



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

APPELLANT: Terry Hansen
DOCKET NO.: 09-05390.001-C-1
PARCEL NO.: 04-742-001-00

The parties of record before the Property Tax Appeal Board are Terry Hansen, the appellant, and the Jersey 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 Jersey County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$31,500
IMPR.: \$36,633
TOTAL: \$68,133

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of an 11,000 square foot parcel improved with a six bay car wash with 2,800 square feet of building area. The car wash was constructed in 1987 and is approximately 22 years old as of the January 1, 2009 assessment date at issue. The car wash is of masonry construction with a concrete slab. The subject facility has five self service bays and one automatic service bay. The subject property also has a concrete paved parking lot. The property is located in Jerseyville, Jersey Township, Jersey County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal with respect to the 2009 tax year. In support of this argument the appellant submitted an appraisal of the subject property prepared by Robert Lowrance, an Illinois Certified General Real Estate Appraiser, estimating the property had a market value of \$98,000 as of January 1, 2006.¹ The appraiser was not present at the hearing.

¹ The Property Tax Appeal Board takes notice that the subject property was the subject matter of appeals before the Property Tax Appeal Board for both the 2006 and 2007 tax years under Docket Nos. 06-02751.001-C-1 and 07-05053.001-C-1, respectively. In each of those appeals the appellant submitted a copy of the same appraisal report prepared by Lowrance. By decisions issued on March 18, 2011 and November 30, 2012, the Board determined in each of those appeals

In his analysis the appraiser was of the opinion the highest and best use of the subject as vacant is to be developed for commercial/business use. The appraiser concluded the highest and best use as improved is not consistent with the subject's use as a car wash. The appraiser indicated in the report the highest and best use as improved is for the subject to be converted to an alternative commercial/business use based upon a review of the accountant's compilation of income and expenses for income tax years 2005 and 2006. The appraiser indicated within his report that the subject's current use as a car wash does not produce enough income to effectively cover the value of the raw land coupled with the contribution of the existing improvements. (Appraisal, pp. 13-14.) As a result the appellant's appraiser valued the subject based on an alternative use. The appraiser indicated within his report that, "alternative uses included but were not limited to conversion to a commercial garage, commercial retail or distribution center, storage units among other uses. (Appraisal, p. 18.)

In estimating the market value of the subject property the appraiser developed only the sales comparison approach outlined on two pages of the report using three sales. (Appraisal, pp. 30-31.) Comparable sale #1 is composed of a six year old pole frame building on a slab that contains 2,304 square feet of building area. The comparable has a 22,651 square foot lot and is located in Jerseyville. This property sold in April 2006 for a price of \$115,000 or \$49.91 per square foot of building area, including land. Comparable sale #2 is a one-story metal sided pole building with 2,160 square feet built on a concrete slab. This building is seventeen years old. This property has a 19,602 square foot lot and is located in Godfrey. The property was used as an auto maintenance shop and sold in September 2006 for a price of \$162,500 or \$75.23 per square foot of building area, including land. Comparable sale #3 consists of a 2,500 square foot parcel improved with an older two-story concrete block building with 4,840 square feet with a partial basement. This property is located in Jerseyville and sold in May 2006 for a price of \$70,000 or \$28.93 per square foot of building area, including land.

Based on these sales the appraiser estimated the subject had an indicated value of \$50.00 per square foot subject to conversion or \$35.00 per square foot of building area when considering the estimated cost to convert the subject at \$10.00 to \$20.00 per square foot. As a result appraiser estimated the subject had a market value of \$98,000 (2,800 square feet at \$35.00 per square foot) as of January 1, 2006.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling \$71,155 was disclosed. The subject's assessment reflects a

the appellant's appraisal should be given no weight. (86 Ill.Admin.Code 1910.90(i)).

market value of \$213,486 or \$76.25 per square foot of building area, land included, using the 2009 three year average median level of assessments for Jersey County of 33.33%. The assessment also equates to a unit value of \$35,581 per bay.

In support of the assessment the board of review submitted a copy of the subject's property record card as well as information on four comparable sales. At the hearing the Jersey County Chief County Assessment Officer (CCAO) testified with respect to four comparables sales he identified that were further highlighted in his letter dated January 7, 2009. He further testified he drove by each of these comparables. The comparables were improved with car wash facilities located in Jerseyville, Grafton, Valmeyer and Smithton. Sale #1, located in Jerseyville, was the oldest date of sale occurring in October 1999. This property consisted of a 2,366 square foot car wash with five bays composed of three self serve and two automatic bays. The car wash was constructed in 1999. This comparable had approximately 22,500 square feet of land and sold for a price of \$368,500 or for \$155.75 per square foot of building area and \$73,700 per bay, including land. Comparable sale number two was composed of a 1,040 square foot, two bay masonry car wash located on a 13,500 square foot site in Grafton, Jersey County. The building was constructed in 1999. This property sold in March 2006 and again in May 2008 for \$145,000 or \$139.42 per square foot of building area and \$72,500 per bay, including land. Sale #3, located in Valmeyer, was composed of a 1.55 acre site improved with a 1,664 square foot, three-bay masonry constructed car wash that was approximately five years old. This property sold in December 2007 for a price of \$200,000 or \$120.19 per square foot of building area and \$66,667 per bay, including land. Comparable sale #4, located in Smithton, consisted of a 13,625 square foot site improved with a 1,701 square foot masonry car wash with three enclosed bays and one exterior bay. The car wash was constructed in 1979. The property sold in February 2005 for a price of \$102,000 or for \$59.96 per square foot of building area or \$34,000 per bay, including land.

In summary, the comparable sales sold for prices ranging from \$59.96 to \$155.75 per square foot of building area or for \$34,000 to \$73,700 per bay, including land. Based on these sales the CCAO indicated within his letter that he was of the opinion the subject had a value of \$73.00 per square foot of building area or a total value of \$204,400, which equates to \$34,067 per bay, including land. The CCAO testified he had no problem with stipulating to an assessment reflecting a market value of \$204,400.

During the rebuttal period the appellant submitted four new comparables. The Board finds, pursuant to section 1910.66(c) of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.66(c)), that the new comparables are improper rebuttal evidence. Section 1910.66(c) of the rules provides that:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence.

86 Ill.Admin.Code 1910.66(c). Pursuant to this rule the Property Tax Appeal Board will not accept the new comparables as rebuttal evidence and gives no consideration to this evidence in determining the assessment of the subject property.

In rebuttal, real estate appraiser Barry Loman was called as a witness to comment of the sales identified by the Jersey County Board of Review.

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 the assessment of the subject property.

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 comparable sales submitted by the board of review demonstrate a reduction in the subject's assessment is warranted.

The Board finds the most probative evidence establishing the market value of the subject property is the four comparable sales provided by the board of review. In Chrysler Corp. v. Property Tax Appeal Board, 69 Ill.App.3d 207, 214, 387 N.E.2d 351, 25 Ill.Dec. 695 (2nd Dist. 1979) the court held that where there is sufficient credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. The comparable sales presented by the board of review were improved with car wash facilities that offered varying degrees of similarity to the subject property. Although one sale occurred in 1999, the three remaining sales occurred from February 2005 to May 2008, with sale #2 selling twice. The board of review comparable sales sold for prices ranging from \$102,000 to \$368,500 which equates to \$59.96 to \$155.75 per square foot of building area or from \$34,000 to \$73,700 per bay, including land. Using this data the CCAO indicated within his analysis that he was of the opinion the subject had a value of \$73.00 per square foot of building area or a total value of \$204,400, which equates to \$34,067 per bay, including land. The subject's assessment reflects a market value of \$213,486 or \$76.25 per square foot of building area and \$35,581 per bay, land included, using the 2009 three year average median level of assessments for Jersey County

of 33.33%, which is above the estimate of value provided by the CCAO.

The Board gives no weight to the appellant's appraisal finding that the appraisal was not particularly credible. First, the appraiser was not present at the hearing to provide testimony and be cross-examined with respect to his appraisal methodology. Second, the appraisal contained an estimate of value with an effective date of January 1, 2006, three years prior to the assessment date at issue. Third, the appellant's appraiser valued the subject property based on an alternative highest and best use. The Board finds this determination that the subject had a different highest and best use as improved was not supported in this record and was speculative. The appraisal did not contain an analysis of the highest and best use using the four criteria typically found in appraisals. Initially, in determining highest and best use, the use must meet the following four criteria:

- (1) Physically possible
- (2) Legally permissible
- (3) Financially feasible
- (4) Maximally productive

In addition to these criteria other considerations include demand for the use; the highest and best use must be a complementary use rather than a competitive use; and the highest and best use must be the most profitable for the entire property. This type of analysis was not contained in the appellant's appraisal which undermines the conclusion.

Second, typically appraisal theory provides that as long as the value of the property as improved is greater than the value of the land as though vacant, the highest and best use is the current use of the property as improved. Construction of a new improvement should not be assumed unless the return from the alternative new use more than covers the demolition and construction costs. In this appeal the appellant's appraiser did not estimate the value of subject site as vacant or as currently improved to demonstrate the improvements did not contribute to the overall value of the subject property. Under the highest and best use analysis the appellant's appraiser presented no analysis of the cost to demolish the existing improvements, there was no analysis with respect to the cost to redevelop the subject land to the alternative use and no analysis with respect to the present worth of the future income stream based on the new use to demonstrate the financial feasibility of the alternative highest and best use. Furthermore, the improved sales used by the appraiser were not similar to the subject in any respect. For these reasons the Board gave no weight to the estimate of value articulated by the appellant's appraiser.

Based on this record the Property Tax Appeal Board finds a reduction in the subject's assessment commensurate with the opinion of value estimated by the CCAO 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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Mario M. Louie

Member

J.R.

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: March 22, 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.