



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

APPELLANT: Crossroads at Briargate
DOCKET NO.: 09-03121.001-C-3 through 09-03121.002-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Crossroads at Briargate, the appellant, by attorney Patrick C. Doody of the Law Offices of Patrick C. Doody, Chicago, Illinois; and the Kane 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 Kane County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
09-03121.001-C-3	09-05-278-001	229,087	288,688	\$517,775
09-03121.002-C-3	09-05-278-002	240,256	307,889	\$548,145

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 157,254 square foot parcel of land improved with a three-building, one and two-story, multiple-tenant retail and office property containing a gross building area of 33,109 square feet and 30,639 square feet of net rentable area. The strip center retail building is a one-story masonry structure with 13,677 square feet of gross building area, a story height of 14 feet, eight units and was built in 2004. The office building is a one-story masonry structure with 3,000 square feet of gross building area built in 2007. The two-story, multiple tenant, restaurant and office building has 16,432 square feet of gross building area, is of steel frame and masonry construction with a story height of 14 feet that was built in 2006. The first floor contains two restaurants and the second floor has office space and 2,300 square feet of unfinished space. The subject property has 35,000 square feet of asphalt pavement, concrete walks and two concrete patios. The property is located at 454 Redington Drive, 455 Briargate Drive and 456-464 Redington Drive, South Elgin, St. Charles Township, Kane County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal

estimating the subject property had a market value of \$3,200,000 as of January 1, 2009.

As a preliminary matter the appellant, through counsel, moved to bar the evidence submitted by the board of review as being untimely filed. The record disclosed that by letter dated May 5, 2011, the Property Tax Appeal Board notified the Kane County Board of Review of the appeal and granted an extension of time to submit evidence that expired on August 3, 2011. The record further disclosed that the "Board of Review Notes on Appeal" and the board of review evidence were subsequently sent to the Property Tax Appeal Board through the United States Mail in an envelope with a postmark date of August 4, 2011 and were received by the Property Tax Appeal Board on August 8, 2011. That portion of the envelope disclosing the postmark was marked as BOR Ex. #2. At the hearing, Timothy Sullivan, board of review member, read the postmark date of the envelope as August 4th. He explained that he signed the "Board of Review Notes on Appeal", which was marked as BOR Ex. #1, on August 3, 2011, and due to some mishap it was postmarked a day late. Based on the state of this record, the Property Tax Appeal Board grants the appellant's request to bar the evidence of the Kane County Board of Review for the following reasons.

Section 1910.40(a) of the rules of the Property Tax Appeal Board provides in part that:

The Board of Review Notes on Appeal and all written and documentary evidence supporting the board of review's position must be submitted to the Property Tax Appeal Board within 90 days after the date of the postmark of the notice of the filing of an appeal unless the board of review objects to the jurisdiction of the Property Tax Appeal Board over the assessment appeal. . . .

86 Ill.Admin.Code 1910.40(a). Furthermore section 1910.40(d) of the rules of the Property Tax Appeal Board provides:

If the board of review is unable to submit the additional written or documentary evidence with the Notes on Appeal, it must submit a letter requesting an extension of time with the Board of Review Notes on Appeal. Upon receipt of the request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include, but is not limited to, the inability to submit evidence for a cause beyond the control of the board of review, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. **Without a written request for an extension, no evidence will be accepted after the Board of Review Notes on Appeal is filed.** (Emphasis added.)

86 Ill.Admin.Code 1910.40(d).

Furthermore, section 1910.25(b) of the rules of the Property Tax Appeal Board states in part that, "evidence . . . sent by United States Mail to the Property Tax Appeal Board shall be considered filed as of the postmark date. . . ." 86 Ill.Admin.Code 1910.25(b).

In this matter the board of review was given notice of the filing of the appeal by letter dated May 5, 2011, which further granted the board of review an extension of time to submit evidence that expired on August 3, 2011. In this appeal the board of review made no objection to jurisdiction nor did it file a written request for an extension of time to submit evidence. Thus the record disclosed the evidence and the "Board of Review Notes on Appeal" were postmarked on August 4, 2011, one day late. Based on this record the Board finds the evidence submitted by the board of review cannot be accepted and grants the appellant's motion to bar the evidence of the board of review.

At the hearing the appellant called as its witness real estate appraiser Terrence McCormick. McCormick testified he is a State Certified General Real Estate Appraiser with the State of Illinois and has the MAI designation from the Appraisal Institute. McCormick prepared an appraisal of the subject property, marked as Appellant's Ex. #1, in which he estimated the subject property had a market value of \$3,200,000 as of January 1, 2009. The witness testified he estimated the market value of the fee simple estate of the subject property. McCormick testified the highest and best use of the subject property as improved was its continued use. He further testified that in estimating the market value of the subject property he developed the income approach to value and the sales comparison approach to value. Under the income approach the appraiser estimated the subject property had a market value of \$3,110,000. Using the sales comparison approach the appraiser estimated the subject property had a market value of \$3,310,000. In reconciling the two approaches to value the appraiser gave most weight to the income capitalization approach and secondary consideration was given the sales comparison approach. He ultimately estimated the subject property had a market value of \$3,200,000 as of January 1, 2009.

During the hearing the witness was questioned about the sale of the subject property that occurred October 2007. The report indicated that 454 Redington Drive and 455 Briargate Drive sold in October 2007 for a price of \$4,800,000 and 456-464 Redington Drive sold in October 2007 for a price of \$4,017,600. The purchaser in each transaction was American Investment, LLC. The appraiser gave no consideration to either sale because both were partial interests in the property and the sales represented the transfer of the leased fee estate. He also testified that neither of the transactions was exposed on the open market. He further indicated that the buildings have lost tenants following the transactions. He further noted in the report that there were

transfers of less than 100 percent of the property to related corporate affiliates in December 2007, which he placed no consideration. McCormick testified that American Investment, LLC is a national real estate investment group that acquires properties, manages properties and then sells them to individual investors.

McCormick further testified that beginning in March 2008 through December 2008 there were many occurrences that rocked the financial sector. He testified these factors created a period of uncertainty which slows the market tremendously. McCormick was of the opinion these factors had an adverse affect on market value.

The appellant also submitted copies of the board of review findings establishing a total assessment for the subject property for the 2009 tax year of \$2,380,705, which reflects a market value of \$7,147,118 using the 2009 three year average median level of assessments for Kane County of 33.31%. Based on this evidence the appellant requested the subject's assessment be reduced to reflect the appraised value.

As noted, the board of review did not timely submit its "Board of Review Notes on Appeal" and evidence in support of the assessed valuation of the subject property.

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 Board further finds the evidence in the record supports a reduction in the subject's assessment.

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). 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 Board finds the best evidence of market value timely submitted in the record is the appraisal and the supporting testimony of the appraiser presented by the appellant estimating the subject property had a market value of \$3,200,000 as of January 1, 2009. The Board finds the subject's assessment reflects a market value greater than the appraised value presented by the appellant. The board of review did not timely submit any evidence in support of the assessment of the subject property or to refute the appellant's argument as required by section 1910.40(a) of the rules of the Property Tax Appeal Board and is found to be in default pursuant to section 1910.69(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code

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1910.40(a) & 1910.69(a)). Based on this record the Property Tax Appeal Board finds 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.



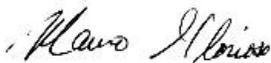
Chairman



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: February 22, 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.