



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

APPELLANT: Matthew Kusminder  
DOCKET NO.: 10-23634.001-I-1 through 10-23634.002-I-1  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Matthew Kusminder, the appellant(s), by attorney David Platek in Downers Grove, and the Cook County Board of Review.

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
10-23634.001-I-1	18-36-413-003-0000	20,436	112,145	\$132,581
10-23634.002-I-1	18-36-413-006-0000	20,436	71,968	\$92,404

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of two parcels of land totaling 40,872 square feet and improved with an three-year old, one-story, concrete industrial building. The appellant argues that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal.

In support of the market value argument, the appellant submitted a summary appraisal report undertaken by Kathleen Connors, Robert M. Kruse, and Joseph T. Thouvenell of Madison Appraisal, Inc. The report indicates Thouvenell is a State of Illinois certified general real estate appraiser and holds the MAI designation. The appraisers estimated a market value of \$550,000 as of January 1, 2008. The appraisal report utilized the three traditional approaches to value to estimate the market value for the subject property. The appraisal found the subject's highest and best use as improved to be its present use.

The appraisal lists the subject as containing 13,020 square feet of building area. The appraisal indicates Kathleen Connors

inspected the subject on September 15, 2008. The appraisal included the subject Sidwell map and a site plan.

Under the cost approach to value, the appraiser analyzed the sale of five properties to arrive at an estimated value for the land at \$8.00 per square foot or \$325,000, rounded. The replacement cost new was utilized based on R.S. Means Square Foot Costs Manual to determine a cost for the improvement at \$795,000. The appraisers reviewed the market data contained in the sales comparison approach section to develop depreciation. The appraisal finds the subject has an age of three years, which is its actual age and an estimated economic life of 60 years. The appraisers estimated the land value and the reproduction cost new of the comparables to determine a rate of depreciation from 57.7% to 82.5%. The appraisal notes the subject is only three years old and that it is below the age range of the comparables and then determines a depreciation of 70% or \$556,500. The appraisal indicates there are extensive site improvements in the description of the property, but does not account for these improvements in the cost approach. The land was added back in to establish a value under the cost approach of \$565,000, rounded.

In the income approach to value, the appraisers analyzed the rents of five properties to estimate potential gross income at \$5.25 per square foot or \$68,355. Vacancy and collection and management fees and allowances were estimated at 10% for a net operating income of \$61,519. The appraisers analyzed the sales comparables to estimate a capitalization rate. They imputed a rent for these properties to estimate a net income which indicated rates from 9.4% to 11.7%. The appraisal indicates the band of investment method would determine a rate of 10.6%. The appraisers chose a capitalization rate of 11.5%. This rate was applied to the net operating income to estimate a value under the income approach of \$535,000, rounded.

Under the sales comparison approach, the appraisers analyzed the sales of five properties described as one-story, industrial buildings located within the subject's market. The properties range in age from 9 to 48 years and in size from 10,000 to 21,000 square feet of building area. The comparables sold from October 2006 to November 2007 for prices ranging from \$275,000 to \$900,000, or from \$25.33 to \$47.91 per square foot of building area, including land. The appraisers adjusted each of the comparables for pertinent factors. The appraisers made no adjustments for time of sale. Based on the similarities and difference of the comparables when compared to the subject, the appraiser estimated a value for the subject under the sales comparison approach of \$42.00 per square foot of building area or \$545,000, rounded.

In reconciling the three approaches to value, the appraisal gave maximum emphasis to the sales comparison approach and appropriate consideration to the income approach to arrive at a final estimate of value for the subject as of January 1, 2008 of \$550,000.

The board of review submitted "Board of Review-Notes on Appeal" wherein the subject's total assessment was \$224,985. These notes indicate the subject is classified as a commercial property. The subject's assessment reflects a market value of \$899,940 using the Cook County 2010 Ordinance level of assessment for class 5 property of 25%.

The board of review lists the subject as containing 12,326 square feet of building area. To support this, the board of review has included a copy of the property record card which lists this as the subject size.

In addition, the board of review submitted descriptive and assessment data on four suggested comparables described as one-story, industrial buildings. The properties range in age from 13 to 42 years and in size from 9,000 to 12,672 square feet of building area. They sold from March to December 2007 for prices ranging from \$410,000 to \$1,010,000 or from \$45.56 to \$84.17 per square foot of building area. Based upon this evidence, the board requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a letter asserting the subject is misclassified as an industrial property and is a mixed-use, residential property. In support of this the appellant included copies of the certificates of error for 2009 and 2010.

At hearing, the appellant's attorney argued that the assessor corrected the property's classification through a certificate of error. The appellant's attorney was unable to indicate where in the appraisal a residential property was indicated.

The board of review rested on the evidence previously submitted.

The record was left open for one day to allow the appellant to submit, via fax, page 65 of the appraisal which is missing from the evidence. This document was never submitted.

After considering the arguments and reviewing the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

As to the subject's size, the PTAB finds the appellant submitted sufficient evidence to establish the subject's size at 13,020 square feet of building area.

In addition, the PTAB gives no weight to the appellant's argument that the subject should be reclassified as a mixed-use property. The copies of the certificates of error submitted in rebuttal do not indicate the reason for the error and the appraisal never indicates the subject has any residential use. The PTAB finds the subject is an industrial building and should be assessed as such.

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 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2<sup>nd</sup> 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). Having considered the evidence presented, the Board concludes that the appellant has not met this burden and that a reduction is not warranted.

The PTAB has many questions regarding the appraisal submitted by the appellant. The PTAB does not understand the use of a 70% depreciation rate in the cost approach when the subject is three-years old and an age/life depreciation analysis would estimate depreciation at 5%. In addition, the PTAB does not know why the appraisers did not use actual construction costs when the subject was only three-years old. In the cost approach, the PTAB does not understand why the appraisers used a capitalization rate at the high end of the range based on data that was imputed by the appraisers. Moreover, this rate was higher than that estimated by the band of investment method without any explanation from the appraisers. As to the sales comparison approach, the appraisers did not make adjustments for a valuation date of January, 1, 2008 and the PTAB finds this lack of adjustment is compounded in attempting to use the appraisal to value the subject as of January 1, 2010. The PTAB also questions why the appraisers determined a final value above the sales and income approaches to value when those approaches were given maximum emphasis and appropriate consideration. Unfortunately, the appellant failed to present any witnesses at hearing to testify to the methodologies used and conclusions arrived at in the appraisal. For these reasons, the PTAB finds the methodologies and adjustments in the appraisal are not reliable as to the lien date and gives the adjustments and conclusions of value within the appraisal no weight.

The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207 (2<sup>nd</sup> Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5<sup>th</sup> Dist. 1989). Therefore, the PTAB will consider the raw sales data from both parties.

The parties submitted nine sales comparables. The PTAB finds the appellant's sale comparables #2 and #5 and the board of review's sale comparables most similar to the subject and most probative in determining the subject's market value as of the lien date. These sales occurred from March to December 2007 for prices ranging from \$275,000 to \$1,010,000 or from \$27.50 to \$84.17 per square foot of building area. In comparison, the appellant's assessment reflects a market value of \$69.12 per square foot of

building area which is within the range established by the sales comparables. After considering adjustments and the differences in the comparables when compared to the subject, the PTAB finds the subject's per square foot assessment is supported and 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.

*Ronald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

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: September 20, 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.