FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Don Wickman
DOCKET NO.: 10-01613.001-C-3 through 10-01613.002-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Don Wickman, the appellant, by attorney Michael Elliott of Elliott & Associates, P.C., Des Plaines; and the Kane 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 **Kane** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
10-01613.001-C-3	09-25-426-010	283,607	527,139	$810,746
10-01613.002-C-3	09-25-426-011	266,388	456,046	$722,434

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two parcels with a total land area of 221,128 square feet or 5.08 acres improved with two one-story buildings constructed in 1999. The buildings have 30,969 and 24,615 square feet of building area, respectively, for a total of 55,584 square feet of gross building area. Each is a multi-tenant office building of masonry construction with a combined net rentable area of 55,504 square feet. The buildings have nine units ranging in size from 1,570 to 17,463 square feet and each unit has a private entrance. The buildings have separate metered utilities to each unit with the exception of the vacant space in one of the buildings. Each unit also has a separate heating and cooling system. Additionally, each unit has at least two, multi fixture restrooms except for the vacant space in one of the buildings. The subject property has a land to building ratio of 3.98:1 and is located in St. Charles, St. Charles Township, Kane County.

The appellant appeared before the Property Tax Appeal Board contending overvaluation with respect to the assessment for the 2010 tax year. In support of this argument the appellant submitted a narrative appraisal prepared by Michael S. Lysien and Edward V. Kling of Real Valuation Group, LLC. The appraisers estimated the subject property had a market value of $4,600,000 as of January 1, 2010.

Michael Lysien was called as a witness on behalf of the appellant. Lysien is licensed by the State of Illinois as a Certified General Appraiser and has been a real estate appraiser since 2007. The witness is a candidate for the Member of the Appraisal Institute (MAI) designation and is in year one of the five year program to become an MAI. Lysien appraises between 60 and 70 properties each year and about half of those are office buildings. Lysien identified Taxpayer's Exhibit #1 as the appraisal of the subject property he prepared.

The appraiser inspected the subject property on February 25, 2011, with Mr. Wickman and was able to get into some of the units. The property rights appraised were the fee simple estate, which he testified was based more heavily on market estimates as opposed to contract rents. The appraiser testified a leased fee is based on contract rents.

In describing the subject property the appraiser testified the property had a 34% vacancy and that part of the vacant space was caused by a tenant shrinking its space needs. He explained this portion of the vacant space did not have any plumbing or HVAC.

Lysien testified the property was purchased by Don Wickman in December 2009 for $4,000,000. The witness testified the property was purchased out of foreclosure but Mr. Wickman stated the property had been on the market for at least two years while the transfer declaration indicated a 36 month marketing time.

The appraiser testified the subject property is located approximately 12 miles west of Interstate 355, approximately 8 miles north of Interstate 88, approximately 10 miles south of Interstate 90 and approximately 2 to 3 miles from the downtown area of St. Charles. The appraiser classified the subject property as being located in a secondary office market area.

In describing the tenant space the witness acknowledged that two tenants had 17,463 and 11,344 square feet of building area, respectively, which comprised approximately half of the building space. Of the remaining area one tenant had 1,570 square feet of building area with the remaining area ranging in size from 3,257 to 5,411 square feet of building area. The witness explained that the space identified as 3815 D containing 5,411 square feet of building area, was the vacated area that had no bathrooms, HVAC, or separately metered utilities.

The appraiser determined the highest and best use of the property as improved was the continued present use. The appraiser testified the vacancy rates as of January 1, 2010 were around 22% to 25%. He testified concessions landlords were giving tenants included one month free rent per year, tenant improvement allowances and renegotiating leases with existing tenants to bring down rent to market levels. The witness further testified he was seeing negative space absorption as of January 1, 2010.

In estimating the market value of the subject property the appraiser developed the three traditional approaches to value. The first approach developed by the appraiser was the cost approach to value. The initial step under this approach was to estimate the land value using six land sales. The land comparable sales were located in Aurora, Carol Stream, Lisle, Crystal Lake and Elgin. The comparables ranged in size from 87,033 to 199,243 square feet of land area and sold from May 2008 to April 2010 for prices ranging from $815,000 to $1,486,500 or from $5.00 to $10.48 per square foot of land area. The appraiser indicated these comparables had adjusted prices ranging from $6.00 to $9.43 per square foot of land area. He further indicated in the report there were two active listings for asking prices of $6.00 per square foot of land area. The appraiser also indicated there was an October 2009 sale of a 5.17 acre parcel in Batavia for a price of $3,230,000 or $14.33 per square foot of land area. Furthermore, two lots with 1.21 acres located just south of the property sold in December 2006 for a price of $680,000 or $12.90 per square foot of land area. Based on this data the appraiser estimated the subject land had an estimated value of $7.50 per square foot of land area for a total value of $1,650,000, rounded.

The appraiser estimated the replacement cost new of the improvements using the Marshall & Swift Valuation Service: section 15, page 17, Office Buildings, Class C, Type Average. The base cost was adjusted for a sprinkler system as well as area, height, local and current cost multipliers. The total replacement cost new for the buildings was estimated to be $6,060,790. Using the physical age and estimated physical life the appraiser estimated physical depreciation to be 14%. The appraiser asserted functional obsolescence was present in the vacant space identified as unit 3815 D, which needs plumbing for separate restrooms, separate HVAC systems or separate electrical services. He also noted other vacant space will require renovations to accommodate future tenants. He estimated functional obsolescence to be 11%. With respect to external obsolescence the appraiser noted the downturn in the office market has extended the marketing period for vacant units and tempered rental rates. Comparing market rent and the "feasibility rent" Lysien estimated external obsolescence to be 21%. Using the breakdown method the appraiser estimated total depreciation to be 46%. The appraiser also estimated depreciation using the economic age-life method. The appraiser estimate the subject property had an effective economic age of 21 years and a typical economic life of 50 years resulting in total depreciation of 42%. Considering both methods the appraiser estimated the subject property suffered from 46% or $2,787,963 in accrued depreciation. The depreciated value of the building improvements was estimated to be $3,272,826. To this the appraiser added $73,000 as the contributory value of the site improvements and $167,291 for entrepreneurial incentive to arrive at a value of $3,513,118 for the improvements. To this amount the appraiser added $1,650,000 for the land value to arrive at an indicated value under the cost approach of $5,200,000. The appraiser gave the estimate of value under the cost approach least weight.

The next approach developed by the appraiser was the sales comparison approach using five comparable sales located in Naperville, Carol Stream, Lisle and St. Charles. The comparables were improved with four multi-tenant buildings and one single tenant building. Comparable sale #3 was a four-building development and the others were improved with single buildings. The comparables ranged in size from 24,102 to 72,484 square feet of building area and ranged in age from 19 to 31 years old. These properties had sites ranging in size from 54,045 to 369,044 resulting in land to building ratios ranging from 1.95:1 to 6.89:1. The sales occurred from June 2008 to August 2010 for prices ranging from $1,800,000 to $6,630,000 or from $52.16 to $127.07 per square foot of building area, including land.

The appraiser testified at the hearing that comparable sale #4 was a single tenant building and there should have been an adjustment for that. He further explained that comparable sale #5 was located west of the subject in St. Charles. This property has a three-story building with a walk-out lower level that is fully finished and rentable. He explained this building was 90% occupied and had longer term leases in place at high rental rates at the time of sale. He further testified that this property had a majority of the units with less than 1,000 square feet with most in the range of 500 square feet of building area. He also testified he had previously appraised this building. Lysien was of the opinion the December 2009 sale of this property was a sale of a leased fee due to the above market rent as the result of older leases signed during a superior market condition and the superior occupancy rate. He further testified this comparable had a capitalization rate of 9¼ percent.

In summary, Lysien adjusted the comparables for such elements as financing, sale conditions, date of sale, location, size, land to building ratio, construction, quality, age, condition and utility to arrive at adjusted prices ranging from $65.20 to $95.30 per square foot of building area, including land. The appraiser indicated the subject property was considered most similar to comparable sales #2, #3 and #4. Based on these sales the appraiser estimated the subject property had an indicated value of $85.00 per square foot of building area, including land, for a total estimated value under the sales comparison approach of $4,700,000.

The final approach to value developed by the appraiser was the income approach. The appraiser noted the subject property was 66% occupied at the valuation date with contract rent ranging from $10.75 to $14.07 per square foot of building area on a net basis. The average rent was $12.23 per square foot of building area. These leases were entered from 2003 through 2008. He testified that common area maintenance and taxes in the buildings averaged about $4.40 per square foot causing the gross rents at the subject to range from approximately $15.05 to $18.30 per square foot of building area. Lysien also examined leases at the subject building that were entered after the valuation date for rents ranging from $8.94 to $11.00 per square foot net or from approximately $13.34 to $15.40 per square foot of building area on a gross basis. This range is without considering free rent and rent concessions that would have been given the tenants. To estimate market rent the appraiser also used six comparable rentals located in St. Charles and Geneva. Rental comparables numbered 2 through 6 were built from 1980 to 2004. The leased areas ranged in size from 750 to 5,000 square feet with leases that commenced from February 2008 to July 2010 for $10.00 to $15.00 per square foot on a net, gross or net/modified gross basis. The appraiser estimated the gross rents would range from $10.90 to $19.58 per square foot of building area. Based on this data the appraiser estimated the subject property would have a market rent of $15.00 per square foot on a gross basis. Using 54,504 square feet of net rentable area the appraiser estimated the subject property had a potential gross income of $817,560. Citing market surveys reporting vacancy rates ranging from 17.5% to 24.1% the appraiser estimated the subject would have a vacancy and credit loss of 20% or $163,512 resulting in an effective gross income of $654,048. The appraiser also deducted the following expenses for the subject: management, $32,702; insurance, $11,117; maintenance, $111,168; reserves, $11,117 and legal and accounting, $2,000 to arrive at an estimated net income of $485,944.

The next step was to estimate the capitalization rate to be used to capitalize the net income. The appraiser reported that comparable sale #1 sold at a pro forma capitalization rate of 8.5% and comparable #2 sold at a 13.3% capitalization rate. Additionally, he testified sale #5 had a capitalization rate of 9.25%. Using the band of investment technique the appraiser estimated a capitalization rate of 8.86%. Using the debt coverage ratio the appraiser estimated an overall capitalization rate of 8.27%. The appraiser also cited two surveys which had average rates in the first quarter of 2010 of 9.9% and 8.61%, respectively. He further stated that national suburban rates range from 6.75% to 12%. Based on this data the appraiser estimated the subject would have an overall capitalization rate of 8.5%. To this the appraiser added an effective tax rate of 2.22% resulting in a total capitalization rate of 10.72%. Capitalizing the net income resulted in an estimated value under the income approach of $4,500,000.

In reconciling the three approaches to value the appraiser gave least weight to the cost approach and equal consideration to the sales comparison approach and the income approach and arrived at an estimated market value of $4,600,000 as of January 1, 2010.

Under cross-examination Lysien agreed that at the time he prepared the appraisal he was an Associate Real Estate Trainee

Appraiser. He felt he was competent to do the appraisal based on the fact he had been a licensed trainee since 2007 and the appraisal was prepared in 2011. Furthermore he testified he had experience in appraising approximately 45 to 50 office buildings by March 2011.

The witness was also of the opinion the December 2009 sale of the subject property for a price of $4,000,000 was a market transaction based on the marketing period from approximately two years to 36 months.

Lysien was questioned about the location of the comparable sales he used and explained there were not a lot of sales at that time. He was of the opinion the sales located in Aurora, Carol Stream, Lisle, Crystal Lake and Elgin each had similar highest and best use as the subject property.

With respect to the feasibility rent used to calculate functional obsolescence, the appraiser explained this was the rent needed to justify the replacement cost of the building and the estimated underlying land value.

With respect to comparable sale #5, Lysien believed the purchaser was a local person and had actually occupied some space in the building. He believed the local buyer would probably know the office market in St. Charles. The witness also acknowledged that he had an error on page 56 of the report with respect to the subject's building size but the adjustment to the sales was based on the subject having 55,584 square feet of building area. He further explained that he valued the two buildings together because they share a common parking lot and they share common access drives. He thought a most likely buyer would buy the entire property as opposed to part of it. Lysien testified comparable sales #1 through #4 were located approximately 10 to 20 miles from the subject property.

Based on this evidence the appellant requested the subject's assessment be reduced to $1,533,180 to reflect the appraised value of $4,600,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $2,264,483 was disclosed. The subject's assessment reflects a market value of approximately $6,794,128 or $122.30 per square foot of gross building area, including land, when applying the statutory level of assessments.

The board of review called as its witness David Medlin, Deputy Assessor of St. Charles Township. Medlin testified he had information on two sales. The first sale he testified about was the same property as the appellant's appraiser's sale #5. He testified that the appraiser had listed the property as selling for approximately $127 per square foot but that included the basement area. He testified that if you use the above grade building area the sales price equated to $169.43 per square foot of building area. Medlin testified this was a sale within his township located approximately ½ mile from the subject property. He also testified about a second sale of a similar complex located in St. Charles composed of two buildings with a total building area of 70,628 square feet. The buildings were built in 2001 and 2004. This property sold in May 2007 for a price of $11,975,000 or for $169.55 per square foot of building area including land. This property had previously sold in May 2006 for a price of $12,300,000 or for $174.15 per square feet of building area. This property was located approximately 2 miles from the subject property.

Under cross-examination Medlin testified he did not include the basement area in his calculations for the comparable that had the finished basement to be consistent with the assessor's use of the above-grade area. The witness also agreed he did not do an appraisal and he submitted raw unadjusted sales.

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. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to so to do. <u>Springfield Marine Bank v. Property Tax Appeal Board</u>, 44 Ill.2d 428 (1970). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. <u>National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board</u>, 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 was presented by the appellant in the form of the narrative appraisal and the testimony of the appraiser, Michael Lysien. The appraiser developed the three traditional approaches to value in arriving at the estimated market value of $4,600,000 as of January 1, 2010. The Board finds the appraiser's testimony was credible. The Board finds the appraiser's development of the cost approach was not refuted or rebutted with alternative land sales or computations of the replacement cost new or depreciation. With respect to the sales comparison approach the Board finds the appraiser presented credible testimony with respect to the selection of the comparable sales and the adjustments made to account for differences from the subject property. With respect to the income approach the appraiser provided credible testimony concerning his analysis of the subject's leases that were in effect at the valuation date, the leases of the vacant space at the subject property after the valuation date and the selection of rental comparables as he determined the market rent to be applied to the subject property. The Board finds the board of review presented no testimony or evidence to refute or rebut the appraiser's estimation of market rent. Similarly, the appraiser's testimony with respect to estimated vacancy and credit loss, expenses, estimated net income and the overall capitalization rate was not refuted or rebutted by the board of review by any similar types of evidence.

Additionally, the Board finds the appraised value is also supported by the fact the subject property had sold out of foreclosure in December 2009 for a price $4,000,000 after being marketed for 24 to 36 months.

The board of review submitted information and testimony regarding two sales, one of which was used and analyzed by the appellant's appraiser. The second comparable sold in May 2006 and May 2007, approximately 3½ years and 2½ years prior to the assessment date. The Property Tax Appeal Board gives this comparable little weight due to the sale dates not being proximate in time to the assessment date at issue.

In conclusion, the Property Tax Appeal Board finds the subject property had a market value of $4,600,000 as of January 1, 2010 and a reduction to the subject's is appropriate.

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: May 24, 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.