



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

APPELLANT: Fojo
DOCKET NO.: 07-29034.001-C-1
PARCEL NO.: 03-25-400-018-0000

The parties of record before the Property Tax Appeal Board are Fojo, 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 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:

LAND: \$ 72,064
IMPR.: \$ 161,165
TOTAL: \$ 233,229

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 29,176 square feet of land improved with a 16-year old, one-story, masonry, commercial building used as a car wash. 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 summary report undertaken by Ronda Sandic and Gary T. Peterson. The report states that Sandic is a certified real estate appraiser, while Peterson holds the designations of certified real estate appraiser and Member of the Appraisal Institute. The appraisal indicated that the subject had an estimated market value of \$480,000 as of January 1, 2007.

The appraisal report indicated that the appraisers utilized only two of the three traditional approaches to value: the cost and income approaches to value to estimate the market value for the subject property. In addition, the appraisal stated that the market data used in this report are the best indicators for the subject property, while information supplied by others which was considered in the report came from sources deemed reliable, but that no assumption or further responsibility was made for the

data's accuracy. The appraisal states that an inspection of the subject was conducted on June 25 2008, while the date of this report was January 1, 2007.

As to the subject's history, the appraisal stated that the subject was sold on August 15, 2002 for a price of \$700,000 and then again on January 6, 2004 for a price of \$1,275,000. However, the appraisal stated that these sales were reflective of an ongoing business value in addition to the real estate value. Therefore, the appraisers opined that these sales were based on speculation of future earnings.

The subject's highest and best use as improved is its current use, while its highest and best use as vacant was for commercial development. As to the third of the traditional approaches to value, the appraisal was silent as to why the sales comparison approach was inapplicable to the subject property.

Under the cost approach, the appraisers used four land sales to estimate a value of \$265,000, rounded, for the subject's site. Then, they employed the Marshall and Swift Cost Manual relating to Class C, self-service car washes to estimate a replacement cost new for the subject of \$263,479 or \$72.11 per square foot. Accrued depreciation of 30% was deducted resulting in a depreciated building value of \$184,435. On site improvements of \$30,000 were added resulting in a value under the cost approach of \$480,000, rounded.

Under the income approach to value, the appraisal stated that the subject is a "highly specialized real estate and that they found no available rental market for car washes". Therefore, the appraisers looked at the income of the car wash as "business" income and separated the components attributable to real estate. Referring to the subject's actual operating statements for 2004 through 2006, the appraisers stabilized revenue at \$200,000, annually. Thereafter, they estimated expenses and replacement for reserves without identifying specifics. Other deductions to income included furniture, fixtures, and equipment (FFE) which were not enumerated, but nevertheless undertaken, while also estimating a rate of return on FFE at 11%. Then, the appraisers deducted for business value; however, no specific value was noted in the appraisal. A loaded capitalization rate was applied to the net operating income of \$85,353 resulting in a value under this approach of \$480,000, rounded.

The appraisers stated that the sales comparison approach was not a "germane indication of market value as a result of insufficient information available to the appraisers". Thus, the appraisers accorded primary weight to the income approach to value concluding that the subject's appraised value was \$480,000 as of January 1, 2007.

Further, the appellant's attorney submitted a brief wherein the lawyer reconstructed an operating statement for the subject

property using actual data. 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 \$233,229 was disclosed. This assessment yields a market value of \$613,760 when the Cook County Classification Ordinance level of assessment for commercial property of 38% is applied.

In support of the subject's assessment, the board of review submitted printouts of raw sales data relating to 10 properties identified as retail/car wash locations. The improvements are one-story, masonry, commercial buildings that ranged in size from 2,900 to 6,000 square feet of building area and in age from 9 to 67 years. They sold from June, 2002, through June, 2008, for prices that ranged from \$116.67 to \$331.44 per square foot.

As to the subject property, the board's memorandum analyzes the subject's 2002 and 2003 sales. As to the 2002 sale, the board opines that the subject's sale in August, 2002, for \$700,000 or \$151.58 per square foot is reflective of market value. In support, the board submitted copies of the warranty deed and CoStar Comps printouts relating to this sale. The deed reflects transfer tax stamps relating to a real estate value of \$700,000 disputing the assertion of the appellant's appraisers that this sale price included an on-going concern, personalty and FFE. Further, the CoStar Comps printouts reflect an actual sale price in 2002 of \$1,100,000 wherein the listing real estate broker indicated that the difference in prices relates to personal property and business value.

As to the subject's 2003 sale, the board submitted copies of the subject's warranty deed and CoStar Comps printouts relating to the subject's December, 2003, sale for \$705,000 or \$152.66 per square foot. The board asserted that the warranty deed reflects transfer tax stamps relating to the real estate value of \$705,000, while the CoStar Comps printouts reflect a total sale price of \$1,275,000. The board argues that the later price included business value and personalty, while \$705,000 relates solely to the real estate value. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the arguments and considering the evidence, the Property Tax Appeal Board (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's argument that the subject's assessment is excessive when applying an income analysis based upon the subject's actual income and expenses unconvincing and not supported by the evidence in the record.

In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill2d 428 (1970), the court stated:

It is the value of the "tract or lot of real property" property which is assessed, rather than the value of the interest presently held. . .[R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . .[E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property, which accurately reflects its true earning capacity; but it is the capacity for earning income rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Id.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant failed to proffer any market data to demonstrate that the subject's actual data was reflective of the market, including: market rent, vacancy and collection losses, expenses, and capitalization rates to convert the net income into an estimate of market value. Therefore, the Board finds this argument unpersuasive.

Further, the Board gives little weight to the appellant's appraisal. This appraisal did not include any market sales or justify why sales were not included within the analysis. The court has held that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law." Cook Cnty. Bd. of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3d 472 at 484 (1st Dist. 2008). The Illinois Appellate Court recently revisited this issue in Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" case). In Sears, the court stated that, while the use of only one valuation method in an appraisal is not inadequate as a matter of law, the

evidence must support such a practice and the appraiser must explain why the excluded valuation methods were not used in the appraisal for the Board to use such an appraisal. Id. at ¶ 29.

In this case, the appraisal provided no plausible reasons for excluding these valuation methods, and the evidence does not show that their exclusion is standard practice when appraising property that is similar to the subject, most especially because the board of review located 10 sale comparables for the subject property. Moreover, the appellant's appraisers were not called to provide testimony regarding the exclusion of such market sales. Therefore, the Board finds that reliance on the appellant's appraisal would be deficient as a matter of law, and, thus, no reduction is warranted based on the appellant's market value argument.

Assuming arguendo, that the appellant's appraisal was not deficient as a matter of law, the Board finds that the appellant's appraisal is accorded little weight. The appellant's appraisers assert that market data used in the report are the best indicators for the subject; however, minimal market data was employed and relied upon by these appraisers. The appraisers accorded primary weight to the income approach to value, but assert that there is no rental data to be used and; therefore, employ actual income and expense data from the subject property in developing this approach to value. Moreover, in the income approach, the appraisers failed to provide any details regarding expenses as well as other deductions and; nevertheless, accord this approach primary weight. These contradictions and omissions further diminish the credibility of this approach as well as the entire appraisal.

In contrast, the parties both made reference to the subject's sales in 2002 and 2003. The Board finds the board of review's argument that these sales are reflective of the real estate's market value as persuasive. The board of review submitted documentation to support that the subject's real estate value of \$700,000 in 2002 and \$705,000 in December, 2003, reflected an upward trend, while the assertion of the appellant's appraisers that these sales included business value is unsupported and rebutted by the board of review's evidence submissions. These sales of the subject indicate a market value ranging from \$151.58 to \$152.66 per square foot, while the subject's current market value reflects \$132.91 per square foot. In comparison, the board of review's 10 sale comparables indicate a range of market value for car washes from \$116.67 to \$331.44 per square foot. Thereby, the subject's market value is located at the low end of the range established by the market data submitted by the board of review.

Therefore, the Board finds that the appellant has not met the burden of proof and that no reduction is warranted to the subject property.

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

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 21, 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.