



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

APPELLANT: Samuel Olivia
DOCKET NO.: 06-31243.001-C-1
PARCEL NO.: 17-09-319-005-0000

The parties of record before the Property Tax Appeal Board are Samuel Olivia, the appellant, by attorney Herbert B. Rosenberg, of Schoenberg Finkel Newman & Rosenberg LLC 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: \$ 59,280
IMPR: \$ 400,720
TOTAL: \$ 460,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 6,240 square feet of land improved with a six-story, masonry, commercial building used as an office and loft that was built in 1888.

The appellant, via counsel, argued: that the subject's improvement size was incorrect; and that the market value of the subject property is not accurately reflected in the property's assessed valuation as the bases for this appeal.

As a procedural matter, the appellant's attorney asked for a reduced assessment not based upon the appellant's appraisal value, but a reduced assessment capped under \$100,000 in dispute as reflected in the appellant's pleadings.

In support of the 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 \$1,050,000. The appraisers are David Conaghan, who holds the designations of Certified General Real Estate Appraiser and Certified Illinois Assessing Officer, as well as Mitchell Perlow

who holds the designations of a Certified General Real Estate Appraiser as well as Member of the Appraisal Institute.

The appellant called as its witness David Conaghan, who testified that he has been an appraiser for 12 years and has completed appraisals of 30 properties similar to the subject. He stated that he had personally inspected the interior and exterior of the subject property on May 25, 2008. He indicated that the subject is in below average to average condition while verbally enumerating the items of deferred maintenance that formed this opinion of condition. Conaghan was offered as an expert in the appraisal of commercial property and was accepted as such over the objection of the board of review.

The Conaghan appraisal identifies the scope of the appraisal assignment as rendering a retrospective fair market value of the fee simple interest of the subject as of January 1, 2006.

The appraisal indicated that the subject's site comprised 6,240 square feet of land with an improvement consisting of a 118-year old, six-story, masonry, commercial building. The improvement contains 36,624 square feet of gross building area and is an office/loft usage. It was noted the following signs of inutility: the subject's low ceiling heights, inadequate loading facilities in comparison to newer buildings, and low land-to-building ratio which is not as desirable because it limits the subject's potential development of the site.

While the subject's actual age was 118 years, the appraisers accorded the subject an effective age of 30 years; a remaining economic life of 20 years; and a total economic life of 50 years. The appraisal reflected that the highest and best use of the subject, as vacant, was for commercial or industrial development; while as improved, the highest and best use would be its current use with repair of any deferred maintenance.

The appellant's appraisers developed the three traditional approaches to value in estimating the subject's market value. Market values were estimated under the cost approach at \$1,075,000; under the income approach at \$1,100,000; and under the sales comparison approach at \$1,025,000.

As to valuing the land, the appraisal considered sales of five properties in the subject's neighborhood that ranged in size from 6,024 to 36,028 square feet of land. These properties ranged in value from \$19.90 to \$49.96 per square foot. They sold from February, 2003, through December, 2003. The appraisers estimated the subject's land value, based on all the variances, at \$48.00 per square foot or \$300,000, rounded.

Using the Marshall, Swift & Boeckh's Cost Service, the appraisers estimated the replacement cost new to be \$2,563,680 or \$70.00 per square foot. Total depreciation was estimated at 70% or \$1,794,576. This established a depreciated value of the subject's improvement at \$769,104. The land value of \$300,000

and the depreciated value of the on-site improvements of \$5,000 were added to arrive at a final value under the cost approach of \$1,075,000, rounded.

Under the income approach, the appraisers reviewed the rent of six properties, only four of which were actual rents. They ranged in gross building area from 1,100 to 8,250 square feet and in monthly rental rates from \$9.03 to \$13.00 per square foot. Conaghan testified that all rental comparables were located in areas similar to the subject's and were each converted to gross rents. As to the subject, Conaghan stated that the subject contained six rental units each on a distinct floor of the subject's building. He stated that he concentrated his comparable search on building location and rental area size, with a preference for actual rents as opposed to asking rents. The appraisers estimated the potential gross income for the subject at \$9.50 per square foot or \$347,928. Vacancy and collection loss for the rental comparables ranged from 7% to 20%. The appraisers stabilized this rate at 10% for the subject reflecting an effective gross income at \$313,135. Conaghan testified that the estimate of vacancy and collection loss was based upon market data from an IREM market survey reflecting the Chicago submarket.

Stabilized operating expenses were estimated at \$146,129 indicating a stabilized net operating income of \$166,006. The appraisal referred to market sources in developing an overall capitalization rate. The investor survey of RealtyRates.com, 2nd Quarter, 2006, reflected rates for commercial buildings from 6.60% to 14.14%, while Korpacz Real Estate Investor Survey, 2nd Quarter, 2006, reflected rates from 5.50% to 9.00%. Based upon this data as well as development of the band of investment methodology, the appraisers estimated an appropriate rate of 15.21% for the subject. Upon application of this rate, the appraisal reflected a market value for the subject under the income approach of \$1,100,000, rounded.

The final method developed was the sales comparison approach. Initially, under this approach, the appraiser reviewed five sales of other commercial properties. The properties were improved with masonry buildings ranging from two-story to six-story structures, while sale #5 contains two buildings, thereon. These structures ranged: in lot size from 5,000 to 38,246 square feet; in age from 52 to 119 years; and in improvement size from 9,600 to 89,000 square feet of building area. The sale dates ranged from August, 2003, through December, 2006, for prices that ranged from \$180,000 to \$2,800,000 or from \$15.71 to \$31.60 per square foot, unadjusted. After making adjustments to these comparables for condition of sale, time, area, land-to-building ratio and physical attributes, the appraisers estimated a market value for the subject property of \$1,025,000 as of the January 1, 2006 assessment date.

Conaghan testified that the sale properties were all office-type/loft buildings located within a one-mile radius from the subject property. He also stated that he had reviewed the

exterior of these sale buildings, while giving equal weight to all of the sale properties after adjustments. He stated that his initial source of data was the CoStar Comps service while confirming that data with the assessor's website data.

In reconciliation, the Conaghan testified that most weight was accorded the sales comparison approach with additional emphasis accorded to the income approach to value for a final value estimate of \$1,050,000 for the subject as of the assessment date at issue.

Under cross-examination, Conaghan testified that he undertook qualitative and not quantitative adjustments to his improved sale properties.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$554,179 for the 2006 tax year, which reflected a market value for the subject using the Cook County Ordinance level of assessment for Class 5A property of 38% of \$1,458,366.

In addition, the board of review submitted a one-page unsigned memorandum as well as CoStar Comps printouts. The memorandum stated that the subject property comprised a 6,240 square foot site improved with a six-story, masonry, commercial building with 63,624 square feet of building area.

In support of the subject's market value, raw sales data was submitted for five commercial properties which were classified as either class B or C office buildings. 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 October, 2001, to July, 2008, in an unadjusted range from \$53.11 to \$113.78 per square foot of building area. The properties contained masonry, commercial buildings that ranged in style from two-story to seven-stories in design. They ranged in building size from 50,172 to 71,478 square feet and in age from 46 to 118 years. The printouts indicate that sales #1 and #5 reflected that the parties to each transaction were represented by the same real estate brokers, while sales #1 and #3 were owner-occupied buildings.

Moreover, the board of review's cover memorandum stated that the data was not intended to be an appraisal or an estimate of value and should not be construed as such. The memorandum indicated that the information provided therein had been collected from various sources that were assumed to be factual and reliable; however, it further indicated that the writer hereto had not verified the information or sources and did not warrant its accuracy. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the board's representative stated that she has no personal knowledge of the subject's improvement size; however,

she did confirm that the memorandum submitted by the board of review actually originated from the county assessor's office.

In written rebuttal, the appellant submitted a review report of the board of review's properties along with an attachment. This review analysis was completed by the appellant's appraiser, Conaghan, while the attachment consisted of a copy of a Board's decision in Docket #00-21630-C-3, wherein the Board found that the board of review's presentation of six sales without any meaningful analysis merely anecdotal. Therefore, the Board placed no weight on this evidence in that decision. The appellant requested the same ruling in the present matter.

At hearing, the appellant's attorney also called its appraiser as a rebuttal witness. Conaghan testified that the board of review's sale #1 was actually a self-storage facility with the sale price inclusive of business value for an on-going concern. As to sale #5, he stated that this was a mixed-use building lacking comparability to the subject property.

After considering the testimony and/or arguments as well as 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, 331 Ill.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 of the subject property, the Board finds the best evidence to be the appellant's appraisal with supporting testimony. The appellant's appraisers utilized the three traditional approaches to value in developing the subject's market value. The Board finds this appraisal to be persuasive for the appraisers: have 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 various approaches to value. The Board also found persuasive the credible testimony of the appellant's appraiser as to the methodology used and the market data employed throughout his appraisal.

The Board accords little weight to the board of review's evidence which reflected unadjusted, raw sales data.

Therefore, the Board finds that the appellant's appraisal indicates the subject's market value for the 2006 tax year is \$1,050,000. Since the market value of the subject property has been established, the ordinance level of assessment for Cook County Class 5A property of 38% for tax year 2006 will apply. However, the appellant's attorney requested that the market value be capped at the requested value reflected on the pleadings. Without any objections as to this issue from the board of review, the Board finds that a reduction is warranted for tax year 2006 and shall grant the appellant's request.

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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: January 31, 2013

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.