FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Ichor LLC
DOCKET NO.: 08-04099.001-C-1
PARCEL NO.: 01-28-227-013

The parties of record before the Property Tax Appeal Board are Ichor LLC, the appellant, by attorney Daniel J. Kramer in Yorkville, and the Kendall 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 **Kendall** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$45,000
IMPR.:	$153,910
TOTAL:	$198,910

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 37,839 square foot parcel improved with a 40 year-old, one-story brick commercial building presently used as a dental office. The subject contains 7,053 square feet of building area and has central air conditioning, as well as a 1,110 square foot canopy. The subject is located in Plano, Little Rock Township, Kendall County.

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, wherein the appraiser used all three of the traditional approaches in estimating the subject's market value at $425,000 as of January 1, 2008. The appraiser was not present at the hearing to provide testimony or be cross-examined as to the methodologies employed, comparables selected, or other pertinent matters.

In the cost approach, the appraiser estimated the subject's site value at $200,000 and utilized the Marshall Valuation Service Calculator Cost Form to estimate the subject's replacement cost at $753,553, based on a building size of 6,372 square feet.[1] From this figure, the appraiser subtracted estimated depreciation from all sources of $339,100, resulting in a depreciated cost of $414,454. To this, the appraiser added $40,000 for site improvements and, after adding back the site value, concluded a value for the subject by the cost approach at $654,454.

In the income approach, the appraiser estimated a gross income for the subject of $52,200, from which vacancy and collection loss of 15% or $7,830, was subtracted, resulting in an effective gross income of $44,370. The appraiser then subtracted total expenses, including real estate taxes, of $14,654, generating a net operating income of $29,716. The appraiser determined an overall capitalization rate of 7% was appropriate for the subject, indicating a value for the subject by the income approach at $424,517.

In the sales comparison approach, the appraiser analyzed two comparable sales. Comparable #1 was described as "(A)n older, one-story brick and concrete structure with full basement, currently used as a (sic) retail carpet sales." The comparable has approximately 6,560 square feet of building area and sold in August 2007 for $260,000 or $39.63 per square foot of building area including land. Comparable sale #2 was described as (A) two-story masonry constructed building of approximately 5,500 square feet, located in neighboring Sandwich." This property sold in August 2006 for $345,000 or $59.09 per square foot of building area including land. The appraiser did not report the ages of either comparable. The appraiser adjusted the comparables for differences when compared to the subject, such as for basement, not being free-standing, not having off-street parking and building size. No dollar value or percentage adjustments were specified by the appraiser. Based on this analysis, the appraiser applied a value of $66.70 per square foot to the subject's 6,372 square feet, resulting in an estimated value by the sales comparison approach at $425,000.

In her summary, the appraiser gave equal weight to the income and sales comparison approaches. Based on this evidence the appellant requested the subject's total assessment be reduced to $141,166, reflecting a market value of approximately $423,500.

During the hearing, the appellant's attorney asserted that the subject's November 2007 sale for $749,000 included an allocation for personal property. However, no support for this claim was submitted into the record.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $198,910 was disclosed. The subject has an estimated market value of approximately $605,326, or $85.83 per square foot of building area including land, as reflected by its assessment and the

[1] The appraiser submitted no blueprint or floor plan sketch with measurements to support this building area estimate.

Kendall County 2008 three-year median level of assessments of 32.86%.[2]

In support of the subject's assessment, the board of review submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration documenting the subject's November 2007 sale for $749,000, property record cards, a grid analysis of three comparable improved properties and a grid analysis of three land sales. The transfer declaration indicated the subject was advertised for sale.

The board of review's comparable sales consist of one-story brick, free-standing office buildings ranging in size from 3,192 to 8,445 square feet of building area that are situated on lots ranging in size from 22,054 to 37,762 square feet of land area. All three comparables have central air conditioning and two have full finished basements. The comparables sold between January 2005 and January 2007 for prices ranging from $625,000 to $1,100,000 or from $130.25 to $195.80 per square foot of building area including land.

The board of review's land comparables were located within one mile of the subject, contain from 40,976 to 154,638 square feet and sold between May 2006 and January 2007 for prices ranging from $405,000 to $1,700,000 or from $9.88 to $10.99 per square foot of land area. Based on this evidence, the board of review requested the subject's assessment be confirmed.

During the hearing, the board of review first called Little Rock Township assessor Marie Bracken as a witness. Bracken testified she had 35 years experience as an assessor. The witness acknowledged the board of review's comparables were located 5 to 16 miles from the subject but were similar to it in design and use. Bracken testified the appellant's two appraisal comparables were built in the late 1,800's or early 1,900's and were inferior to the subject in quality and were used for retail purposes rather than as free-standing offices like the subject. Regarding the appellant's appraisal's income approach, Bracken testified that by using the appraiser's gross income, she determined the subject's market value by the income approach at $558,000, rather than $424,516 as claimed by the appraiser.

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 Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant contends overvaluation as the basis of the appeal. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331

[2] The board of review's evidence included a floor plan of the subject with measurements depicting 7,058 square feet of building area.

Ill.App.3d 1038 (3rd Dist. 2002). After analyzing the market evidence submitted, the Board finds the appellant has failed to meet this burden.

The Board finds the appellant submitted an appraisal of the subject property, wherein the appraiser, who was not present at the hearing to provide testimony or be cross-examined, estimated the subject's market value at $425,000. Since the appraiser was not present, the Board gave no weight to the appraiser's market value estimate, but will consider the two comparable sales within the report. The board of review submitted three comparable sales and three vacant land sales in support of the subject's assessment.

The Board gave little weight to the two comparable sales in the appellant's appraisal because they differed in design and use and were significantly older than the subject. The Board also gave little weight to the appraiser's income approach because scant support for the overall rate was provided in the appraisal. Further, the appraiser included real estate taxes as an expense item in the calculation of net operating income. The Board finds a handbook for assessing officials entitled Property Assessment Valuation specifies that property taxes should be addressed through inclusion of an effective tax rate as a component of the overall capitalization rate.

> "When the income approach is used to determine the property value for tax purposes, the practice of using property taxes as an expense item is based on a preconceived value and discredits the whole approach. Since taxes are often the largest single expense, this practice leaves the final value conclusion subject to considerable error. The problem can be resolved by developing an effective tax rate and by including the rate in the capitalization rate for the property under appraisal." (International Association of Assessing Officers, Chicago, 1977.)

The Board also finds Bracken testified that even when using the appellant's appraiser's gross income figure, the subject's market value would be $558,000, not $424,516 as determined by the appraiser. Therefore, the Board finds the appellant's appraisal's income approach is flawed and cannot be relied on to provide a reliable indicator of the subject's market value. The Board also gave little weight to the appraisal's cost approach because of the subjective nature of calculating depreciation.

The Board finds the comparable sales submitted by the board of review were similar to the subject in design, exterior construction and use, and were free-standing buildings like the subject. The board of review also submitted a copy of the PTAX-203, Illinois Real Estate Transfer Declaration, which documents the subject's November 2007 sale for $749,000. This record is devoid of any evidence that this sale was not an arm's-length transaction. While the appellant argued the sale included an allowance for personal property, no supporting evidence for this claim was submitted. The transfer declaration indicated the subject was advertised for sale and that the parties to the sale were not related. The Board finds the Illinois Supreme Court defined fair cash value as what property would bring at a voluntary sale where the owner is ready, willing and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428, (1970). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967), and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945). Based on this analysis, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment of $605,326 is significantly less than the subject's November 2007 sale price.

In conclusion, the Board finds the appellant has failed to prove overvaluation by a preponderance of the evidence and the subject's assessment as determined by the board of review is correct and no reduction is 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.

Donald R. Crist

Chairman

K. L. Fern

Member

Frederick Gough

Member

Mauro Glorioso

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 22, 2012

Eileen 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.