FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Hoefferle-Butler Engineering Inc
DOCKET NO.: 08-22102.001-C-1
PARCEL NO.: 23-02-207-022-0000

The parties of record before the Property Tax Appeal Board are Hoefferle-Butler Engineering Inc, the appellant, by attorney Donald T. Rubin, of Rubin & Norris 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:	$ 37,005
IMPR.:	$ 40,271
TOTAL:	$ 77,276

Subject only to the State multiplier as applicable.

ANALYSIS

The subject is situated on a 14,450 square foot parcel of land that is improved with a 40 year old, one-story, frame and masonry, commercial office building. The subject's improvement size is 2,480 square feet of building area and its total assessment is $77,276. This assessment yields a fair market value of $203,358, or $82.00 per square foot of building area (including land), after applying the 38% assessment level for commercial properties under the 2008 Cook County Classification of Real Property Ordinance. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted a commercial appraisal report for the subject property with an effective date of January 1, 2008. The appraiser estimated a fair market value for the subject of $170,000 based on the income and sales comparison approaches to value. The appraiser also conducted an inspection of the subject. Based on this evidence, the appellant requested a reduction in the subject's assessment.

Under the income approach to value the appraiser estimated net operating income at $29,760, or $12.00 per square foot gross, yet

contradicted himself in stating the market rental was $12.00 per square foot net (page 28 of the appraisal). It should be noted that the five rental comparables (including one that appears to be vacant, or "for rent") offered by the appraiser ranged from $15.50 to $19.00 per square foot on a gross basis. Additionally, the appraiser deducted 45% for vacancy and expenses, without further explanation. The band of investment technique was utilized to establish a capitalization rate of 9.50% that yielded an estimate of value under the income approach of $170,000, rounded.

Under the sales comparison approach, the appraiser analyzed the sales of four one-story or multi-level, masonry, commercial office or retail buildings located in either Oak Forest, Midlothian, Countryside or Hickory Hills. Comparable #1 is most similar to the subject in size, containing 4,560 square feet of area, while the remaining three comparables contain between 8,300 and 16,947 square feet of area. The comparables sold from September 2006 to April 2007 for prices ranging from $275,000 to $1,065,000, or from $55.00 to $71.08 per square foot of building area, including land. Comparables #1 is a dental building, comparable #3 is a bank, comparable #4 is retail/office while the use of comparable #3 is unclear. The appraiser noted that the subject is smaller in size, containing 2,480 square feet of building area, and finding similar office buildings of this size was extremely difficult. He also noted that the larger the building, the lower the unit price. The appraiser then arrived at a market value under the sales approach of $170,000, or $70.00 per square foot, including land.

In reconciling the two approaches to value, the appraiser noted that he placed the most consideration on the sales comparison approach since it is a direct reflection of the action of buyers and sellers in the marketplace, to arrive at a final estimate of value for the subject as of January 1, 2008 of $170,000.

The Cook County Board of Review submitted it "Board of Review-Notes on Appeal," wherein the subject's final assessment of $77,276 was disclosed. In support of the subject's assessment, the board of review submitted a property record card for the subject, and raw sales data for seven commercial office buildings located within six 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 Cook County 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 states 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 comparables are described as one-story, masonry, commercial office buildings. Additionally, the comparables are from 32 to

61 years old, and have from 1,600 to 3,800 square feet of building area. The comparables sold between June 2004 and December 2008 for $225,000 to $560,000. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney reviewed the appraisal details, however, the appraiser was not present at the hearing and therefore unable to testify or answer any questions regarding his methodology and adjustments. The board of review's representative argued that the income approach was flawed.

The appellant's attorney indicated that two of the board of review's comparables were medical office buildings which are typically higher in value and that several of the sales occurred in 2004 and 2005 and were not reflective of the subject's market value as of January 1, 2008.

After reviewing the record, considering the evidence, and hearing the testimony, 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 the evidence indicates a reduction is not warranted.

The appellant's appraiser was not present at the hearing to provided direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination."

This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross-examined, and in this case, as to adjustments made regarding building size and use [of property].

The income approach is questionable as to the rental income and expenses ratio applied in the appraiser's analysis, while in the sales comparison approach the appraiser states it was "difficult to find office buildings similar in size to the subject". While the board of review's comparables were unadjusted, they provided evidence that similarly sized sales do exist. Comparables #2, #4, #5 and #6 ranged in size from 2,200 to 3,800 square feet and sold in either 2007 or 2008.

Therefore, in determining the fair market value of the subject property, the Board gives little weight to the appellant's appraisal. The Board finds that because of the flawed income analysis, dissimilar sales comparables, and lack of appraiser testimony, the estimate of value for the subject property is unreliable. Accordingly, in determining the fair market value of the subject property, the Board finds that the appellant failed to submit sufficient evidence to show the subject was overvalued. As such, the Board finds that the appellant has not met its burden by a preponderance of the evidence and that the subject does not warrant a reduction based upon the market data submitted into evidence.

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: July 19, 2013

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.