



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

APPELLANT: Michele C. Brett
DOCKET NO.: 09-28701.001-I-1
PARCEL NO.: 28-03-400-037-0000

The parties of record before the Property Tax Appeal Board are Michele C. Brett, the appellant(s), by attorney John P. Fitzgerald, of Fitzgerald Law Group, P.C. in Chicago; and the Cook 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 Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$10,399
IMPR.: \$76,001
TOTAL: \$86,400

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 23,770 square foot parcel of land improved with a 29-year old, masonry, one-story, industrial warehouse building containing 12,800 square feet of building area. The appellant argued that the market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted a summary appraisal report of the subject property with an effective date of January 1, 2008. The appraiser estimated a market value for the subject of \$335,000 based upon the three traditional approaches to value. The appraisal indicated the subject was inspected.

Under the cost approach to value, the appraiser analyzed the sale of four properties to arrive at an estimate of value for the land at \$5.00 per square foot or \$120,000. The replacement cost new was utilized to determine a cost for the improvement at \$600,704. The appraiser estimated depreciation at 56% for a value of \$264,310,000. The land value was added back in to establish a value under the cost approach of \$385,000, rounded.

In the income approach to value, the appraiser analyzed the rents of four properties to estimate potential gross income at \$6.00 per square foot of building area or \$76,800. Vacancy and collection were estimated at 10% for an effective gross income of \$69,120. Expenses were estimated at \$17,616 to arrive at a net operating income of \$51,504. The appraiser used market data to determine the loaded capitalization rate of 16.44% to estimate a value under the income approach of \$315,000, rounded.

Under the sales comparison approach, the appraiser analyzed the sales of four one-story, masonry industrial buildings located within the subject's market. The properties range in age from 38 to 88 years and in size from 15,200 to 29,623 square feet of building area. The comparables sold from March 2005 to January 2007 for prices ranging from \$385,000 to \$794,000, or from \$19.31 to \$26.80 per square foot of building area. The appraiser adjusted each of the comparables for pertinent factors. Based on the similarities and differences of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$26.00 per square foot of building area or \$335,000, rounded.

In reconciling the approaches, the appraiser gave most weight to the sales comparison approach to arrive at a final estimate of value for the subject of \$335,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$111,998 was disclosed. This assessment reflects a fair market value of \$447,992 or \$35.00 per square foot of building area when the Cook County Real Property Assessment Classification Ordinance level of assessments of 25% for Class 5b property is applied.

In support of the subject's assessment, the board of review presented descriptions and sales information on a total of five properties. These properties are described as one-story, masonry or metal, industrial buildings. They range in age from 9 to 28 years and in size from 12,000 to 12,850 square feet of building

area. They sold from October 2006 to March 2011 for prices ranging from \$382,500 to \$1,010,000 or \$29.77 to \$84.17 per square foot of building area. Comparables #1, #2, #3, and #4 are multi-tenant buildings fully leased at the time of sale.

At hearing, the appellant's attorney argued that the appraisal supports a reduction in the assessment. The appellant also objected the board of review's evidence because the preparer of the documents was not present to testify.

The board of review's representative, Roland Lara, argued that the appraiser was not present at the hearing to testify or be cross-examined and, therefore, the appraisal is hearsay. He also asserted that the appraisal does not value the property as of the lien date of January 1, 2008 and, therefore, should be stricken from the record or given no weight. He referenced a recent decision of the Property Tax Appeal Board (Board), 10-23666.001-R-1, to support his argument. In that appeal, the appraisal valued that property as of "tax year 2010". In that case, the Board found that there was no valuation date and that the subject property should be valued as of the lien date.

After reviewing the record 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 gives no weight to the board of review's argument that, based on a prior Board decision of another property, the appellant's appraisal does not value the subject as of the lien date and should be given no weight. Each appeal before the Board "shall be based upon equity and the weight of the evidence." Bd. of Educ. of Ridgeland Sch. Dist. No. 122, Cook Cnty. v. Prop. Tax Appeal Bd., 2012 IL App. (2d) 110,461, (1st Dist. 2012); 35 ILCS 200/16-185. In other words, each appeal to the Board is necessarily fact specific, and must be based upon the particular record of each case. See Ridgeland Sch. Dist., 2012 IL App. (2d) 110,461. Thus, the Board's decision in appeal number 10-23666.001-R-1 is not binding on the Board in this appeal. Therefore, the Board finds that the appraisal has been timely admitted into evidence and will be given its proper weight.

When overvaluation is claimed the appellant has the burden of proving the value of the property 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); Winnebago County Board of Review v. Property Tax Appeal Board,

313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c).

In determining the fair market value of the subject property, the Board looks to the evidence and testimony presented by the parties.

The appellant's appraiser was not present at hearing to testify as to his qualifications, identify his work, testify about the contents of the evidence, the conclusions or be cross-examined by the board of review and the Board. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The appellate court found the appraisal to be hearsay that did not come within any exception to the hearsay rule, thus inadmissible against the defendant, and the circuit court erred in admitting the appraisal into evidence. Id.

In Jackson v. Board of Review of the Department of Labor, 105 Ill.2d 501, 475 N.E.2d 879, 86 Ill.Dec. 500 (1985), the Supreme Court of Illinois held that the hearsay evidence rule applies to the administrative proceedings under the Unemployment Insurance Act. The court stated, however, hearsay evidence that is admitted without objection may be considered by the administrative body and by the courts on review. Jackson 105 Ill.2d at 509. In the instant case, the board of review has objected to the appraisal as hearsay. Therefore, the PTAB finds the appraisal hearsay and the adjustments and conclusions of value are given no weight. However, the Board will consider the raw sales data submitted by the parties.

The parties presented sales data on nine properties. The Board finds the appellant's comparables #1, #2, and #3 and the board of review's comparables #5 most similar to the subject with sale dates closest to the lien date in question. These sales

occurred from August 2006 to May 2007 for prices ranging from \$382,500 to \$794,000 or from \$19.31 to \$29.77 per square foot of building area. In comparison, the appellant's assessment reflects a market value of \$35.00 per square foot of building area which is above the range established by the sales comparables. The Board gives less weight to the remaining sales because they are leased fee sales. After considering adjustments and the differences in the comparables when compared to the subject, the Board finds the subject's assessment is not supported and a reduction 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.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Mario M. Lino

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: February 21, 2014

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.