FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: 3700 S. Kedzie LLC
DOCKET NO.: 07-26356.001-C-1 through 07-26356.012-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are 3700 S. Kedzie LLC, the appellant(s), by attorney Lisa A. Marino, of Marino & Assoc., PC 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
07-26356.001-C-1	16-35-404-001-0000	7,722	306	$8,028
07-26356.002-C-1	16-35-404-002-0000	2,857	887	$3,744
07-26356.003-C-1	16-35-404-003-0000	2,886	887	$3,773
07-26356.004-C-1	16-35-404-004-0000	2,886	1,482	$4,368
07-26356.005-C-1	16-35-404-005-0000	2,909	1,482	$4,391
07-26356.006-C-1	16-35-404-006-0000	2,909	882	$3,791
07-26356.007-C-1	16-35-404-007-0000	7,985	2,741	$10,726
07-26356.008-C-1	16-35-404-008-0000	2,626	681	$3,307
07-26356.009-C-1	16-35-404-009-0000	2,187	1,136	$3,323
07-26356.010-C-1	16-35-406-001-0000	3,971	1,272	$5,243
07-26356.011-C-1	16-35-406-003-0000	44,583	202,303	$246,886
07-26356.012-C-1	16-35-406-026-0000	58,537	248,621	$307,158

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 12 parcels of land improved with a one and part two-story, masonry and metal panel, industrial building that was built in stages in 1942 and then from 1956 to 1975. The appellant, via counsel, argued that the fair market value of the subject was not accurately reflected in its assessed value.

The PTAB consolidated this matter with the 2006 and 2008 appeals for hearing purposes. The PTAB finds that these appeals are within the same assessment triennial, involve common issues of law and fact and a consolidation of the appeals would not prejudice the rights of the parties. Therefore, under the *Official Rules of the Property Tax Appeal Board, Section 1910.78*.

In support of the market value argument, the appellant submitted an appraisal undertaken by Arthur Murphy of Urban Real Estate Research Inc. The report indicates Murphy is a State of Illinois certified general appraiser and holds the designation MAI. The appraiser was not present to testify.

The appraiser indicated the subject has an estimated market value of $380,000 as of January 1, 2006. The appraisal report utilized the three traditional approaches to value to estimate the market value for the subject property. The appraisal finds the subject's highest and best use is its existing use.

The appraisal indicates the subject site is 259,621 square feet. This was taken from an ALTA survey dated may 21, 2008. The square feet of living area for the subject was listed by the appraiser as 185,016 which was provided by the chief engineer from a computerized CAD file at the subject.

The appraiser included information on the sale of the subject property in January 2007 for $7,900,000. The appraiser opined that the purchase price did not accurately reflect the subject's market value because the sale included good will, personalty, and allowed the purchaser to extinguish a lease in place and to begin renovations. The appraisal also addressed the sale in June 2008 for $7,900,000 and indicated that the sellers kept a minority stake in both the business and real estate as part of the purchase.

Under the cost approach to value, the appraiser analyzed the sale of five lots to estimate the value of the land at $3.00 per square foot or $780,000, rounded. The replacement cost new was utilized to determine a cost for the improvement at $8,155,122. Entrepreneurial profit of 10% was added. The appraiser depreciated the improvement by 91% for a value of $807,357. The land and site improvements of $56,780 were added back in to establish a value under the cost approach of $1,640,000, rounded.

In the income approach to value, the appraiser looked at four multi-tenant, industrial properties to estimate gross income of $323,778. Vacancy and collection of 11% was estimated to arrive at an effective gross income of $288,162. Expenses at 475,070 were deducted for a net operating income of $213,092. The band of investment method and review of market data were utilized to establish a capitalization rate of 13% for an estimate of value under the income approach of $1,640,000, rounded.

Under the sales comparison approach, the appraiser analyzed five one or one and part two-story, masonry or masonry and metal

panel, industrial buildings. The properties were built from 1920 to 1986 with several buildings built in stages. They range in size from 117,367 to 862,056 square feet of building area. The comparables sold from June 2003 to February 2006 for prices ranging from $1,315,000 to $6,500,000, or from $7.54 to $11.31 per square foot of building area, including land. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and difference of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of $8.00 per square foot of building area or $1,480,000, rounded.

In reconciling the three approaches to value, the appraisal gave primary consideration to the sales comparison to arrive at a final estimate of value for the subject as of January 1, 2006 of $1,480,000.

At hearing, the appellant's attorney indicates that appraisal does discuss the sales that occurred after the valuation date and asserts that the sales were not arm's length in nature. She asserted the leasee, Gold Standard, has been a tenant since 2001 and purchased the property in 2008. To support this, Appellant Exhibit #2, a copy of the lease agreement, was submitted into evidence.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $604,743 was disclosed. The subject's final assessment reflects a fair market value of $1,701,478 or $10.72 per square foot of building area, using 158,607 square feet of building area, when the Cook County Real Property Assessment Classification Ordinance levels of assessments assigned to the subject parcels are applied. The board's evidence asserts the subject's land is 235,770 and the subject's improvement contains 158,607 square feet of building area. The property record card submitted as evidence is dated September 1975 and includes a diagram of the improvement.

The board also submitted raw sales information on six properties suggested as comparable. The properties sold from April 2004 to December 2007 for prices ranging from $1,250,000 to $16,900,000 or from $7.32 to $93.65 per square foot of living area, including land.

At hearing, the parties review the 2006 evidence in regards to the sales of the subject. For the sale in December 2006 for $7,900,000, the board included copies of: the trustee's deed and the county recorder of deeds website printout. For the sale in June 2008 the board included copies of: the warranty deed; the Illinois Real Estate Transfer Declaration (PTAX-203); and the Illinois Real Estate Transfer Declaration Supplemental Form A (PTAX-203-A). The PTAX-203-A indicates it is the opinion of the signators that the sale price is at market value, but item #4 indicates the property was 100% leased on the sale date. The PTAX-203, question #7 indicates the property was not advertised for sale. The warranty deed's affidavit indicates that Yianni

Caparos is a member of 3700 South Kedzie LLC. Based on this evidence, the board of review requested confirmation of the subject's assessment.

The board of review's representative, Lena Henderson, asserted that the appraisal did not provide the quantitative adjustments made in the sales comparison approach and the appraiser did not testify concerning those adjustments.

In response to questions, Ms. Henderson testified she did not have any knowledge as to how the square footage for the land and improvement were arrived at, but noted that the property record card was included.

After hearing the testimony and considering the evidence, the Board finds it has jurisdiction over the parties and the subject matter of the 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 evidence indicates a reduction in the subject's assessment is not warranted.

The first issue before the PTAB is the size of the subject's land and improvement. The PTAB finds the best evidence to be the appraisal as this documentation includes the source of the data while the board's evidence is from 1975. Therefore, the PTAB finds the subject's land to be 259,621 square feet and the improvement to contain 185,016 square feet.

The PTAB finds the appraiser was not present at the hearing to testify and be cross-examined regarding the appraisal process, the conclusions therein, and the sales of the subject. Therefore, the PTAB gives no weight to the conclusion of value estimated in the appraisal, but will review the comparables sales.

The sales within the appraisal occurred between June 2003 and February 2006. The PTAB finds that sale #2 receives diminished weight because it is dissimilar to the subject in size.

The board of review provided information on six sales. The PTAB finds sales #3, #4 and #5 are dissimilar to the subject in design and will receive diminished weight because of this. These properties are three-story buildings or contain two buildings on the property.

The remaining comparables from each party sold from June 2003 to December 2007 for prices ranging from $6.28 to $34.14 per square foot of building area, including land. The subject's assessment reflects a market value of $9.20 per square foot of building area which is supported by these sales.

The PTAB takes notice of the 2006 decision that was consolidated with this appeal for hearing purposes, 2006-29185. As in that appeal, the PTAB gives no weight to the sales of the subject property that occurred in 2007 and 2008 for $7,900,000. As to the 2007 sale, the PTAB finds this sale was between related parties. The appellant in 2006, Yianni Caparos, sold the property to 3700 South Kedzie LLC in 2007. The warranty deed from the 2008 sale indicates that Yianni Caparos is a member of 3700 South Kedzie LLC. As to the 2008 sale, the PTAB finds the information contained in the PTAX-203 and PTAX-203 A disclosed the sale did not have the elements of an arm's length transaction. The information disclosed the property was not advertised for sale. In addition, the evidence shows the property was under a long term lease and 100% occupied by the tenant indicating the sale was a leased fee transfer. Therefore, the PTAB finds the sale was not indicative of a market unencumbered fee simple ownership of the subject property.

Based on this analysis, the PTAB finds that a change in the subject's assessment 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.

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: July 22, 2011

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.