FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: 1401 Dodge Partnership
DOCKET NO.: 09-00494.001-C-1
PARCEL NO.: 14-19-377-027

The parties of record before the Property Tax Appeal Board are 1401 Dodge Partnership, the appellant, by attorney Robert W. McQuellon, III, in Peoria, and the Peoria County Board of Review.

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

LAND:	$89,640
IMPR.:	$122,360
TOTAL:	$212,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story office building of masonry exterior construction containing approximately 9,240 square feet of building area. The building was constructed in 1988. The property has a site of approximately one-acre and is located in Peoria, City of Peoria Township, Peoria County.

The appellant appeared through legal counsel before the Property Tax Appeal Board contending overvaluation.[1] The appellant argued the subject property should be assessed for no more than about $200,000 in total; the appellant raised no dispute with the subject's land assessment. In support of this market value based argument, the appellant called the township assessor as a witness and also presented data gathered by along with testimony from Robert W. McQuellon, Jr.

The appellant's first witness was Max Schlafley, City of Peoria Township Assessor, who was called to explain how the subject property was valued by the assessing officials. The witness is also a State Certified General Real Estate Appraiser. Schlafley testified that all properties within the township were revalued

[1] A consolidated hearing was conducted on Docket Nos. 09-00494.001-C-1 and 10-00441.001-C-1.

in 2011.[2] Commercial properties, such as the subject, are defined by a neighborhood. Then sales within that neighborhood are analyzed and the system used for valuation is a cost approach based method which is adjusted by the market and the characteristics of the property including quality, use, the land value and also the characteristics which affect value including depreciation based on condition of the property and year built which are very important factors as with age there is increased depreciation. Also as part of the process are site visits to the properties and determinations of condition as average, good, fair or poor.

The system used by Schlafley's office involves input of all the property characteristics which generates a cost approach minus depreciation plus the land value. One method to adjust this cost approach is a neighborhood factor and Schlafley believes that there is a neighborhood factor on the area that includes the subject property so there is obsolescence by the market. The witness testified that there is also a component on individual properties allowing for the assessing officials to make individual adjustments such as additional depreciation due to condition or other factors such as functional obsolescence and/or economic obsolescence. He does not believe that such individual adjustments have been made on the subject property, but acknowledged that such adjustments have been made on individual properties because they suffer abnormal depreciation. Schlafley further opined that especially in this market some properties just never can get rented, but he further noted it can be other factors such as an excessive asking rent based on the market.

As to the overall Peoria area market for office space from about 2006 to 2010/2011, Schlafley stated the market has had more than normal vacancy although he did not know an exact number. In light of this according to the witness, there could be some adverse market conditions that would lend themselves to a finding of external obsolescence.

On cross-examination, the witness was asked if the appellant partnership has ever previously raised a vacancy argument with Schlafley to which he testified that the partnership has not come to him and he has never visited the property. The witness was aware of the property "because it originally sold at a three parcel sale -- that one of the properties right next to it had sold and is -- was fully occupied and I did observe that the -- when it sold, I can't remember the time frame that the subject property had been vacant after I think Northwestern or whatever insurance -- Liberty, Liberty Mutual was in it had vacated I believe on the sale so -- my knowledge is that it has been vacant – the other building that had sold out Pioneer Park was fully

[2] When as a follow-up question the Administrative Law Judge inquired if 2007 was also a revaluation year, the witness testified that in 2007 there was a conversion to a new system and in the process of the conversion the City of Peoria "did not adequately convert right and so we chose not to convert -- to reval -- but in 2009 we did do a reval and then we did it again in 2011 which is – I mean – which is our discretion to do."

occupied so this one had some problems with vacancy." While no evidence of vacancy has been brought by the owner to Schlafley, he is aware that "the property was for sale for $900,000 something."

On redirect examination, when Schlafley was asked if the board of review has made any adjustments on the subject property for 2009, 2010 or 2011, he testified that he knows there have been adjustments made but he did not know which years as he has not looked at the individual years to see which ones have been adjusted.

The sole market value evidence offered by the appellant in support of the petition was developed by Robert W. McQuellon Jr., a consultant for the appellant, who developed a cost analysis as a rebuttal to the assessor's property record card cost analysis.

McQuellon Jr. was next called to testify and identified his educational background, including a B.S. degree in aerospace engineering, an M.B.A., and his background, including real estate experience having a broker's license since 1973 and has been working in the tax appeal field since 1986. He further testified to some coursework from "CCIM" relating to introduction to commercial investment real estate and courses over the years in commercial/industrial appraisal, listing and selling commercial appraisal real estate, commercial site selection and business valuation classes among others. His experience includes involvement in the sale of property in Peoria from 1973 and 1985 as the commercial manager for Jim Maloof in the late 70's and worked for ReMax in the early 80's. He has also instructed real estate finance at a local college.

The witness testified that he assisted in the sale of the subject property to the investors/appellant in December 2004. The purchase transaction involved three properties, including the subject. One of the properties is adjacent to the subject and another is a Sherwin-Williams building on Pioneer Park. At that time, the total 25,000 square feet of real estate sold for about $2,125,000. When sold each building was leased and providing an income stream. The subject property became vacant in August 2008. McQuellon Jr. testified that the subject building has been vacant now for almost five years. According to the witness, besides the instant pending appeals for 2009 and 2010 before the Property Tax Appeal Board, the appellant also filed an appeal before the board of review for 2011 where the board of review recognized vacancy resulting in an assessment reduction to $212,000 issued February 14, 2012.[3]

As to the data presented, McQuellon Jr. utilized the cost approach to value in his analysis. The one-page analysis indicated that this approach was "developed in rebuttal to the

[3] The subject's parcel number as reflected in the 2011 decision differs because lot boundaries within the parking lot were modified deeding four parking spaces to the adjacent building according to McQuellon Jr.

assessor's valuation." McQuellon Jr. further wrote the physical components of the subject were obtained from public records which were assumed to be accurate. In summary, McQuellon Jr. estimated that the subject building, land and site improvements had an estimated market value of $608,000, rounded.

To arrive at this conclusion under the cost approach, McQuellon Jr. analyzed the subject under the category of a Class C masonry constructed office building using the Marshall & Swift Calculator Method. From this, McQuellon Jr. utilized a base cost of $96.45 per square foot of building area with a current multiplier of 0.99 and a local multiplier of 1.06 for a total replacement cost new of $935,223 or $101.21 per square foot of building area for the subject improvement.

Physical depreciation was next calculated at 40% based on the age/life method using an effective age of 20 years and an economic life of 50 years. Next, in testimony, McQuellon Jr. noted the big factor in the analysis of this property was a 20% economic or external obsolescence factor based on vacancy which has already been acknowledged for 2011 by the board of review. He further testified that in the 2009/2010 time period as to overall market external obsolescence, Caterpillar created over a million square feet of additional space by pulling out of "all of these leases on these properties and consolidated into some of their own facilities." For instance, one of McQuellon Jr.'s clients had 90,000 square feet for which a lease was terminated and this client advised him that city-wide the estimate was that there was a million square feet that was being vacated. The witness also noted that the owners were willing to lease the subject property for $6.00 per square foot on a gross basis. In the cost analysis, McQuellon Jr. applied depreciation of 20% for economic obsolescence for total estimated depreciation of 60% or $561,134, resulting in a depreciated value of the building of $374,089.

McQuellon Jr.'s cost approach next estimated a land value of 43,315 square feet of land area at $5.00 per square foot of $216,575. For site improvements, he reported 17,500 square feet of paving with an estimated residual value of $1.00 per square foot or $17,500. Totaling the depreciated value of the building plus the estimated land value and site improvements, McQuellon Jr. determined an estimated market value under the cost approach of $608,164.

As a final point, acknowledging that the subject property is for sale and has been listed for some time, the witness opined that for leased buildings investors in making buying decisions regarding commercial properties will examine the return on investment based on the quality and durability of the income stream. For short term leases, there would be a higher capitalization rate or with a long term lease, there would be a lower capitalization rate. If a property is vacant, McQuellon Jr. opined based on his experience that any investor would want a substantial discount to purchase the property. Even if the buyer

would be a user of the property, where the property is vacant and has been "sitting for a while," the buyer would also look for a substantial discount according to the witness.

Based on the foregoing evidence and testimony, the appellant requested a reduction in the subject's total assessment to $200,000 which reflects a market value of approximately $600,000.

On cross-examination, the board of review representative asked McQuellon Jr. if there was any "evidence" submitted of the vacancy factor via an income statement of the subject property or a tax return. Neither document was provided in this appeal. The witness was also asked for any evidence submitted of the obsolescence factor of 20% to which the witness reiterated his testimony and professional opinion of the market impacts of Caterpillar vacating leases and the witness' understanding of the marketplace of owners of leased commercial property who, in that time period, had to adjust current leases in order to retain existing tenants. The cost approach was selected to address the issue of vacancy as there were no available sales of similarly vacant properties.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $286,150 was disclosed. The subject's assessment reflects a market value of $870,021 or $94.16 per square foot of building area, including land, when applying the 2009 three year average median level of assessment for Peoria County of 32.89% as determined by the Illinois Department of Revenue. (86 Ill.Admin.Code §1910.50(c)(1)).

The board of review presented information on three comparable sales of "office" buildings improved with one-story or two-story structures of masonry exterior construction that range in size from 10,569 to 18,000 square feet of building area. At hearing, the representative, Diane Wetchler, a board of review member, indicated that each of these comparables is similar to the subject in size and use. The buildings were constructed from 1971 to 2000. These comparables sold from September 2006 to January 2010 for prices ranging from $1,150,000 to $1,400,000 or from $77.78 to $118.27 per square foot of building area, including land. She also acknowledged that the properties vary in age and she stated it was difficult to find sales in 2009 and 2010.

Wetchler further stated that the board of review does not rely upon the cost approach if there are available recent sales that are similar to the subject. According to the board of review, the sales data presented meets these criteria. Furthermore, Wetchler named several Illinois Supreme Court cases for the proposition that sales are preferred over the cost approach. Citing Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989) and Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979). Based on

this evidence, the board of review requested confirmation of the subject's assessment.

On cross examination, Wetchler was asked to outline her credentials which include a Bachelor's degree, a Master's of Science in Accounting and being a Certified Public Accountant in the State of Virginia from 1982 to 1992 and in the State of Illinois since 2010 when her license was transferred. She has been a commercial real estate controller for 25 years until 2009, which included her company building the entire Home Shopping Network complex of almost 2 million square feet. Wetchler has also been involved in real estate development and asset management for 30 years. In addition, she has passed the applicable test for the State of Illinois to be a member of the board of review.

Wetchler believes that she did not prepare the grid of sales data presented by the board of review based on the initials at the bottom of the document. She was a member of the Peoria County Board of Review at the time that the decision was made to reduce the subject's 2011 assessment. Based on board of review documentation regarding the 2011 assessment, the phrase "vacancy" was noted although Wetchler did not hear the case.

Next, the witness acknowledged that board of review sale #1 depicts the sale of a property that was operated as a health club at the time of sale, but the use is classified as "general office" on the property record card. Wetchler further testified that she does not question, but rather relies upon the county's record for the classifications of properties. As to board of review sale #2, Wetchler acknowledged this comparable sold in September 2006 for a price that is less than the subject's estimated market value on a per-square-foot basis. With regard to board of review sale #3, which was depicted on the grid as having last sold in January 2010, the witness admitted that the attached property record card for this property reflects the last transfer of ownership occurred in August 2006 for $1,050,000.

The Administrative Law Judge also asked the witness why the property record card for board of review sale #3, which depicts a printing date of March 12, 2012, would not reflect a sale that occurred in January 2010 to which the witness had no explanation.

On redirect, Wetchler testified that the reported sale of comparable #3 was "a recorded sale" because the information that is supplied on the grid analysis is gathered either from assessor's office data listing sales or Loop.net.

Next, the board of review called Schlafley for additional testimony. The witness acknowledged that the commercial property record cards do not always reflect the most recent sale transactions, but he provided no explanation why the sales would not be reflected.

In rebuttal, the appellant's counsel cited recent case law for the proposition that the cost approach may be appropriate in the absence of adequate sales comparables. Citing Board of Education of Meridian Community Unit School District v. Property Tax Appeal Board, 2011 WL 6096308 (Ill.App. 2 Dist.).

After hearing the testimony and considering the record, 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'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); 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 met this burden of proof and a reduction in the subject's assessment is warranted.

The subject's total assessment reflects an estimated fair market value of $870,021 or $94.16 per square foot of building area, including land, when applying the 2009 three year average median level of assessment for Peoria County of 32.89%.

The board of review presented three sales to support the subject's estimated market value based upon its assessment. The Board has given reduced weight to board of review sale #2 due to the age of the building being much older than the subject, the size of the building being nearly twice the size of the subject and the date of sale having occurred in September 2006 which is least proximate in time to the assessment date of January 1, 2009 of the sales presented by the board of review. As to board of review's sale #1, less weight has been given to this sale as the property appears to have been a health club at the time of its sale which is dissimilar to the subject office building particularly where there was no substantive evidence that the comparable was built out in a similar fashion to an office building. Board of review comparable #3 is more similar to the subject in size and use, although it is substantially older than the subject. The Board finds, however, that it may not rely upon the reported sale from January 2010 for $1,150,000 where the sale was not reported on the property record card, where the board of review did not provide a copy of the real estate transaction or any other documentation to establish that the sale was a valid arm's length transaction that was exposed to the market for a reasonable period of time and purchased by an unrelated party. As such, the Board has no confidence in this reported sale price and it would be inappropriate on this record to place extensive reliance upon board of review comparable #3 without the necessary corroboration of the sale transaction.

The Board finds the best and only evidence of the replacement cost new of the subject improvement is set forth in the cost analysis performed by McQuellon Jr. wherein he utilized the Marshall & Swift Calculator to determine an estimate to replace the building of $935,223. While the board of review submitted a copy of the subject's property record, there is no cost ladder depicting the subject's estimated replacement cost new as determined by the assessing officials. The Board further finds that for physical depreciation the age/life method was properly applied by McQuellon Jr. to result in 40% physical depreciation to the replacement cost new.

However, as to economic obsolescence as asserted by McQuellon Jr., the Property Tax Appeal Board finds there is no substantive support for 20% depreciation deduction and thus the calculation is found to be problematic. While McQuellon Jr. testified to the generalities of an oversupply of available office space in Peoria for the time period at issue, he did not quantify in any manner the impact of that over abundance of vacant office space on the subject property. The Property Tax Appeal Board further finds that upon questioning to justify the calculation, McQuellon Jr. provided no substantiation from market derived data, any studies or surveys to quantify the purported external obsolescence. As a result, the Property Tax Appeal Board finds that McQuellon Jr.'s inability to specify any particular methodology or articulate any specific data utilized to develop his economic obsolescence deduction, which was a key component in his determination in the cost analysis, detracts from any credibility or reliability in his final conclusion of value.

On the other hand, the record is clear that both parties believed the subject property has suffered from economic obsolescence apparently in part due to vacancy. There also was no evidence disputing the assertion that the subject has been vacant since August 2008. Moreover, the evidence revealed that the board of review reduced the subject's 2011 assessment to $212,000 which reflects a market value of approximately $636,000.

In Hoyne Savings & Loan Association v. Hare, 60 Ill.2d 84, 322 N.E.2d 833 (1974), the Illinois Supreme Court found of significance the fact that the board of review substantially reduced the assessed value of the property under appeal in the secondary subsequent assessment year (1971 to 1973). The court recognized they did not know how this subsequent reduction was achieved, but concluded McHenry County Assessment Officials acknowledged that the assessment on which the plaintiff's taxes for 1971 were based were grossly excessive in that the increase occurred on the same property with the same improvements and the assessment was based on uses not permitted by existing zoning and upon incorrect assumptions regarding water/sewer service. The Illinois Supreme Court remanded the 1972 assessment case to the Circuit Court of McHenry County with directions to ascertain the assessed valuation of the property based on the computation of the assessed valuation used for the 1973 assessment. In that regard, the court noted that consideration must be given to any

changes in the condition of the property which may have affected the assessed valuation. Thus, the Property Tax Appeal Board finds Hoyne instructive in the instant appeal where the subject's 2009 assessment is at issue, but the board of review reduced the subject's 2011 assessment to $212,000 with no evidence of changes in the condition of the subject property which may have affected its assessed valuation.

Based on the foregoing analysis and considering the record evidence, the Property Tax Appeal Board finds that the subject's current assessment of $286,150 is excessive. In conclusion, the Board finds a reduction in the subject's assessment 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.

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: August 23, 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.