



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

APPELLANT: John Wagner
DOCKET NO.: 09-30789.001-C-2 through 09-30789.003-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are John Wagner, the appellant, by attorney Samuel J. Macaluso, of Sam D. Macaluso & Associates, Inc. in Countryside; the Cook County Board of Review; as well as the two intervenors, School District 104, by attorney Alan M. Mullins of Scariano, Himes and Petrarca in Chicago, and Argo CHSD #217, by attorney Ares G. Dalianis of Franczek Radelet P.C. in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
09-30789.001-C-2	18-24-105-017-0000	19,773	5,800	\$25,573
09-30789.002-C-2	18-24-105-018-0000	21,247	0	\$21,247
09-30789.003-C-2	18-24-105-019-0000	32,983	180,026	\$213,009

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property contains three parcels of land improved with a retail lumber yard and a part one-story and part two-story building which was constructed in 1954 with an addition in 1987.

The appellant argued that the market value of the subject property was not accurately reflected in its assessed value and that the subject's description and classification are inaccurate as the basis of this appeal. Specifically, the appellant asserts that the subject property is a mixed-use,

commercial/residential property that should be accorded a county classification code of 2-12 and a level of assessment of 10% instead of the actual commercial classification of 5-17 with a corresponding level of assessment at 25%.

In support of the market value argument, the appellant, via counsel, submitted an appraisal undertaken by Robert Schlitz and Michael Gilligan of Schlitz Appraisal Services. The appraisal report states that Schlitz and Gilligan both hold the designation of certified general real estate appraiser, while Schlitz also holds the designation of Member of the Appraisal Institute (MAI). The appraisal indicated that the subject had an estimated market value of \$800,000 as of the lien date of January 1, 2009.

As to the subject, the appraisal asserted that the subject is incorrectly classified as solely commercial property and that the subject is a mixed-use retail lumber yard and residence. The appraisal estimated that the subject's land size is approximately 91,799 square feet of land improved with a part one-story and part two-story, masonry building with approximately 20,000 square feet of gross building area. In addition, the subject is improved with four exterior frame lumber sheds with a fenced storage yard. The appraisal estimated the subject's actual age to range from 22 to 50 years with an average condition.

The appraisal stated that an on-site interior and exterior observation of the subject was made on July 12, 2010. Based upon this observation, the appraisal included a copy of a Sidwell Map and a portion of a plat of survey reflected on page #8. The appraisal also stated that "this plat portion and our on-site measurements were used to calculate the subject's building area", while the diagram reflected identification of retail and storage buildings as well as sheds. Moreover, as to the subject's zoning, the appraisal indicated that the subject is zoned "limited Business District". Further, the appraisal included a minimum of 32 interior and exterior photographs of the subject.

The appraisal report developed all three of the traditional approaches to value. The market value estimates were: under the cost approach a value of \$825,000; under the income approach a value of \$798,856; and under the sales comparison approach a value estimate of \$800,000.

As to the subject's highest and best use, as improved, the appraisers opined that the current existing use was best.

Under the cost approach, the appraisal reflected six land sales from various locations which sold from January, 2006, to June, 2007, for prices that ranged from \$1.53 to \$19.98 per square foot. The properties ranged in size from 6,050 to 150,717 square feet of land. The appraisal indicated a land value estimate for the subject of \$6.44 per square foot of land or \$500,000, rounded. Using the Marshall Swift/Boeckh Cost Service, the appraisal indicated a replacement cost new for the lumber yard of \$1,042,791 or \$53.39 per square foot. The appraisal stated that the structure occupancy was 48% store, 50% warehouse, and 2% apartment.

Accrued depreciation was estimated at 75% reflecting a depreciated value of the principal improvements at \$260,448 and a value for the minor improvements at \$65,140. Adding the land value resulted in a market value estimate of \$825,000, rounded, under this approach.

Under the income approach, the appraisal indicated that five rental properties were used that ranged in rental area from 3,000 to 21,000 square feet and in rent from \$4.63 to \$12.40 per square foot. The appraisal stated that these rentals were mixed-use properties with leases based upon a semi-net or semi-gross basis. Potential gross income was estimated at \$189,940 less a 6% vacancy collection loss resulting in an effective gross income of \$174,784. Deducting for expenses resulted in a net operating income of \$67,743. Using the rental comparables as well as the band of investment method to develop a capitalization rate analysis, a rate of 8.48% was applied resulting in a market value estimate under this approach of \$800,000, rounded.

Under the sales comparison approach, the appraisal provided data on six sale properties that sold from July, 2007, to May, 2010, for prices that ranged from \$100,000 to \$6,100,000 or from \$18.18 to \$55.56 per square foot. The properties ranged: in land size from 5,599 to 471,106 square feet of land; in units from one to five; in age from 33 to 99 years; and in building size from 1,800 to 115,505 square feet of building area. Additional data indicated that sales #1 and #2 were not advertised for sale on the open market. The appraisal stated that sale #6 was a Home Depot store and a leased fee sale. Moreover, sale #3 was described as a retail center building, sale #4 was a mixed use building with retail, industrial and

residential area, and sale #5 was a lumber yard with 3 buildings thereon.

The appraisal indicated that no adjustments were made for property rights, building age or condition as well as property highest and best use. The appraisers estimated a value for the subject under the sales comparison approach of \$800,000, rounded, as of the lien date. Based on this evidence, the appellant requested a reduction in the subject's assessment.

At hearing, the appellant called Michael Gilligan as a witness. Gilligan testified that he has been a certified general real estate appraiser since 1999 and is completing the requirements for a MAI designation. He stated that he handles mostly commercial and industrial properties and that he did not do much residential work. He also indicated that he is an owner/operator of a real estate development company in which he rehabs houses. Gilligan was neither offered nor accepted as an expert witness in this proceeding.

As to the subject, Gilligan characterized the subject as a unique property, a retail lumber yard with an apartment located above street grade. He testified that he had not undertaken an inspection, but an observation of the subject. He stated that based upon his observation the subject was in average to below-average condition, while also stating that he had viewed the entire property. He also indicated that in the normal course of a property's observation he would take pictures of the property. Based upon his observation, Gilligan testified that the subject was an older, mixed-use retail store with a storefront and a small overnight on-site apartment above as well as a warehouse behind which constituted the main building. In addition, he stated that the site included framed outdoor, open-sided storage sheds in a state of disrepair mainly due to the snow and water runoff. Gilligan indicated that the subject was accessible from Archer Avenue and was situated near rail tracks. Gilligan also testified regarding the retail products and retail floor layout. As to the subject's apartment, he stated that it was a small one-bedroom and full bath, second-floor apartment with a separate entrance and interior staircase connecting into the store. He also indicated that he believed that there were two mailboxes on the exterior of the store.

Under cross-examination by the Board, the witness reviewed the approximately 32 photographs in the appraisal, which he confirmed that he took, and stated that there were no photographs of: exterior or interior stairs, exterior or

interior mailboxes, any apartment door with a lock thereon, a doorbell, apartment windows which Gilligan testified he was not sure were included within the apartment, as well as the exterior location of the apartment which were absent in exterior photographs of the subject's main building. As to the interior of the apartment, Gilligan stated: that a photograph of the purported kitchen was missing the stove and pantry area; that a photograph of the purported bedroom reflected a solitary, office chair therein; that a photograph of what Gilligan testified was a purported bedroom included a counting machine, shelving with paper and bankers boxes; that there was no picture of any bed; that the photograph of the purported bathroom included a small stand-up shower without a shower curtain; and that the photograph of what Gilligan described as the apartment's purported living room included only a desk, a computer, a desk chair and some pictures. Gilligan also testified that the appraisal's photographs taken during his inspection were his attempt to document the apartment.

On further examination regarding the purported apartment, Gilligan testified that it was an overnight apartment. He stated that typically in lumber or junk yards there will be overnight security apartments that are more for security than for rent to the general public as an apartment. Nevertheless, Gilligan then testified that there was no security on the subject's premises, but that he believed the owner lived in the apartment. Moreover, Gilligan stated that he was not personally privy as to whether the owner stayed there every single night or only occasionally.

As to the subject's components, Gilligan stated that the apartment included approximately 420 square feet, while the warehouse, retail and storage included approximately 20,660 square feet of building area. He also testified in detail about the subject's parking area, fenced storage yards, and storage sheds with material stacked therein.

Gilligan testified that three approaches to value were undertaken in the appraisal with main reliance on the sales approach to value because the subject property is owner-occupied and that four sales were located in Summit, as is the subject. He stated that three of the six improved sales were mixed-use properties, while the remaining three were not mixed-use in nature. He also stated that he choose these suggested comparables: first due to location in Summit; second, due to their use as either mixed-use or retail use; and lastly, due to the usage as a lumber yard. He indicated that the income

approach was less reliable because the subject was owner-occupied.

Gilligan testified that the photographs of the improved sale properties were taken from the street, while the sources of the data used in this appraisal were CoStar Comps sheets, multi-listing sheets, and discussions with real estate brokers. As to each improved sale, Gilligan stated that: sale #1 was a retail storefront building with an apartment in the rear; sale #2 is a mixed-use building with five units which are either retail or residential; sale #3 is an auto parts store; sale #4 was a smaller building including one unit with retail/industrial space and two apartments; and sale #6 was a larger Home Depot location. He also indicated that the reported purchase price for sale #5, which is a nearby lumber yard, was incorrect and that the sale of the real estate was at \$524,862 and not the reported amount of \$465,000. As to the suggested comparables, Gilligan summarily stated that he had no personal knowledge of the components within any of the improved sales; he indicated that he had merely done a drive-by observation of the properties from the street.

As to an opinion of rent for the apartment unit, Gilligan testified that this was not developed and that only a per square foot value was developed. Further, he stated that as to the components of the income approach, only mixed-use properties were considered and that a unit-price was not developed. Gilligan also indicated that he was not exactly sure of the percentage or weight given the sales comparison approach because Mr. Schlitz, his partner, usually helped with the final value conclusions. Gilligan also mentioned that his partner believed that one of the subject's parcels had been misclassified by the assessor, but that Gilligan did not have any personal knowledge of this factor.

Under cross-examination, Gilligan testified that he was unaware of either which edition of the Appraisal of Real Estate was the current edition as of the date of the subject's appraisal or what the appropriate basis of analysis was conducted within this appraisal. In addition, he stated that he was personally unfamiliar with Illinois law and the effective tax rate even though various portions of his appraisal speak to these topics. He stated that these portions of the appraisal were Mr. Schlitz's opinion based upon his own experience and not Gilligan's experience. Moreover, Gilligan testified that Schlitz was the review appraiser and that he would: instruct Gilligan on which comparables were to be used; check Gilligan's

mathematical calculations; and instruct him as to which portions should be changed or altered even though Gilligan testified that he was a signatory on the entire appraisal report. Based upon this evidence, the appellant requested a reduction in the subject's assessment.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal" wherein the subject's final assessment of \$259,829 was disclosed. The subject's final assessment yields a fair market value of \$1,039,316 or \$54.76 per square foot using 18,980 square feet of building area when the Cook County Ordinance Level of Assessment for commercial properties of 25% is applied. As to the subject, copies of the subject's property record cards dated from 1978 to 1990 which were signed by the assessor's field inspector and submitted into evidence. The memorandum stated that the subject's land size is 93,790 square feet, while the subject's building size was 18,980 square feet of gross building area. The record cards exclude shed area from the building area for the sheds are not enclosed and without heat, electricity, or plumbing.

In support of the subject's market value, the board of review presented descriptive and sales data on six properties suggested as comparable to the subject. These properties are described as one-story, retail/storefront or retail/storefront/residential locations. They range in building size from 6,054 to 8,582 square feet of building area. The properties sold from January, 2009, to June, 2011, for unadjusted prices ranging from \$63.40 to \$121.88 per square foot of building area.

The board's cover memorandum also stated that this analysis was not intended to be an appraisal or estimate of value and that the data reflected therein was collected from multiple sources which were not verified, but assumed to be reliable.

At hearing, the board representative testified that she had no personal knowledge of any field inspections by the assessor's office beyond the inspection data reflected on the subject's property record cards. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Per distinct correspondence, intervenors Argo CHSD #217 and School District #104 both adopted the arguments and evidence of the Cook County Board of Review.

After considering the testimony and arguments as well as reviewing the evidence, the Property Tax Appeal Board (the

"Board") finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. Cook Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 339 Ill. App. 3d 529, 545 (1st Dist. 2002); National City Bank of Michigan/Illinois v. Prop. Tax Appeal Bd., 331 Ill. App. 3d 1038, 1042 (3d Dist. 2002) (citing Winnebago Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 313 Ill. App. 3d 179 (2d Dist. 2000)); 86 Ill. Admin. Code § 1910.63(e). 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. Calumet Transfer, LLC v. Prop. Tax Appeal Bd., 401 Ill. App. 3d 652, 655 (1st Dist. 2010); 86 Ill. Admin. Code § 1910.65(c). Having considered the evidence presented, the Board finds that the appellant has not met this burden and that a reduction is not warranted.

In determining the fair market value of the subject property, the Board finds unpersuasive the appellant's evidence. The premise of the appellant's argument that the subject is overvalued is purportedly based upon a misclassification by the county. The appellant argued that the subject should be classified as a mixed-use, commercial and residential property and not solely a commercial property. The Board finds that this argument fails.

In summary, the Board accorded minimal weight to the appraisal due to: the appraiser's lack of experience; the appellant's failure to offer an expert witness at hearing; the appraiser's lack of personal knowledge to various portions of the appraisal; the appraiser's continued use of flawed market data to support the contention that the subject was a mixed-use property instead of using like-kind, commercial properties; the lack of the witness's personal knowledge of the subject property due to his testimony of undertaking a site observation and not a complete inspection; his site observation occurring in July, 2010, which is 18 months after the lien date of January, 2009, further diminishing his personal knowledge of the subject's condition on the lien date; the appraiser's failure to properly document a purported apartment which under cross examination became evident that this portion of the subject property was correctly assessed as actual office area; the witness's evasive testimony; as well as the appraiser's failure to make appropriate adjustments in the sales comparison approach to value, including the lack of

adjustments for property rights, building age, condition and/or highest and best use.

Overall, as to the appellant's mixed-use assertion, the Board finds that the appraisal's lack of detail and clarity on this issue as well as the lack of veracity in testimony taint the appellant's evidence. Moreover, the Board finds that the appraisal's final conclusion of value was developed by another signatory and that the witness neither developed nor adopted this valuation at hearing. Therefore, the Board finds that the appellant's theory is unpersuasive.

However, the courts have stated that where there is credible evidence of comparables sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App. 3d 207 (2nd Dist. 1979). The Court further held that significant relevance should not be placed on the cost approach or the income approach especially when there is market data available. Id. Moreover, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989), the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach. Therefore, the Board will also accord weight to the parties' sales data.

The Board finds that both parties submitted sales data on a total of 12 properties. The Board accords no weight to appellant's sales #1, #2, #4, and #6 as well as the board of review's sale #4 because they were not like kind properties. The remaining 7 sales are of a commercial property. They ranged in improvement size from 6,054 to 21,000 square feet of building area. They sold from January, 2009, to June, 2011, for unadjusted prices that ranged from \$18.18 to \$121.88 per square foot. In comparison, the subject's total assessment reflects a market value of \$54.76 per square foot of building area, which is at the low end of the established range. After making adjustments to these suggested sale comparables for pertinent factors, the Board finds that the subject's market value is supported and that a reduction is not 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.



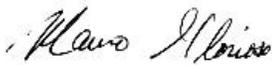
Chairman



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 20, 2014



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.