FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Archer Bank
DOCKET NO.: 08-26977.002-C-1
PARCEL NO.: 24-04-329-042-0000

The parties of record before the Property Tax Appeal Board are Archer Bank, the appellant, by attorney Brian P. Liston, of Law Offices of Liston & Tsantilis, 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:	$ 57,477
IMPR.:	$ 176,082
TOTAL:	$ 233,559

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2008 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of two parcels of land. The land is improved with a one-story commercial building used as a bank branch containing 3,048 square feet of building area. The building was constructed in 2001. The subject is classified as

a class 5A, commercial property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal estimating a market value for the subject of $410,000 as of January 1, 2008. However, the appraisal estimates a value for only one of the two subject's parcels, which is disclosed on page 2 of the appraisal. The appraisal stated that the subject was inspected on May 15, 2009. The appraisal also stated that 'comparable bank buildings are rarely sold and so, it was necessary to consider some office building sales that were similar in exterior and interior build-out'. In addition, as to functional obsolescence at the subject, the appraisers indicated that there is a 'very specific build-out and therefore there is no alternate use for the building'. The appraisal developed all three traditional approaches to value, while placing primary reliance on the income approach to value.

At hearing, the appellant did not call either appraiser to testify regarding the methodology used in developing this appraisal.

The board of review's representative requested that the Board take judicial notice of its decision in docket #10-23666, wherein the Board stated that the failure of the appellant to present the appraiser as a witness causes the appraisal to be hearsay. In response to this request, the appellant's attorney asserted that the appraisal was timely submitted and competent evidence.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $233,559. The subject's assessment reflects a market value of $614,628 or $201.65 per square foot of living area, including land, when applying the level of assessment for class 5A, commercial property under the Cook County Real Property Assessment Classification Ordinance of 38%.

In support of its contention of the correct assessment, the board of review submitted raw, unadjusted sales data on five suggested comparable sales. They sold from June, 1999, to May, 2009, for prices that ranged from $94.70 to $902.02 per square foot of building area. The improvements were retail bank locations that ranged in size from 2,500 to 3,600 square feet of building area.

Moreover, the board of review's memorandum stated that the data was not intended to be an appraisal or an estimate of value and should not be construed as such. The memorandum indicated that the information provided therein had been collected from various sources that were assumed to be factual and reliable; however, it further indicated that the writer hereto had not verified the information or sources and did not warrant its accuracy.

In rebuttal, the appellant's attorney argued that the board's sales lacked comparability for: sale #3 was a ground lease; sale #4 was purchased by the tenant; and sale #5 was part of a bulk transaction as well as a sale/leaseback transaction.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). 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 *did not meet* this burden of proof and a reduction in the subject's assessment *is not* warranted.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the opposing party and the Board. 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 appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant,

and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appellant’s appraisal as hearsay with a similar position taken by the appellant regarding the absence of a witness from the board of review. Therefore, the Board finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the Board will consider the raw sales data submitted by both parties.

In totality, the parties submitted sales data on 10 suggested comparables. The Board finds appellant’s sales #3 and #5 as well as the board of review’s sale #1 the most probative in this record. These sales occurred from July, 2006, to August, 2008, for unadjusted prices ranging from $80.72 to $820.00 per square foot of building area. Moreover, the improvements were constructed from 1969 to 2008 and ranged in size from 3,500 to 9,936 square feet of building area.
In comparison, the appellant's assessment reflects a market value of $201.65 per square foot which is at the low end of the range established by the sale comparables. After considering adjustments for pertinent factors and the differences in the comparables when compared to the subject, the Board finds the subject's per square foot assessment is within the adjusted range of the comparables and that a reduction is not 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.

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: October 24, 2014

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.