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

APPELLANT: J & J Joliet Plaza, LLC
DOCKET NO.: 10-00733.001-C-1
PARCEL NO.: 06-03-35-204-022-0000

The parties of record before the Property Tax Appeal Board are J & J Joliet Plaza, LLC, the appellant, by attorney William I. Sandrick of the Sandrick Law Firm, LLC, in South Holland, and the Will 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 **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

| | |
|---|---|
| **LAND:** | $150,000 |
| **IMPR.:** | $183,300 |
| **TOTAL:** | $333,300 |

Subject only to the State multiplier as applicable.

## ANALYSIS

The subject property is improved with a one-story masonry, stucco and concrete block constructed strip center on a concrete slab foundation that was built in 1997. The structure is divided into seven tenant spaces with individual air conditioning. The structure contains approximately 11,540 square feet of building area. The property has a 1.25-acre site improved with 56 asphalt-paved parking spaces and is located in Joliet, Plainfield Township, Will County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted a 148-page appraisal report estimating the subject property had a market value of $1,000,000 as of January 1, 2009. The appraisal was prepared by David M. Richmond, a State of Illinois Certified General Real Estate Appraiser. In estimating the market value of the subject property, the appraiser developed the income and the sales comparison approaches to value.

In excluding the cost approach as a method, the appraiser noted the method was "not considered reliable in estimating an "As Is" Market Value, due to the age, layout and the fact that buyers and sellers do not rely upon this approach." (Appraisal, p. 40) The appraiser further reported the subject suffers from physical depreciation due to roof leaks. The subject also suffers from external obsolescence, "due to the current economic conditions and the vast over supply of rental space in the subject area." (Appraisal, p. 75) Additional external obsolescence is due to the existence of slightly lower quality space available in the market area with similar visibility and accessibility, but lower rental rates. The property also suffers from functional obsolescence, "due to the fact that it is considered to be a slight over improvement for the subject area." (Id.) The appraiser further asserted that properties in the market area have been listed and sold for less than the cost new to construct the structure and the cost to acquire the land. "Due to the vast amount of over development of commercial, office, and industrial space, there has been a deep discount in the prices paid for properties in relation to their cost when constructed." (Id.)

The purpose of the appraisal was to establish an equitable ad valorem tax assessment by estimating the property's market value in fee simple interest. As to the subject property, the appraiser described the sizes of the various rental units and noted the overall condition to be average to good. The property has a land-to-building ratio of 4.73:1. "As of the date of this appraisal,[1] the west end unit containing 3,090± square feet was vacant." Additionally, one of the tenants notified the owners of the property that their lease, which ends in May 2009, would not be renewed. Therefore, the appraiser found that the subject property was 36% vacant (as 4,180 square feet were either vacant or becoming vacant in May 2009). (Appraisal p. 32)

Using the income approach, the appraiser estimated the subject had a market value of $975,000. The subject's total vacancy loss of 36% was "consistent with the current over supply of space in the market area." (Appraisal, p. 76) The first step was to develop the subject's potential gross rental income through examination thirteen rental comparables summarized on page 81 of the report located in Joliet, Crest Hill, Shorewood, Minooka, Plainfield, Orland Park and Lockport. The monthly rental rates ranged from $7.80 to $17.52 per square foot. The appraiser also analyzed the subject's rental income.

For purposes of the income approach, the appraiser estimated a gross rental rate of $15.00 per square foot for the subject. Based on this analysis, the appraiser opined potential gross income for the subject of $173,100. Given both current and impending vacancy of the subject, the appraiser noted a vacancy and collection loss of 36% to the subject. Based on market area data and as on page 94 of the report, the appraiser applied a vacancy and collection loss of 35% or $60,585 to the subject which results in effective gross income of $112,515. Next, the appraiser applied a management fee of 5% of effective gross income or $5,626 and "common area maintenance/vacant" of $5.00

[1] The date of inspection was September 17, 2009 and the valuation date of the report was January 1, 2009.

per square foot or $15,450 resulting in a net operating income of $91,439. (Appraisal, p. 94)

Next the appraiser calculated a capitalization rate by examining multiple sources and finding varying rates. (Appraisal, p. 98) As depicted on page 98 using the band of investment technique, the appraiser developed a capitalization rate of 9.3% for the subject. Capitalizing the subject property's net operating income of $91,439 by 9.3% resulted in an estimated market value of $985,000, rounded.

The appraiser next asserted on page 99 in applying a direct capitalization method, "a capitalization rate indicated by market transactions would be well supported at 9.5%." Applying this rate to the subject's net operating income resulted in an estimated market value of $965,000, rounded.

The appraiser then concluded in reconciling the differing results and giving least consideration to the band of investment technique, the subject's value under the income approach is well supported at $975,000. (Appraisal, p. 99)

Developing the sales comparison approach, the appraiser estimated the subject had a market value of $1,200,000. The appraiser used ten sales and three listings of primarily multi-tenant strip centers.[2] Nine of the comparables were built between 1980 and 2006; no ages were reported for four of the properties. The centers ranged in size from 5,000 to 45,000 square feet of building area with sales occurring between January 2006 and February 2009 for prices ranging from $1,078,000 to $6,500,000 or from $49.92 to $180.84 per square foot of building area, including land. The three listings had asking prices ranging from $650,000 to $3,916,843 or from $130.00 to $163.40 per square foot of building area, including land.

The appraiser discussed what adjustments were necessary for differences between the comparable sales and the subject on pages 137 through 139 of the appraisal report. Concluding in the sales comparison approach based on various adjustments, the appraiser opined a unit value for the subject of $105.00 per square foot or $1,211,700 which the appraiser reported as $1,200,000, rounded, for the subject, including land.

In reconciling the value approaches, the appraiser gave most weight to the income approach as the subject is considered to be an investment property in arriving at the final estimate of market value. Thus, the appraiser estimated the subject property had a market value of $1,000,000 or $86.66 per square foot of building area, including land, as of January 1, 2009. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value at the statutory level of assessment of 33.33%.

[2] Comparables #8 and #11 were single tenant properties either based on the data submitted or the photograph of the property.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $406,851 was disclosed. The subject's assessment reflects a market value of $1,223,980 or $106.06 per square foot of building area, including land, when applying the 2010 three-year median level of assessments for Will County of 33.24%. (86 Ill.Admin.Code §1910.50(c)(1)).

In support of the subject's estimated market value, the board of review submitted a two-page letter prepared by the Plainfield Township Assessor along with three pages of the appraisal with highlighted portions and a document entitled 'Form 8825 – Rental Real Estate Income and Expenses of a Partnership or an S Corporation' with a subheading of JJ Family Partnership LP (Joliet, IL). The letter consists of criticisms of the appraisal report made by the Plainfield Township Assessor.

As to the appraiser's contention that there is an over supply of rental space and over development of commercial, office and industrial space, the assessor wrote, "We conduct yearly surveys of that local commercial neighborhood area [and] did not find this to be the case. There was less that [sic] 8% in the retail space available."

As to depreciation due to roof leaks, the assessor noted "since 2006 the Appellant has claimed an unrealistic $33,475 for repairs, maintenance and cleaning."[3] The assessor then states "[a] simple flat roof repairs on a 12 year old building would have certainly been cured with that type of budget." The assessor also notes that the appraiser rejected the cost method of value as unreliable.

For the vacancy analysis of the appraisal, the assessor raises the citation to the term frictional vacancy as an economic theory and contends that the assertion that normal vacancy levels are too low in the subject's area "is simply not the case." The assessor provided no data to support this contention.

From page 94 of the report, the assessor contends the appraiser further distorted the net operating income by applying 35% vacancy when it was actually 27% and the "common area maintenance/vacant" deduction was inappropriate as "the building has no claimed common areas under roof, all units have their own heating and cooling systems." From this analysis, the assessor contends that "when non distorted numbers are used the assessed value times 3 to market value is similar to the 2010 assessment."

Lastly, based upon the 13 sales and listings, the township assessor reported that the price per square foot of all these comparables is $135.95 per square foot which is greater than the

[3] While the figure was not explained, it appears to have been derived from attached Form 8825.

subject's estimated market value per square foot based upon its assessment.

Based on the foregoing analysis, the board of review requested confirmation of the subject's assessment.

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

The appellant contends overvaluation as the basis of the appeal. 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 evidence in the record supports a reduction in the subject's assessment.

The appellant submitted an appraisal of the subject property with a final value conclusion of $1,000,000 as of January 1, 2009. The appraiser utilized both the income and sales comparison approaches to value and then reconciled those varying conclusions. As part of the report, the appraiser analyzed thirteen sales and listings of similar properties and considered adjustments for differences from the subject. The purpose of the appraisal was for a property assessment appeal and the rights appraised were fee simple.

The board of review, through the assessor, relied solely upon the sales and listings in the appellant's appraisal report to support the subject's assessment. The assessor argued that the average of all thirteen sales and listings presented in the report reflect an average sale price of $135.95 per square foot of building area, including land. No adjustments were made to these suggested sales for differences from the subject. As this average price per square foot exceeds the subject's estimated market value based upon its assessment, the assessor argued that the subject's assessment should be confirmed. The Property Tax Appeal Board finds, however, that there are several problems with the assessor's analysis of all 13 comparable properties in arriving at the reported average sales price. First, several of the comparables differ greatly in size from the subject such as comparable #2 at 45,000 square feet and comparable #8 at 41,365 square feet whereas the subject contains 11,540 square feet of building area. Moreover, several of the comparable parcels are much larger than the subject with comparable #2 having 8.11-acres and comparable #4 having 5.99-acres whereas the subject has a 1.25-acre site. Second, several of the sales are substantially distant in time from the assessment date of January 1, 2010 such as comparables #2, #7 and #9 that sold between January and December 2006. As a final point, an average sale price is generally not the measure of determining the estimated market value of a given property, but rather consideration is given to similarities and differences between the comparable sales and the subject in arriving at a reasoned estimate of the subject's value.

Given that the assessment date at issue is January 1, 2010, the Board finds that of the evidence submitted by the appellant's appraiser is more detailed and indicative of the subject's estimated market value than the limited data presented by the board of review. While the assessor sought to disparage various aspects of the appellant's appraisal report, despite these criticisms leveled by the assessor on behalf of the board of review the Property Tax Appeal Board finds that the appraisal's value conclusion reflects the best evidence of the subject's estimated market value on this record. The subject's assessment reflects a market value of $1,223,980 or $106.06 per square foot of building area, including land, which is greater than the value conclusion of $1,000,000 in the appraisal and therefore, a reduction in the subject's assessment is justified.

In conclusion, based on this record the Board finds a reduction in the subject's assessment is warranted in accordance with the appellant's request.

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: August 23, 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.