,000.

The Schlitz appraisal indicated that the income and cost approaches to value were undertaken to substantiate two different values that are often associated with most cooperatives. The first is the future retail value at 100% sellout. This requires an analysis of the time necessary to sell individual units, the holding costs, costs to either restore, renovate, or repair any damages within the specific unit and then allow that period of time to impact what the future value would be. The second value is the wholesale discounted value, which is the present value to the individual investor. The appraisal indicated that this value is important because if the property is being considered for development or being converted for individual unit sale, this value is something that is recognized to determine what the current discounted wholesale value of a unit is on a specific day.

As to valuing the land, the appraisal considered sales of six properties in the subject's neighborhood that ranged in size from 3,125 to 46,551 square feet of land. These properties ranged in value from $191.78 to $313.55 per square foot. They sold from March, 2004, through June, 2006, with three properties as corner lots. The appraisal stated that the subject's area has little vacant land available for development, therefore, some of the sites presented had been improved prior to their sale and as such the appraiser considered the price allocated to just the land. The appraiser estimated the subject's land value, based on all the variances, at $191.78 per square foot or $3,300,000, rounded.

Using the Marshall, Swift & Boeckh's Cost Service, the appraiser estimated the replacement cost new to be $18,084,466 or $148.48 per square foot. The appraisal notes an entrepreneurial profit of 20% or $3,616,893 for a total cost of $21,701,359. Total depreciation was estimated at 10% or $2,170,136. This established a depreciated value of the subject's improvement at $19,531,223. The depreciated value of the site improvements of $305,000 and the land value of $3,300,000 were added to arrive at a final value under the cost approach of $23,330,000, rounded.

Under the income approach, the appraiser reviewed the rent of six properties which ranged in gross living area from 38,011 to 189,860 square feet and in monthly rental rates from $695.00 to $2,500.00 per month on a semi-net basis. The appraiser estimated the potential gross income for the subject at $2,110,432. Vacancy and collection loss for the rental comparables ranged from 3% to 8.79%. The appraiser stabilized this rate @ 3% for the subject reflecting an effective gross income at $2,047,119.

Stabilized operating expenses were estimated from 54% to 56% indicating a stabilized net operating income of $949,367. The appraisal reflected a gross income multiplier of 9.53, and a capitalization rate of 5.34% based upon a direct capitalization methodology. Based upon this analysis, the appraisal reflected a range of values for the subject from $17,778,408 to $20,112,417. The Schlitz appraisal estimated a stabilized, final value under the income approach of $20,000,000, rounded.

The final method developed was the sales comparison approach. Initially, under this approach, the appraiser reviewed six sales of other residential properties purchased in their entirety for possible conversion to condominium or what the appraiser referred to as 'matched pair' sales. These structures ranged: in lot size from 5,400 to 25,600 square feet; in number of units from 78 to 276; and in improvement size from 38,011 to 189,860 square feet of building area. The sale dates ranged from January, 2004, through June, 2006, for prices that ranged from $6,900,000 to $29,500,000 or from $135.70 to $342.01 per square foot, unadjusted. The appraisal indicated that in the case of cooperative apartments the individual units are not assessed or taxed separately, much the same as other apartment buildings, therefore, the prior apartment buildings were used as comparables.

Secondly, the appraiser reviewed unit sales within five different cooperative buildings. These properties were located within the subject's neighborhood. The buildings ranged: in age from 77 to 86 years, in number of cooperative units from 20 to 62, in gross building area from 80,450 to 246,310 square feet, and in land size from 5,512 to 23,646 square feet. These buildings contained unit sales from 1996 through 2006 for values that ranged from $153.66 to $279.22 per square foot. The number of units which sold within each building ranged from seven to 19 units during the aforementioned time period. After making adjustments to these comparables for condition of sale, time and physical attributes, the appraiser estimated a range of values for the subject property from $21,880,152 to $24,180,452 resulting in a rounded value of $22,000,000 as of the January 1, 2006 assessment date.

In reconciling these approaches to value, the appraisal noted that there is a presumption of the sale of the subject property in its entirety on a specific date with little or no allowance for the sale of respective units even though these traditional approaches to value offer parallels in that a single value estimate is provided as of a mandated effective date. Therefore, the appraisal indicated that the appraiser also undertook a multiple regression analysis. This analysis utilized sales within a building, allowing for size, room count, position in building, degree of finish, degree of restoration and then determined a coefficient for each factor. The appraisal indicated that knowing the sale price of certain units does not in and of itself provide a valid evaluation of all of the units within a condominium building without knowing the other intrinsic factors that influence value, such as: unit position, size, room count, effects of time, unit renovation and use.

The appraisal stated that these physical differences in units within the same development can and do result in significantly different market values on a per unit basis with all other factors being equal.

Therefore, at the subject's location, the appraisal noted a total of 28 historic sales and/or resales from 1991 to 2006 with only four resales from 2003 through 2006 for sales prices ranging from $250,000 to $1,400,000. The appraisal also indicated that a review of these unit sales within the subject building as well as sales of outside units were considered. An analysis was done on the different factors: size, room count, bed count, bath count, garage, percentage of ownership and then a portion of each sale price was attributed to each factor within that sale. A coefficient was established for each independent variable and applied to the subject. In reconciliation, the appraisal indicated that most weight was accorded the multiple regression methodology in the sales comparison approach to value for a final value estimate of $23,000,000 for the subject as of the assessment date at issue.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was $3,499,999 for the 2006 tax year, which reflected a market value for the subject using the Illinois Department of Revenue's three-year median level of assessment for Class 2 property of 10.12% of $34,584,970.

In addition, the board of review submitted a one-page unsigned memorandum from William Cahill as well as a copy of an opinion brief relating to undervaluation complaints for tax year 2005 for properties other than the subject before the board of review.

The Cahill memorandum indicated that two of the subject's units had sold in 2005 with prices ranging from $840,000 to $1,400,000 without further data. The board of review's evidence submissions also included a multiple-page document entitled: Park Forest Cooperative Undervaluation Complaints for Tax Year 2005. The document's caption read: Village of Park Forest, Taxing District, Bloom Township v. Park Forest Co-Op, Ash Street Cooperative and Cedarwood Cooperative, as Taxpayers.

This document's introduction noted that the aforementioned undervaluation cases with the parties asserting proposed techniques for valuing residential cooperative property. Initially, the parties' positions are summarized as follows: the taxing body argued that sales of corporate membership shares of a cooperative are not sales of real property, but that the only reason why the sale prices of co-op units are different from condominiums is that a buyer is willing to pay more money for a similar unit in a condominium due to the restrictions facing owners of the co-op unit. The document stated that in contrast, the taxpayers asserted that the sale of shares in a cooperative represents transfers of "an interest in real estate" and/or mere rights under a lease and that it is legally impermissible for the county to ignore relevant sale transactions of cooperative buildings with verified data to establish that there is a separate, defined, and distinct competitive market for the sale of cooperative units. After consideration of the parties' positions, the board of review ruled initially that to ignore sales data where there is relevant, material and probative evidence of a separate, defined and distinct competitive market for the sale of cooperative units would be legally impermissible. Further, the board of review found that to substitute sales of any other type of residential property in order to determine cooperative values would be equally invalid or speculative while not only ignoring known values but also rejecting a recognized standard of valuation. Moreover, the board of review found that the decisional authority of the State requires that the comparable sales approach must be utilized where there are comparable arm's length sales of this particular property type of cooperative apartment buildings in the market. Therefore, the board of review ruled that the taxing body's substitution of sales data from the condominium market for that of the cooperative apartment market was unpersuasive.

As a result of its analysis, the board of review requested confirmation of the subject's assessment for the 2006 tax year at issue.

After considering the written 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 PTAB concludes that the appellant has met this burden and that a reduction is warranted.

In determining the fair market of the subject property, the PTAB finds the best evidence to be the appellant's appraisal. The appellant's appraiser utilized the three traditional approaches to value as well as a multiple regression analysis in developing the subject's market value. The PTAB finds this appraisal to be persuasive for the appraiser: has extensive experience in appraising and assessing property; personally inspected the subject property and reviewed the property's detailed history; estimated a highest and best use for the property; and utilized market data in undertaking the approaches to value. Further, in estimating a value under the sales comparison approach, the appraiser utilized the sales within the subject's development and estimated values for each characteristic within the building's units. These factors included: size, bathroom count, bedroom count, position within the building; degree of finish; and degree of restoration or renovation. These values were then applied to the characteristics in each unit to establish a value for the building as a whole.

The PTAB accords little weight to the board of review's evidence for only two units were disclosed and reviewed without further sales data submitted into evidence. Nevertheless, the board of review also submitted a multiple-page opinion relating to distinct and different properties, other than the subject property at issue in the present appeal, wherein the board of review found that market sales of cooperative apartment buildings form a distinct competitive market wherein comparison to any other type of residential property in order to determine cooperative values would be invalid or speculative. Furthermore, the board of review's opinion in its submitted documentation was that the comparable sales approach must be utilized where there are comparable arm's length sales of this particular property type in the market. Thereby, the PTAB finds that the board of review's unrelated opinion to this subject property presents a position in agreement with this appellant's appraisal evidence, which accorded most weight to the sale comparables.

Therefore, the PTAB finds that the appellant's appraisal indicates the subject’s market value for the 2006 tax year is $23,000,000. Since the market value of the subject property has been established, the median level of assessment for Cook County Class 2 property of 10.12% for tax year 2006 will apply. Therefore, the PTAB finds that a reduction is warranted for tax year 2006.

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.