



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

APPELLANT: AutoZone, Inc.
DOCKET NO.: 08-02385.001-C-2 through 08-02385.002-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are AutoZone, Inc., the appellant, by attorneys James P. Regan and Jack E. Boehm, Jr. of Fisk Kart Katz and Regan, Ltd. Chicago, Illinois; the Kane County Board of Review; and School District U-46, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C., Chicago, Illinois.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
08-02385.001-C-2	06-15-129-019	112,556	162,085	\$274,641
08-02385.002-C-2	06-15-129-020	47,245	0	\$47,245

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two adjacent parcels containing a combined land area of 53,272 square feet or 1.22 acres. The property is improved with a one-story commercial building with 5,409 square feet of building area on a concrete slab foundation. The subject building is fully sprinklered, has central air conditioning and two bathrooms. The building was built in 2000 and has a brick exterior construction. The subject property is used as an automobile supply outlet. The subject property has a land to building ratio of 9.85:1. The property is located in Elgin, Elgin Township, Kane County.

The appellant appeared by counsel before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal of the subject property prepared by John Stephen O'Dwyer and David Huffman of JSO Valuation Group, Ltd. The appraisers estimated the subject property had a market value of \$490,000 as of January 1, 2008. The appraisal was marked as Appellant's Exhibit #1.

The appellant called as its witness John Stephen O'Dwyer. O'Dwyer is the president of JSO Valuation Group, which is an appraisal firm. The witness has the Member of the Appraisal Institute (MAI) designation from the Appraisal Institute and the Member of the Royal Institute of Chartered Surveyors (RICS) designation from Great Britain for international appraisals he might develop. The witness also has the Certified General Appraiser license with the State of Illinois. O'Dwyer testified that he has appraised thousands of commercial buildings in general and has been in the appraisal business since 1984.

The report indicated the property rights appraised were the fee simple interest which is described as "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat. (Appellant's Ex. #1, p. 5.) At the hearing O'Dwyer testified he estimated the market value of the fee simple interest and not the market value of the leased fee interest. The appraiser testified that custom built buildings, such as the subject constructed for Auto Zone, are built for a particular use. He explained the subject property is occupied by the owner but many are leased which tends to recapture the cost of construction plus the land value. The appraiser stated the difference between the leased fee and the fee simple is the crux of the valuation problem. As a result the expert explained that when you look at sales you need to look at sales that are not encumbered by the leases that are capturing the initial cost of construction plus land.

The appraiser described the subject building as having a very basic interior finish. On the left side of the building the subject has aisles where the customers can shop. The flooring in shopping area is tiled and the flooring behind the counter is concrete. The walls are sheetrock and painted concrete block while the ceiling is the painted exposed underside metal deck roof. The subject also has hung fluorescent lighting. The building also has a ladies and men's bathroom for the staff. Within the report the appraiser indicated the subject's design is a simple industrial type building. (Appellant's Exhibit #1, p. 21.)

O'Dwyer determined the highest and best use of the subject as improved is the existing use.

In estimating the market value of the subject property the appraiser did not develop the cost approach but did use the income approach to value and the sales comparison approach to value. The witness explained the cost approach was not used because the subject is a custom built building with super adequacies or deficiencies and depreciation is difficult and could not be proved.

With respect to the income approach to value the appraiser used five comparables to estimate market rent. The comparables were described as being composed of two free standing buildings, two

strip centers and a shopping center. The comparables ranged in size from 6,800 to 78,000 square feet of rentable building size with space available ranging in size from 5,000 to 11,400 square feet. The appraiser further indicated within the report the unit sizes ranged in size from 2,700 to 8,450 square feet. Each of the comparables was located in Elgin. The comparables had net rents ranging from \$8.00 to \$12.50 per square foot of building area. The appraiser was of the opinion the comparables were superior to the subject due to the fact they are built-out for standard commercial uses, while the subject has finish that is consistent with industrial buildings in Kane County.

The appraiser made downward adjustments to the comparables for superior condition, superior building features and listing rental rates. The appraiser estimated the subject property would have a market rent of \$11.00 per square foot of building area on a net basis resulting in a potential gross income of \$59,499. Vacancy and collection loss was estimated to be 7.5% or \$4,462 resulting in an effective gross income of \$55,037. O'Dwyer estimated expenses to be \$8,650 resulting in a net operating income of \$46,387.

The final step under the income approach was to estimate the capitalization rate to be applied to the subject's net income. In estimating the capitalization rate the appraiser examined Valuation Insights & Perspectives published by the Appraisal Institute and Korpacz Real Estate Investor Survey by Price Waterhouse Coopers, LLP. Ultimately the band of investment was used to arrive at a capitalization rate of 9.5%. Capitalizing the net income resulted in an indicated value under the income approach of \$488,279 or \$490,000, rounded.

The final approach to value developed by O'Dwyer was the sales comparison approach in which he used four comparable sales located in Elgin and West Dundee. The comparables were improved with three, one-story commercial buildings and one part one-story and part two-story commercial building. The buildings ranged in size from 1,802 to 16,200 square feet of building area. The report indicated comparable #3 was built in 1997 and comparable #4 was built in 1957. The appraiser did not disclose the ages of comparable sales #1 and #2. These properties had sites ranging in size from 5,865 to 75,359 square feet of land area resulting in land to building ratios ranging from 2.50:1 to 7.01:1. The photographs of the comparable sales contained in the appraisal depict buildings not particularly physically similar to the subject in style, construction and condition. The sales occurred from September 2007 to November 2008 for prices ranging from \$144,000 to \$1,315,000 or from \$79.91 to \$122.89 per square foot of building area, including land. The appraiser made adjustments to the comparables for building size, age and condition, land to building ratio and for miscellaneous factors to account of odd features of the subject or the comparables. Based on these considerations the appraiser estimated the subject property had an indicated value under the sales comparison approach of \$90.00 per square foot of building area or \$490,000, including land,

rounded. The appraiser was of the opinion these sales had a similar highest and best use as the subject.

In reconciling the income approach to value and the sales comparison approach to value, O'Dwyer gave most consideration to the sales comparison approach and estimated the subject property had a market value of \$490,000 as of January 1, 2008. The appraiser indicated within the appraisal that the income approach was limited due to the fact that market information was limited.

Under cross-examination the appraiser indicated there was a significant positive adjustment for age for comparable sale #1. With respect to comparable sale #2 the appraiser was questioned about whether his associate who drove by this property noted a different use on the second floor. O'Dwyer was of the opinion that even if sale #2 was a mixed use property he would have still considered it comparable to the subject property. The witness also testified that the sales he used were "ugly." With respect to his comparable sale #4, the appraiser indicated this property was similar to the subject due to industrial type build-out. The witness was of the opinion the subject was an industrial type building once you strip away the name, the cash registers and the paraphernalia associated with selling aftermarket auto products. He testified, however, the subject does not have a loading dock and has no overhead door. O'Dwyer did not know who was the most recent occupant of comparable sale #4 and further stated he did not look at this building, his associate did.

O'Dwyer indicated under his signature on page 8 of the letter of transmittal attached to the appraisal that he inspected the subject property; however, on page 52 of the report under his signature he indicates he did not inspect the property. He testified there was a typo on page 52. O'Dwyer also testified his associate, David Huffman, was a trainee at the time the appraisal was prepared.

The witness was questioned about his statements within the appraisal describing the subject as being improved with a simple, industrial type building. He also agreed that on page 3 of the letter of transmittal he stated a major error would be to try and compare the subject to a standard retail free-standing unit. O'Dwyer agreed his rental comparables #1 and #5 are free standing retail buildings. He also agreed that on page 39 of his report he again asserted that it would be a major error to try and compare the subject property to a standard retail free-standing unit within the township.

O'Dwyer also indicated his comparable sale #1 is at least 40 years older than the subject building. He also agreed his sale #1 is a freestanding building with a retail application.

O'Dwyer was also not aware that his comparable sale #2 had a significant residential component and a restaurant or deli. The photograph of this comparable has signage that states restaurant.

O'Dwyer agreed this building was freestanding and the restaurant/bakery would be akin to retail.

The witness testified a staff person inspected comparable sale #3 and agreed this is a freestanding building that is partially retail. The appraiser was not aware of another sale of this property. He agreed that CoStar service is a source that the appraisers use in the appraisal profession.

With respect to comparable sale #4, O'Dwyer did not know if this property was advertised for sale. He also testified he did not look at the transfer declaration on this property. The witness was shown Intervenor's Exhibit #3, the Illinois Real Estate Transfer Declaration, PTAX-203, associated with sale #4, which indicated the property was not advertised for sale. O'Dwyer also identified Intervenor's Exhibit #4 as the CoStar report for sale #4. This exhibit stated there was no buyer broker or listing broker on the deal. O'Dwyer also agreed this was a freestanding building that was part retail and part industrial. Intervenor's Exhibit #4 described the building as storefront retail/office.

The witness agreed that he stated within the report the subject resembles an industrial building but each of the comparable sales he used were described as freestanding commercial buildings.

On redirect examination O'Dwyer explained that what he meant by the statements within his appraisal that auto supply stores rarely sell or lease was that these are custom built aftermarket auto stores that as a general rule are built by contractors and then leased to the aftermarket auto supplier. Subsequently the lease is sold as an instrument to another company. He testified if you use these lease sales you are not appraising the fee simple interest.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$321,886 was disclose. The subject's assessment reflects a market value of \$967,496 or \$178.87 per square foot of building area, including land, when applying the 2008 three year average median level of assessments for Kane County of 33.27%.

In support of the assessment the board of review submitted information on two sales. The board of review representative acknowledged one of the sales was probably leased at the time of sale. The first comparable located at 435 N. McLean Blvd., South Elgin, further identified by property index number (PIN) 06-34-129-011, was improved with a one-story commercial building with 6,889 square feet of building area. This building was built in 2006 and was occupied by Advanced Auto Parts. The property had a 1.23 acre site. This property sold in May 2007 for a price of \$2,428,571 or \$352.53 per square foot of building area, including land. The second comparable located at 275 N. Grove Ave., Elgin, further identified by PIN 06-14-234-011, was improved with a one-story commercial building with 2,680 square feet of building area. This building was built in 1976 and had a 13,364 square

foot site. This property sold in March 2007 for a price of \$650,000 or \$242.54 per square foot of building area, including land. Based on this evidence the board of review requested confirmation of the subject's assessment.

The intervenor submitted information on six sales using information that was obtained from Appraisal Associates according to the intervenor's counsel. The comparables were improved with one-story commercial buildings that ranged in size from 2,505 to 11,654 square feet of building area. The comparables were located in Elgin, Schaumburg, East Dundee and St. Charles and were constructed from 1990 to 2008. These properties had land to building ratios ranging from 3.25:1 to 34.24:1. The sales occurred from May 2007 to October 2008 for prices ranging from \$1,075,000 to \$3,500,000 or from \$266.54 to \$518.96 per square foot of building area, including land.

At the hearing the appellant objected to the intervenor's evidence contending there was no witness present to be cross-examined about the selected sales. The Board sustains the objection finding that without corroborating testimony concerning these purported sales it can give no weight to the information provided by the intervenor.

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 the appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

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). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted.

In support of the overvaluation argument the appellant relied on an appraisal prepared by O'Dwyer estimating the subject property had a market value of \$490,000 as of January 1, 2008. After reviewing the appraisal and considering testimony provided by O'Dwyer, the Board finds the conclusion of market value contained in the appraisal and propounded by the appraiser is not credible.

Both in the written report and during the hearing O'Dwyer asserted that the sales comparison approach was given primary consideration in arriving at the final estimate of value. The Board finds the comparable sales used by O'Dwyer as the basis for his final estimate of value were not similar to the subject in age, size, construction, condition or physical characteristics to

provide a meaningful data base to support his value conclusion. Furthermore, the Board finds there was a contradiction within the report and testimony which further undermines the credibility of the witness. The appraiser asserted that the subject property had the elements of a simple industrial building and that a major error would be to try and compare the subject to a standard retail freestanding unit. Nevertheless, the comparable sales selected by the appraiser were freestanding retail/commercial buildings, which appear to be at odds with the appraiser's own statements.

The Board also finds the appellant's appraiser asserted the income approach was limited due to the fact that market information was limited. Therefore, the Board gives the value estimate derived under this approach no weight.

The Board further finds troublesome the fact the subject building is only approximately 8 years old as of the assessment date at issue. Nevertheless, the appraiser opted not to develop the cost approach to value, which would be a relevant approach considering the building's age, regardless of the fact that depreciation may be difficult to estimate.

The Board further finds the board of review provided two sales that support the subject's assessment. The comparables were improved with one-story commercial buildings with 6,889 and 2,680 square feet of building area that were constructed in 2006 and 1976, respectively. The comparables sold in May 2007 and March 2007 for prices of \$2,428,571 and \$650,000 or for \$352.53 and \$242.54 per square foot of building area, including land, respectively. The subject's assessment totaling \$321,886 reflects a market value of \$967,496 or \$178.87 per square foot of building area, including land, when applying the 2008 three year average median level of assessments for Kane County of 33.27%. The subject's assessment reflects a value per square foot below the two sales provided by the board of review. Based on these sales the board finds the subject's assessment is not excessive in relation to the property's market value.

In conclusion, the Board finds a reduction in the subject's assessment is not supported by the evidence in this record.

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.



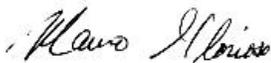
Chairman



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: May 18, 2012



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.