FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Alden Horizon Limited Parnership
DOCKET NO.: 09-04355.001-C-3 through 09-04355.002-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Alden Horizon Limited Parnership, the appellant, by attorney Patrick J. McNerney of Mayer Brown LLP in Chicago; the Kane County Board of Review; and the City of Aurora, intervenor, by attorney Joshua S. Whitt of Whitt Law LLC in Aurora.

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
09-04355.001-C-3	15-36-202-001	193,767	294,241	$488,008
09-04355.002-C-3	15-36-202-002	224,274	511,861	$736,135

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two adjacent parcels with a combined land area of 251,341 square feet or 5.77 acres. The property is improved with a seven building, masonry constructed, 98-unit senior living facility containing a total of approximately 93,831 square feet of gross building area. There is one, three-story, 68-unit apartment building and a six building, 30-unit villa complex. The buildings were constructed in 2001. The unit breakdown includes 58 one-bedroom apartments, 10 two-bedroom apartments, 24 one-bedroom units and 6 two-bedroom units. The units have clear ceiling heights of 9 feet and the three-story apartment building also has an atrium with a 24 foot clear ceiling height. The apartment building has one 2500 pound capacity passenger elevator, a lobby area, fitness/game room, a billiard room, a laundry room, a dining room and an office. The buildings also have a wet sprinkler system. Site improvements include asphalt paved parking, paved walkways, a masonry canopy above the entranceway for the apartment building and landscaping. The property is located in Aurora, Aurora Township, Kane County.[1]

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Ronda Sandic, Gary M. Skish and Gary T. Peterson of First Real Estate Services, Ltd. The appraisers estimated the subject property had a market value of $3,675,000 as of January 1, 2009.

The appellant called as its witness Gary Skish. Skish has been a commercial real estate appraiser for 15 years. Skisk is a State of Illinois Certified General Appraiser and obtained the certification approximately 10 years ago. He is employed by and is vice president of First Real Estate Services. He testified that income properties are his specialty and these types of properties are bought for their revenue producing capabilities. Skish has completed approximately 1,500 appraisals during his 15 years as an appraiser. Skish identified Appellant's Exhibit #1 as the summary appraisal prepared for the subject property. He signed the report and testified he had a major part of contributing to the analysis and conclusions. He further testified the appraisal was signed by staff appraisers Ronda Sandic and Gary Peterson, MAI. Peterson is involved in the appraisal review process and approval.

Skish testified he inspected the exterior of the subject property while Sandic inspected the interior. As part of his analysis Skish reviewed the income statements of the subject property for tax years 2006, 2007, 2008 and through November 2009, which were included in the addendum of the appraisal. In estimating the market value of the subject property the cost approach to value, the income approach to value and the sales comparison approach to value were developed.

The first step under the cost approach was to estimate the value of the land using four land sales located in Aurora, North Aurora and Batavia. The comparables ranged in size from 149,620 to 672,131 square feet of land area and sold from January 2006 to May 2006 for prices ranging from $900,000 to $2,789,500 or from $3.27 to $6.20 per square foot of land area. Adjustments to the sales were made for conditions of sale, market conditions, size, location and zoning. Based on these sales the appraiser estimated the subject property had a land value of $5.00 per square foot of land area or $1,255,000.

The replacement cost using the Marshall and Swift Computerized Cost Estimate Program was employed to estimate the cost new of the improvements. The property was valued as a Class C, multiple

[1] The subject property was the subject matter of an appeal the prior tax year under Docket No. 08-02705.001 & .002-C-2 in which the Board issued a decision finding the subject property had a market value of $3,675,000. In that appeal the appellant submitted the same appraisal as in the instant appeal and the board of review did not submit any evidence.

residence complex. The replacement cost of the subject property was estimated to be $5,975,168 or $63.68 per square foot of building area. The appraiser estimated an entrepreneurial profit of 10% or $597,517 that was added to arrive to arrive at a cost new of $6,572,685.

The subject property had a physical age of 8 years but was estimated to have an effective age of 15 years based on the condition observed during inspection. The subject property was estimated to have a total economic life of 45 years and a remaining economic life of 30 years. The subject property was estimated to have 35% physical depreciation, no functional obsolescence and 10% economic obsolescence due to rental rates and occupancy levels being negatively impacted in recent years by the recession. Using the breakdown method the subject was estimated to suffer from 45% depreciation. Using the economic age-life method the appraiser calculated depreciation to be 33%. Considering these two methods the appraiser estimated the subject suffered from 45% accrued depreciation or $2,957,708. Deducting depreciation resulted in a depreciated building value of $3,614,977. The estimated depreciated value of the site improvements was $50,000. Adding the depreciated building value, the depreciated value of the site improvements and the land value resulted in an estimated value under the cost approach of $4,920,000.

Using the income approach the appraiser used five rental comparables located in Aurora to estimate the subject's market rent. The one-bedroom units at the comparables had rents ranging from $600 to $846 per month and the two-bedroom units had rents ranging from $725 to $936 per month. The appraiser noted in the report the subject's 58 one-bedroom apartments have rents ranging from $480 to $925 per month for an average of $687 per month; the 10 two-bedroom apartments had rents ranging from $837 to $1,135 per month with an average of $887 per month; the 24 one-bedroom villas had rents ranging from $459 to $925 per month with an average of $668 per month; and the 6 two-bedroom villas had rents ranging from $802 to $1,135 per month with an average of $913 per month. The appraiser estimated the market rents for the subject as follows:

58 1-BR units	@ $690 X 12 months =	$480,240
10 2-BR units	@ $890 X 12 months =	$106,800
24 1-BR villas	@ $670 X 12 months =	$192,960
6 2-BR villas	@ $910 X 12 months =	$65,520
Total Potential Gross Income		$845,520

The appraiser stabilized and deducted the vacancy and collection loss at 5% of potential gross income or $42,276 and added $40,000 for other income to arrive at an effective gross income of $843,244.

In estimating operating expenses the appraiser reviewed the subject's historical operating statements and published sources such as Metropolitan Area Reports: Apartment Buildings published by the Institute of Real Estate Management (IREM) to estimate total expenses of $408,973. The appraiser also deducted $37,800 for return on and of furniture, fixtures and equipment (FF&E). Deducting total expenses and FF&E resulted in a net operating income of $396,471.

The final step under the income approach was to estimate the capitalization rate to be applied to the net income. Using the band of investment technique the appraiser estimated a capitalization rate of 9.25%. Published sources such as Korpacz Real Estate Investor Survey and Real Estate Research Corporation had rates for all apartment properties ranging from 3.50% to 11.0%. Based on this data the appraiser estimated an overall capitalization rate of 8.50%. To this an effective tax rate of 2.29% was added to arrive at a loaded capitalization rate of 10.79%. Capitalizing the net operating income resulted in an estimated value under the income approach of $3,675,000.

Five comparable sales were used to arrive at an estimate of value under the sales comparison approach. The sales were located in Aurora and were composed of one 3-story building, one 4-story building, two 3-story buildings, three 2-story buildings and nine 2-story buildings. The comparables ranged in size from 35,964 to 60,000 square feet of building area and had from 48 to 63 units. The buildings were constructed from 1965 to 1972. These properties sold from January 2006 to March 2008 for prices ranging from $2,000,000 to $2,875,000 or from $31,746 to $59,896 per unit. The appraiser considered and made quantitative adjustments to the comparables for such factors as property rights conveyed, financing, conditions of sale, market conditions, units, unit mix, location, land to building ratio effective age and construction. The appraiser stated within the report the comparables sales are older than the subject, had fewer units than the subject and were purchased when the market conditions were much more favorable. Based on these sales the appraiser estimated the subject property had a value of $37,000 per unit or $3,625,000 under the sales comparison approach.

In reconciling the three approaches to value the appraiser placed least emphasis on the value derived by the cost approach, primary consideration was given the income approach and the sales comparison approach was not considered the most reliable indicator of value but gave support to the final conclusion.

In conclusion the appraiser estimated the subject property had a market value of $3,675,000 as of January 1, 2009. Based on this evidence the appellant requested a reduction in the subject's assessment.

On cross-examination Skish testified attempts were made to find assisted living or supportive living facilities as comparable sales but there was nothing applicable. He testified the problem was that leased fee sales dominate the market and the properties are purchased based on the income stream. The appraiser testified if you do not have all the income and expenses on the sales and knowledge of the tenancy, there is no way to make adjustments to get a credible value.

Skish testified he did a drive-by inspection of the property in February 2010 while Sandic inspected the interior when the full report was ordered.

With respect to comparable sale #5, Skish testified this property was reported to have a high vacancy at the time of sale. The witness was shown a copy of an Illinois Real Estate Transfer Declaration contained in Intervenor's Exhibit #1, which indicated the seller or buyer of this property was a financial institution or government agency. Skish testified the property was actively marketed through regular channels and it was stipulated that a financial institution was involved in the sale. Skish also agreed that of his sales only sale five had a unit sale price below his estimated value of $37,500 per unit. He testified this sale probably best represents the fee simple value of the sales because occupied buildings are selling on a leased fee interests. He asserted that high vacancy buildings would be sold the closest approximation to fee simple because they would be bought based on the rents and quality of tenants they can get today and not the tenants acquired over the years. Skish did not inspect any of the comparable sales.

Skish was of the opinion that the rents charged at the subject property were representative of the market. He testified Sandic performed an exterior drive by inspection of the rental comparables, he did not. He also agreed the rental comparables were older than the subject property. Skish was questioned about the rent roll of the subject property contained in the addendum of the report. He testified the "Recurring Charges" was the column that represented monthly rents. The column stating "Occupy" is the date the apartment was occupied while the column stating "Expiration" was the lease expiration date. Skish did not know what the column stating "Class" represented. Shisk thought "MKT" for apartment 112 could be market. He agreed the rent for this apartment was at the higher end of the range.

Skish was asked to compare the rents for villa 1958 and 1962, which were units similar in size with similar lease dates. Villa 1958 had a rent of $925 while villa 1962 had a rent of $734. Villa 1958 was designated a class of 80% while villa 1962 was designated a class of 60%. Skish, however, would not say that class appears to have an effect on the amount of rent.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $1,638,925 was disclosed. The subject's assessment reflects a market value of $4,920,219 or $50,206 per unit, including land, when applying the 2009 three year average median level of assessments for Kane County of 33.31% as determined by the Illinois Department of Revenue. The board of review stated on the "Board of Review Notes on Appeal" that it would stipulate to a revised assessment totaling $1,193,430. The board of review asserted in its submission that the "Appellant's appraisal supports reduction." The board of review called no witnesses and presented no other evidence of value.

The intervenor submitted what was marked as Intervenor's Exhibit #1, which included five separate exhibits. Exhibits #1 and #2 within the intervenor's submission included the property record cards for the two parcels under appeal. The intervenor called no witnesses.

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 the 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); 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 Board finds the best evidence of market value in this record to be the appraisal of the subject property and the supporting testimony of the appraiser presented by the appellant. The appellant's appraiser developed the cost approach to value, the income approach to value and the sales comparison approach to value in his analysis. The appraiser testified that most weight was given to the income approach to value in arriving at an estimate of value of $3,675,000 as of January 1, 2009. The appraiser testified and was cross-examined, providing credible testimony with respect to the preparation of the appraisal, the approaches to value developed and the conclusion of value. The appraised value is less than the market value reflected by the subject's assessment. Neither the board of review nor the intervenor presented any witnesses in support of an alternative market value estimate or to rebut and refute the appraiser's value conclusion. Based on this record the Board finds the subject property had a market value of $3,675,000 as of January 1, 2009. Since market value has been determined the 2009 three year average median level of assessment for Kane County of 33.31% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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: June 21, 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.