



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

APPELLANT: Kathryn M. Smart
DOCKET NO.: 09-00651.001-C-2
PARCEL NO.: 13-13-101-002

The parties of record before the Property Tax Appeal Board are Kathryn M. Smart, the appellant; the Peoria County Board of Review; and the Board of Education of Peoria School Dist. #150, intervenor, by attorney Nina R. Gougis of Hodges, Loizzi, Eisenhammer, Rodick & Kohn, LLP, in Arlington Heights.

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: \$81,310
IMPR: \$400,570
TOTAL: \$481,880

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story office building of dryvit and brick exterior construction that contains 14,306 square feet of building area. The structure was built in 1999 and consists of both office area and at least eight medical office rooms.¹ The building has a grade of B as assigned by the assessing officials. The property has a 1.37-acre site² and is located in Peoria, City of Peoria Township, Peoria County.

The appellant Kathryn M. Smart appeared before the Property Tax Appeal Board contesting only the improvement assessment of the subject property based on a market value analysis of the subject building and comparables using the underlying 'building only' improvement assessments converted to an estimate of market value.³ As was made clear during the course of the hearing, the appellant did not seek to rely upon any recent sales of comparables for purposes of this appeal, despite having marked

¹ Neither party presented much evidence as to the actual interior build-out of the subject structure and/or its use or tenancy.

² While the appellant reported a 2.1-acre site, the appellant provided no data to support that assertion whereas the subject's property record card reflects a site size of 1.37-acres.

³ As drawn from the applicable property record cards, the 'building only' assessment multiplied by three was the figure the appellant presented in her analysis.

"comparable sales" in Section 2d as an additional basis of the appeal.⁴

Also as part of the appellant's submissions, she included a copy of the Notice to Taxpayer of Assessment Change wherein the 2008 assessment of the subject property of \$433,350 was increased for 2009 to \$532,600. The reason for the change stated on the document was revaluation. As articulated at hearing, the appellant contends that when nationally property values in the United States decreased at least 40%, the subject's assessment was increased 40% and resulted in this appeal. Furthermore, the appellant contends that the 'medical office' comparables being considered by the assessing officials are not similar to the subject. The appellant characterized the subject as "basically office space" with the only difference being about eight additional sinks that were plumbed in eight individual rooms at a cost of about \$15,000 each, or for assessment purposes, about \$5,000 each. (TR. 24-26, 128-129)⁵

To present her equity/overvaluation argument, the appellant submitted information on 14 comparable properties in the form of a list⁶ along with copies of the underlying property record cards for those properties. The appellant's list identified the comparables by parcel number, location/street name, "market value," office area (size), value per square foot of building area, grade as assigned by the assessing officials and an adjusted value based on grade. At the hearing, the appellant withdrew consideration of comparable #3 located at 7810 N. University and thus, this property will not be further addressed in the decision. (TR. p. 20)

The appellant testified she sought to present comparables "from all different areas of the city." (TR. 36) Based upon the descriptions in the property record cards, the comparables are described as one-story, two-story or part one-story and part two-story buildings of frame, masonry or steel construction that were constructed from 1960 to 1990. As reported by the appellant on the list and confirmed by the property record cards, the buildings range in size from 2,000 to 49,430 square feet of building area.

As no dispute was being raised by the appellant with the subject's land assessment, the appellant's analysis of these properties set forth a building only "value" (the building only assessment multiplied by three as depicted on the applicable

⁴ As depicted on the property record cards eight of the appellant's comparables have reported sales which occurred from March 2000 to January 2008 for prices ranging from \$20,906 to \$2,225,000 or from \$10.45 to \$110.48 per square foot of building area, including land.

⁵ Any references to the transcript of the proceedings will be noted as "TR." followed by page number citation(s).

⁶ While the list is numbered, comparables #9, #10 and #13 were redacted by the appellant prior to filing the document as evidence; additionally, as addressed at hearing comparables #6 and #7 have been treated for analysis as one property. (TR. 17, 20-21)

property record cards of the comparables) divided by the building size and adjusted by grade, if the comparables were not a grade B property like the subject. The appellant testified that she was told by the board of review that grade C properties must be increased by 22% to be equivalent to grade B properties like the subject. (TR. 32-34) Thus, the appellant's analysis of the comparable building only values ranges from \$92,970 to \$1,396,020 or from approximately \$22.00 to \$66.60 per square foot of building area. After adjustments for the grade C comparables (each of the buildings except two were grade C), the appellant reported adjusted values ranging from \$25.50 to \$66.60 per square foot of building area. The appellant contends that the average of these 13 buildings is \$53.40 per square foot of building area. (TR. 35) In a similar analysis, the appellant reported the subject building has a building only market value of \$1,323,160 or \$89.80 per square foot of building area.

Based on the underlying property record cards, the Property Tax Appeal Board further finds that the appellant's comparables have improvement assessments⁷ ranging from \$30,990 to \$498,840 or from \$7.32 to \$23.81 per square foot of building area. The subject's improvement assessment is \$451,290 or \$31.55 per square foot of building area.

Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$262,150 or \$18.32 per square foot of building area.

During cross-examination, the appellant stated that her evidence of the nationwide decrease in property values comes from her "twenty-year history of doing real estate." While she presented no article(s) on the matter, the appellant testified that she tried to sell the subject office building through a listing for approximately \$2 million with Thomas Kemper Realtor beginning at the end of 2008 for about two years without any success despite the fact the property was fully leased at the time with very stable long-term tenants. (TR. 50-53)

The appellant also testified that the age of the comparable buildings was not reported in her list of properties "because it's included in the grade multiplier. That adjusts for age as well, and I felt like the sale price was the most accurate representation of what it's worth today." (TR. 63-64) The appellant also acknowledged that only her comparable #8 sold most proximate in time to the assessment date of January 1, 2009 with a sale that occurred in January 2008 for \$2,225,000 or \$106.18 per square foot of building area, including land. (TR. 64-65)

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$532,600 was

⁷ As depicted on page two of the respective property record cards, besides a building value the improvement assessment also reflects an assessment for additional permanent improvements/structures such as detached garages, paving, utility room and/or a canopy, etc.

disclosed consisting of a land assessment of \$81,310 and an improvement assessment of \$451,290. By letter dated December 17, 2012, the intervening taxing district adopted the evidence filed by the Peoria County Board of Review. (86 Ill.Admin.Code §1910.99). Based upon its total assessment, the subject property has an estimated market value of approximately \$1,353,870 or \$94.64 per square foot of building area, including land.

The board of review contended that appellant's comparables #4 and #6/#7 are mixed use retail and office buildings rather than only office buildings. In addition, appellant's comparable #5 is a veterinary hospital and appellant's comparables #8, #11 and #17 are retail shopping centers.

At the hearing the board of review called Max Schlafley, City of Peoria Township Assessor, as a witness. He testified that the basis of the assessor's cost manual system is the differences in the use of properties and differences in quality of finish where retail properties carry less value than office and office is one of the higher finished uses in the system. He also noted that the built in costs include a factor of 1.22 for grade B properties and differences also including age and condition. Schlafley understood that appellant's presentation of comparables included an attempt to adjust the comparables for differences in grade from the subject. (TR. 47, 59, 62)

At hearing, the board of review presented a revised grid analysis of its four suggested comparable properties with descriptions, sales and assessment data which was admitted without objection. (TR. 73-79) The comparable properties are improved with one-story, two-story or three-story buildings of frame or frame and masonry exterior construction that range in size from 8,400 to 16,797 square feet of building area. The structures were built from 1985 to 2000. Comparables #1 and #2 are described as medical office and comparables #3 and #4 are described as office. As to board of review comparable #4, Schlafley also testified that after the 2008 sale, the property was converted from a fitness center to a business known as Good Medicine. (TR. 78) As comparable #1 was exempt for assessment purposes, comparables #2 through #4 have improvement assessments ranging from \$344,690 to \$564,840 or from \$26.34 to \$33.63 per square foot of building area.

The board of review also reported that each of the four comparables sold between January 2006 and May 2008 for prices ranging from \$1,000,000 to \$5,357,521 or from \$119.05 to \$318.96 per square foot of building area, including land. However, Schlafley testified that the sale of comparable #2 was a multi-parcel transaction resulting in the reported price of \$318.96 per square foot of building area, including land; in light of the assessor's testimony, the board of review withdrew the sale data for comparable #2 from consideration. (TR. 85-88)

Based on the foregoing evidence, the board of review requested confirmation of the subject's assessment.

On cross-examination, the appellant made inquiries regarding the zoning, proximity to residential properties and mandated buffer zones between commercial and residential properties. (TR. 92-93, 97, 99, 121-122) Upon further questioning, the board of review's representative Diane Wetchler, Peoria County Board of Review Member, acknowledged that board of review comparable #3 included a Verizon store that would be retail, although that business occupies only a small portion the building. (TR. 95, 130) The witness also testified that comparable #2, a medical lab and mammography facility, presented by the board of review was a suitable comparison to the subject which is part medical office. (TR. 124-125) Wetchler also testified that the characterization of the type of property ("current use" as depicted on the grid) is made by the assessor on the applicable property record card. (TR. 125-126)

Upon questioning by the appellant, neither Wetchler nor Schlafley was aware of the traffic counts on three specific roads in Peoria. (TR. 111-112)

Also on cross-examination, Schlafley acknowledged that some type of buffer area would be required of commercial properties located next to residential properties. (TR. 98) As to familiarity with the subject property, Schlafley testified to various facilities in the vicinity of the subject property including an insurance company, apartments and a daycare. The witness also indicated that not only does the subject have a subdivision behind it, but several of the board of review's comparables similarly have homes behind these comparables. (TR. 103-104) The witness next acknowledged upon questioning that Fall of 2008 was a time of economic crisis in the United States with real estate sales being impacted in some areas more than others; "Peoria wasn't affected as greatly as some areas, so you can't take the national . . . the Peoria area . . . did not see as significant a drop." (TR. 108-109) Schlafley was not of the opinion that commercial property values in Peoria rose by 40% to 50% in 2009. (TR. 109-110)

Schlafley testified the subject has been classified as partially medical office because of the interior finishes, more rooms, very high capacity electrical service, and the amount of plumbing that is more than for a regular office. (TR. 126-127) The assessor did not know why the 2009 assessment of the subject property increased other than it was a revalue. (TR. 129)

In rebuttal at hearing, the appellant contended that her comparable #17 includes part office space, despite that the assessing officials characterize the property as a retail strip center. (TR. 49) The appellant also asserted that board of review comparable #2 is a medical lab facility which is dissimilar to the subject property. (TR. 77) The appellant also asserted that comparable #3 from the board of review includes a Verizon store and thus was a mixed use of office and retail, despite the records of the assessing officials classifying the

property as office. (TR. 95) According to the appellant, properties without commercial zoning are forbidden from "selling" things and the subject is forbidden from selling things. (TR. 93-94)

She further testified that the subject property is located on a street with less than 10,000 cars per day, but is being compared to properties with much more traffic such as Knoxville with 50,000 cars per day. (TR. 132) The appellant contended that board of review comparables are on five lane roads, two lanes in each direction with a center turning lane, whereas the subject is on a three-lane road, one lane in each direction with a center turning lane. (TR. 134) The board of review's comparables are also in highly commercial areas surrounded by big-box retailers, banks and other facilities. (TR. 134-135)

The appellant also provided additional testimony regarding 2008 capitalization rates and an opinion that banks had previously been "lending money capriciously." (TR. 132) In her opinion, by 2009 there was a nationwide financial depression with a lack of sales and lower property values, although in Peoria "it was significantly less." (TR. 132-33) The appellant reiterated her contention that the only value difference between the office portion of the subject and the 'medical office' portion is a value of \$5,000 multiplied by eight sinks or \$40,000. (TR. 133) The appellant contends that property surrounding the subject is residential and having been constructed in 1999 after zoning laws were revised, the subject must maintain a 25-foot buffer strip resulting in "literally one-half of our property is unusable." (TR. 133) The appellant's comparables represent a cross-section of the entire north end and west. (TR. 136) She further opined that selling a fully leased facility has much greater value than a vacant or unleased property. (TR. 136)

In conclusion, the appellant contends there is no evidence to support a substantial increase in the 2009 assessment of the subject property and, given the state of the economy, the appellant contends the value should have decreased. (TR. 134)

After hearing the testimony and reviewing 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 Property Tax Appeal Board finds the subject property consists of a one-story building that contains 14,306 square feet of building area which is reportedly leased. The building is situated on a 1.37-acre parcel of land. In Showplace Theatre v. Property Tax Appeal Board, 145 Ill. App. 3d 774 (2nd Dist. 1986), the appellant only appealed the land value. The basis for judicial review was whether Showplace could appeal only the land valuation, thereby limiting the Property Tax Appeal Board's jurisdiction. The Appellate Court affirmed the Property Tax Appeal Board's decision of reducing the subject's land assessment, but increasing the improvement assessment based on

its recent sale. The Appellate Court found assessments are based on real property consisting of both land and improvements. An appeal to the Property Tax Appeal Board includes both the land and improvements and together they constitute a single assessment. Likewise, in National City Bank Of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002), the court held the Property Tax Appeal Board was amply justified in giving little weight to valuation evidence since it valued only part of the property. The court did not find any error by the Property Tax Appeal Board in rejecting a "piecemeal approach" by which the petitioner sought to challenge only the valuation of only a portion of the entire property.

For this appeal, the appellant's evidence was simply a 'modified' improvement assessment inequity argument wherein the appellant contends unequal treatment in the subject's improvement assessment only as the basis of the appeal. The modification presented by the appellant was utilizing the estimated market value of the building only instead of simply taking the entire improvement assessment as the point of analysis. In light of the foregoing case law, the Board will examine the 'raw' improvement assessments of the subject and comparables presented by both parties to ascertain whether there is a lack of assessment uniformity as argued by the appellant. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989); 86 Ill.Admin.Code 1910.63(e). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has met this burden and a reduction is warranted.

The parties submitted a total of sixteen comparable properties with assessment equity data. The Board finds appellant's comparables #2 and #4 along with board of review comparables #2 and #3 were most similar to the subject in size, style, exterior construction, features and/or age. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from \$145,390 to \$564,840 or from \$12.36 to \$33.63 per square foot of building area. The subject's improvement assessment of \$451,290 or \$31.55 per square foot of building area falls within the range established by the best comparables in this record, but does not appear justified when giving due consideration to the subject's relatively 'minor' medical office aspect of having eight additional sinks as compared to board of review comparable #2 which was a medical laboratory facility and carried the highest improvement assessment in the range of \$33.63 per square foot. Based on this record the Board finds the appellant did demonstrate with clear and convincing evidence that the subject's improvement assessment was inequitable and a reduction in the subject's assessment is justified.

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. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: September 20, 2013

Allen 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.