



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

APPELLANT: 4900 Limited Partnership
DOCKET NO.: 07-27463.001-C-1 through 07-27463.002-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are 4900 Limited Partnership, the appellant(s), 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 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
07-27463.001-C-1	10-20-102-003-0000	55,176	181,871	\$237,047
07-27463.002-C-1	10-20-102-019-0000	38,146	1,929	\$40,075

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 22,326 square feet of land that is improved with a 28 year old, masonry, commercial fast food restaurant with 3,392 square feet of building area. The subject contains two baths and a drive-thru window. The appellant, via counsel, argued that the subject's market value was not accurately reflected in its assessment.

In support of the market value argument, the appellant submitted an appraisal undertaken by Robert S. Kang and Mitchell J. Perlow of Property Valuation Services, LLC. The report states that Mr. Kang and Mr. Perlow are both licensed as State of Illinois Certified General Real Estate Appraisers. The appraisers stated that the subject had an estimated market value of \$610,000 as of January 1, 2007. The appraisal report utilized the cost approach to value, the income approach to value, and the sales comparison approach to value to estimate the market value for the subject property. The appraisal states that Mr. Kang personally inspected the subject, and that the subject's highest and best use as improved is its current use.

Under the cost approach to value, the appraisers estimated the subject's land value to be \$355,000 based on five recent land sales near the subject that the appraisers analyzed. The

improvement's replacement cost was estimated to be \$525,760 using the Marshall Valuation Service. The appraisers then deducted 50.00% from the replacement cost new to account for depreciation of the improvement. The appraisers also found that the subject contained \$15,000 worth of site improvements. The appraisers then added the estimated land value, the value of the site improvements, and the value of the depreciated replacement cost new to arrive at a value under the cost approach to value of \$635,000, rounded.

Under the income approach to value, the appraisers analyzed the rents of five suggested comparable buildings to estimate a potential gross income of \$78,016, or \$23.00 per square foot of building area. According to the regional map on page seven of the appraisal, Comparables #1 and #2 are restaurants located in an adjacent Chicago suburb to the subject's suburban location. The terms of the leases for these two comparables were unknown, and, therefore, the appraisers were unable to disclose the time and duration of the leases. Even so, the appraisers stated that "[t]he comparable rentals are all recent and current offerings and availabilities in the market." According to the regional map, Comparable #3 is located roughly four to five suburbs away from the subject's location, and is a coffee shop. Comparable #4 is a restaurant located in Chicago, and is further away from the subject than Comparable #3. Comparable #5 is a restaurant located in Schaumburg, which is not found on the regional map. The appraisers made downward adjustments to the suggested comparables for location. Expenses were estimated to be \$18,352, and vacancy and collection losses were estimated to be 7.00%, for a net operating income of \$54,203. A capitalization rate of 9.00% was utilized to estimate a value under the income approach of \$600,000, rounded.

Under the sales comparison approach, the appraisers analyzed the sales of five suggested comparables, which are described as one-story, masonry, full service restaurants that range in age from 10 to 32 years old, and in size from 4,275 to 9,000 square feet of building area. Comparables #4 and #5 are located in suburbs that are not on the regional map. These sales comparables sold from May 2004 to November 2006 for prices ranging from \$670,000 to \$1,450,000, or from \$152.63 to \$181.25 per square foot of building area, including land. The appraisers adjusted each of the comparables for pertinent factors. However, when adjusting the location of the suggested comparables, the appraisers stated that, "*Most* of the sales are in the same or in superior general locations and require downward adjustments," (emphasis added). The appraisers also stated that, "We note that there area [*sic*] fast food restaurants that have sold in the northwest suburbs, however, these properties have as [*sic*] investment properties with long term leases." Based on the similarities and differences of the comparables when compared to the subject, the appraisers estimated a value for the subject under the sales comparison approach of \$610,000.

The appraisers gave the sales comparison approach primary consideration, and the income approach secondary consideration in valuing the subject. Thus, the appraisers concluded that the subject's appraised value was \$610,000 as of January 1, 2007. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$277,122 was disclosed. The subject's final assessment yields a fair market value of \$729,268 when the 38% assessment level for class 5-17 property under the Cook County Classification of Real Property Ordinance is applied. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for five commercial fast food restaurants located within five miles of the subject. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the assessor's office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value, and should not be construed as such. The memorandum further stated that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The suggested comparables range in age from 2 to 48 years old, and in size from 1,371 to 4,400 square feet of building area. The properties sold from October 2002 to July 2009 in an unadjusted range from \$355,000 to \$1,850,000, or from \$253.57 to \$654.50 per square foot of building area, land included. Comparables #1 and #5 were both sold as part of a portfolio divestment. The seller in Comparable #2 was unknown. The purchaser in Comparable #3 purchased the property with the intent to tear down the existing structure, but the property was purchased for more than just the land value. The printouts also indicate that no real estate brokers were used in Comparable #3. The purchaser in Comparable #4 intended to demolish the improvement and construct a bank. Furthermore, the property in Comparable #4 was not listed on the open market, as the buyer approached the seller directly. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant asserted that the comparables submitted by the board of review should not be given any weight for various reasons, all of which are discussed in the previous paragraph. A letter from Mr. Kang was also included, describing his expert opinion as to why the board of review's comparables should not be considered.

At hearing, the appellant's attorney, Herbert B. Rosenberg, reaffirmed the evidence previously submitted. Mr. Kang testified at the hearing regarding the appraisal he completed. Mr. Kang

testified that he was unable to find any fast food restaurants located near the subject that excluded business value. The Cook County Board of Review Analyst, Colin Brady, then asked Mr. Kang if he made any adjustments to the sales comparables in the appraisal because they all lacked a drive-thru window. Mr. Kang answered that he did not make any such adjustments. Mr. Rosenberg then reaffirmed the rebuttal evidence previously submitted.

After reviewing the record and considering the evidence, the 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. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code. § 1910.65(c). Having considered the evidence presented, the Board finds that a reduction is not warranted.

The Board finds that the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued because the Board does not find the appraisal persuasive. Under the sales comparison approach, the appraiser did not use any fast food restaurants, but instead used full service restaurants. Additionally, most of the comparables were significantly distant from the subject, and most were nearly double the size of the subject, with Comparable #4 being three times the subject's size. Furthermore, four of the five sales occurred between one and two years prior to January 1, 2007. Thus, the Board did not find the appraisers' primary reliance on the sales comparison approach credible.

Under the income approach, once again the appraisers did not use any fast food restaurants. This is the case even though the appraisers admitted that there were such comparables in the area when they stated that, "We note that there area [*sic*] fast food restaurants that have sold in the northwest suburbs, however, these properties have as [*sic*] investment properties with long term leases." Moreover, the rental terms for Comparables #1 and #2 were not disclosed, and Comparables #3, #4, and #5 were significantly far from the subject. Furthermore, Comparables #1 and #3 were significantly smaller than the subject, and Comparable #5 was three times the size of the subject. Thus, the Board did not find the appraiser's secondary reliance on the income approach credible.

The Board gives little weight to the board of review's comparables as the information provided was unadjusted raw sales data, and was admittedly not intended to be an estimate of value. Therefore, the Board finds that, the appellant has not proven, by a preponderance of the evidence, that the subject is overvalued, and 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

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.