FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: National City Bank f/k/a MidAmerica Bank
DOCKET NO.: 08-00418.001-C-2
PARCEL NO.: 07-01-33-476-062-0000

The parties of record before the Property Tax Appeal Board are MidAmerica Bank National City Bank, the appellant, by attorney Kevin P. Burke, of Smith Hemmesch Burke Brannigan & Guerin in Chicago; the Will County Board of Review; and Plainfield CCSD 202, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C. in Chicago.

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 **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$92,135
IMPR.:	$261,871
TOTAL:	$354,006

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 39,152 square foot parcel improved with a five year-old, one-story, masonry-constructed financial institution containing 5,065 square feet of building area. Features of the subject include a 990 square foot canopy covering four drive-up lanes.

Through its attorney, the appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property prepared by James O. Hamilton, MAI, a certified general real estate appraiser. The appraiser used all three traditional approaches to value in estimating the subject's market value at $1,065,000, as of the report's effective date of January 1, 2008. Hamilton was present at the hearing to provide testimony regarding his report and was subject to cross-examination. Hamilton testified he has over 40 years experience as an appraiser, has testified before the Property Tax

Appeal Board 20 to 25 times as an expert witness and has appraised 75 to 100 banking facilities.

When questioned by appellant's counsel, the witness testified he typically "looks at standard office buildings. I also try to find sales of banks if they were sold to a non-bank user." Hamilton described the principal of substitution, which holds "that no reasonable person is going to pay more than they can acquire another property for." The appraiser acknowledged looking at sales of banks, but opined that when banks sell to other banks, the buyers are purchasing not just the real estate, but also "customer list, they're getting a deposit base, they're getting a fully trained staff ready to go, they're getting immediate market presence in the area that they want, and they're getting all the personal property, which includes the vault door, the security systems, the work stations, the cabinetry, and the computers. You're getting an awful, awful lot more than just the real estate." When asked if he was aware of banks which sold to non-bank buyers, Hamilton responded his comparable #3, located in St. Charles, Illinois, was listed for $2,800,000, or $494 per square foot, but after a year and a half, the facility sold for $265 per square foot. The witness also testified sample appraisal reports available in the industry use "standard office buildings and small retail buildings" in comparable sales analyses, as well as in income approaches. The appellant cited a prior Property Tax Appeal Board ruling on docket number 03-01343.001-C-2, wherein the Board granted a reduction in an assessment on a Kane County bank property appeal based on the appellant's appraiser (Hamilton) using non-bank comparables in his sales comparison approach.

In the cost approach, Hamilton examined six land sales located in Naperville, Plainfield and Romeoville, Illinois. The appraiser discarded one sale as being below the range of the other comparables. The land comparables were zoned commercial, range in size from 44,867 to 200,376 square feet and five sold between April 2005 and June 2007 for prices ranging from $369,632 to $2,333,063 or from $6.97 to $11.71 per square foot of land area. The appraiser adjusted the land sales for property rights conveyed, financing terms, conditions of sale, market conditions, location and physical characteristics. After making adjustments, Hamilton estimated a value for the subject's land at $9.50 per square foot, or $372,000 rounded.

In estimating the subject building's reproduction cost, Hamilton consulted the Marshall & Swift Commercial Estimator Program 7.0. He determined the subject was a class C average bank building of masonry construction. The replacement cost new was $1,005,085 for the building, drive-up canopy and paving. Hamilton then subtracted 10% physical deterioration, or $100,508, and 15% for functional obsolescence, or $150,763. After adding back the land value estimate, the appraiser estimated the subject's value by the cost approach at $1,125,000, rounded.

Hamilton next testified regarding his income approach. He utilized six rental comparables in the subject's immediate area that range in size from 4,068 to 56,000 square feet of building area and were 2 to 11 years old. Four comparables were net rents between $16.50 and $23 per square foot, while two were gross rents of $19.75 and $26.50 per square foot. He adjusted the comparables for location, size and condition, noting that these were asking rents, not actual rents. Based on these comparables, Hamilton selected a rental rate for the subject of $23.00 per square foot. He then examined expenses, although he testified there are fewer expenses on a net rent basis. The witness testified he used a total vacancy rate of 10.00%, management expense of 4.00% of effective gross income, 1.00% for miscellaneous, $0.25 per square foot for reserves for replacement, and insurance during vacancy of $177.00. Hamilton then developed a partial tax load factor of 0.023, composed of an assessment ratio of 33%, an equalization factor of 1.000 and a tax rate of 6.9220%. The appraiser then constructed an operating statement that used a gross annual income of $116,495, less vacancy and collection loss of $11,650 and expenses of $6,685, resulting in net operating income (NOI) of $98,160. Hamilton next consulted the Korpacz Investor Survey for the fourth quarter of 2007, finding yields ranged from 4.5% to 9.5%. Because he considered the subject "an older building in a marginal location," he determined the risk factor called for a capitalization rate for the subject of 9.00%. After adding the tax load factor of 0.23%, Hamilton capitalized the subject's NOI of $98,160 to derive a value for the subject by the income approach at $1,065,000.

In the sales comparison approach, Hamilton examined seven comparable sales that range in age from new to 8 years and range in size from 2,225 to 8,945 square feet of building area. These properties were located in Naperville, St. Charles, Burr Ridge, Bolingbrook and Plainfield, Illinois, and sold between December 2006 and July 2008 for prices ranging from $433,875 to $2,050,000 or from $181.79 to $265.01 per square feet of building area including land. Comparable #3 was a former bank facility sold to a non-bank buyer, while the remaining comparables were office buildings. In his report, the appraiser stated "The real estate component of a bank is basically an office building." The appraiser adjusted the comparables for location, size, physical characteristics, land-to-building ratio, age and drive up teller lanes in the case of comparable #3. The appraiser testified comparable #3 was a formerly operational bank which ultimately sold to a jewelry store operator for $1,500,000, after having been on the market for over a year and a half with an original asking price of $2.8 million. After adjustments, the comparables had adjusted sales prices ranging from $190.00 to $272.72 per square foot of building area including land. Based on this analysis, the appraiser estimated a value for the subject by the sales comparison approach of $210.00 per square foot including land or $1,065,000.

In his reconciliation, the appraiser placed most reliance on the sales comparison approach. He gave minimal consideration to the income approach "because commercial properties such as small offices are often held as investments." Finally, Hamilton gave less weight to the cost approach due to the difficulty of accurately estimating depreciation.

The appellant's attorney then directed the witness to comment on the bank sales submitted by the township assessor for the board of review. At this point, counsel for the intervenor objected, citing Section 1910.66 of the official rules of the Property Tax Appeal Board, which states: "Rebuttal evidence shall consist of written or documentary evidence submitted to explain, repel, counteract, or disprove facts given in evidence by an adverse party and must tend to explain or contradict or disprove evidence offered by an adverse party. Rebuttal evidence shall include a written factual critique." Intervenor's counsel stated that nothing in writing had been submitted into the record by appraiser Hamilton. The Board hereby sustains the intervenor's objection.

In cross-examination, the board of review's representative questioned Hamilton at length regarding his choice of land sales and the cost manual used in the cost approach, his choice of non-bank comparables, with one exception, in his sales comparison approach, and the capitalization rate in his income approach. The representative then questioned the appraiser regarding vehicular traffic count figures for the comparables Hamilton used in his report. Intervenor's counsel then questioned the appraiser regarding his comparables.

In redirect examination, the appellant's attorney questioned Hamilton regarding adjustments to his rental comparables.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $556,427 was disclosed. The subject has an estimated market value of approximately $1,673,968 or $330.50 per square foot of building area including land, as reflected by its assessment and the Will County 2008 three-year median level of assessments of 33.24%.

In support of the subject's assessment, the board of review submitted the subject's property record card and a list of ten sales of bank properties prepared by the Wheatland Township Assessor Kelli Lord. The comparables were described as ranging in age from 1 to 6 years and in size from 4,149 to 8,800 square feet of building area. The comparables were situated on lots ranging in size from 36,002 to 80,586 square feet of land area and have land-to-building ratios ranging from 6.72 to 17.56. These properties sold between June 2004 and July 2007 for prices ranging from $2,281,731 to $5,423,077 or from $415.15 to $968.41 per square foot of building area including land. No other information about the comparables was submitted.

Intervenor's counsel then questioned the board of review's representative regarding his inspection of the comparables contained in the appellant's appraisal. The representative testified he analyzed Illinois Department of Transportation (IDOT) data on traffic flow and counts for areas around the appellant's appraisal comparables to demonstrate the comparables were in less desirable areas than the subject. At this point, the appellant's attorney objected to the IDOT data and the board of review's representative's testimony about the data. The appellant's attorney claimed the IDOT data is hearsay, as the board of review's representative did not prepare the data and it was not timely submitted as part of the board's evidentiary response to the appellant's petition. The Property Tax Appeal Board hereby sustains the appellant's objection and will not consider the IDOT data or the board of review's representative's testimony about it. However, the Board will allow the representative's testimony as to what he personally observed about the appellant's comparables. The representative testified regarding the makeup of the various comparables' neighborhoods, including such factors as proximity of industrial property, traffic visibility, retail, residential areas, and the like.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject property's assessment is warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved 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). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellant submitted a self-contained narrative appraisal using the three traditional approaches in estimating the subject's value at $1,065,000, while the board of review submitted a list of ten bank sales with limited information. The Board finds appellant's appraiser Hamilton was present at the hearing, provided detailed testimony regarding his report and was subject to extensive cross-examination by the board of review and the intervenor. The Board finds Hamilton appraised 75 to 100 banks in his 40 years' experience and that he testified he routinely used office buildings in his sales comparison approach because he sees his duty to value the real estate, not the bank as a going concern. The Board takes official notice of its ruling in docket number 03-01343.001-C-2, wherein a reduction was granted in that bank property's assessment based on the appraisal and testimony of Hamilton. In the instant appeal, the Board gave less weight to the board of review's list of ten bank sales, since no supporting documentation or testimony was offered to supplement these sales.

Therefore, the Property Tax Appeal Board finds the best evidence of the subject's market value in this record is found in the appraisal submitted by the appellant. Since market value has been established, the 2008 Will County three-year median level of assessments of 33.24% shall apply.

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

Acting 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: November 18, 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.