FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Easy Living LLC
DOCKET NO.: 11-00664.001-C-1
PARCEL NO.: 16-05-18-305-048-0000

The parties of record before the Property Tax Appeal Board are Easy Living LLC, the appellant, by attorney David R. Bass of Field and Goldberg, LLC, in Chicago, and the Will 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 **Will** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$104,086
IMPR.:	$265,222
TOTAL:	$369,308

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Will County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2011 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a one-story Class B multi-tenant masonry office building containing approximately 8,100 square feet of net rentable building space with a full basement.[1] The building was constructed in 2006 and was subdivided into three office rental units ranging in size from 2,025 to 4,050 square feet of net rentable area. Other features include two asphalt parking lots. The property has a 13,800 square foot site within an 8.79-acre commercial development that is located in Lockport, Homer Township, Will County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal with the stated purpose of estimating the market value of the leased fee interest in the subject property with a value conclusion of $925,000 as of June 17, 2011. The appraiser utilized both the income capitalization and sales comparison approaches to value in developing the report.

As to the subject's sales history, the appraiser reported at the time of the report the property was listed for sale for a list price of $1,250,000 as of February 17, 2011. (Appraisal, p. 10)

For the income approach, the appraiser performed two separate analyses utilizing the direct capitalization and a discounted cash flow method. The appraiser noted that the subject building is 100% occupied. With the in-place leases through 2014, the subject's potential gross income was stated as $129,600. On page 30 of the report, based upon the actual rent for the subject, the appraiser calculated a mean rental rate of $16.00 per square foot for the subject. Based on an office market survey report for the South Suburban sub-market, the appraiser chose an average vacancy rate of 18.5% for Class B type office use properties. (Appraisal, p. 31) The appraiser also reported an average asking rent of $18.58 per square foot of net rentable area. (Id.) Given the subject's lower mean rental rate, the appraiser concluded a stabilized vacancy and collection loss of 15%. Applying this vacancy and collection loss rate to the subject's potential gross income, the appraiser determined an effective gross income of $110,160.

Next, the appellant's appraiser analyzed 2010 year end income and expense data for the subject. Then, to develop stabilized operating expenses, the appraiser analyzed the subject's expenses and "comparable data." (Appraisal, p. 31) Real estate taxes were projected to be $29,900; insurance expense was estimated as $2,500; management fees of $4,500 were projected as 5% of effective gross income; annual association fees of $9,500

[1] On page 30 of the appraisal, the appellant's appraiser reported the basement was accessible to tenants, but was not included in the net rentable area.

were projected; professional fees were stabilized at 1.5% of effective gross income or $1,900; and replacement reserves were estimated at $0.15 per square foot of net rentable area or $1,200. These figures resulted in projected total operating expenses of $50,500 or 45.84% of the effective gross income. The appraiser further opined in the report that these expenses were "consistent with the total operating expenses of comparable type properties." (Appraisal, p. 32) Based upon the foregoing, the appraiser estimated stabilized net operating income as $59,660.

Next, the appraiser considered three methods to determine an appropriate capitalization rate. The appraiser estimated an overall rate of 6.8% under the band of investment technique. For the survey method, the appraiser estimated a rate of 7.42% and for the market derived method the appraiser estimated a mean rate of 6.98% and a median rate of 7.40%. Based on the foregoing, the appraiser gave most weight to the band of investment technique and determined an overall capitalization rate near the lower end of the indicate range of 7.0% for the subject property. Applying the direct capitalization approach to the subject's net operating income resulted in an estimated value of $852,286 or $850,000, rounded, under the direct capitalization method.

The appraiser next developed a discounted cash flow analysis for the subject property. The appraiser began the analysis as of July 2011 and assumed a 5 year holding period with a 9% discount rate and an 8.5% reversion capitalization rate. Utilizing the market rental rate of $18.58 per square foot of net rentable area and applying an income growth rate, general expenses with increases, stabilized vacancy of 15%, management cost, reserves and "reversion selling expense" of 5%, the appraiser concluded a value of $990,000 for the subject.

Given the two value results in the income approach, the appraiser reconciled the results to a value of $950,000 for the subject property, giving greatest weight to the discounted cash flow analysis as it "better accounts for the impact of an irregular cash flow pattern on value, and is the method most typically relied upon by investors when considering this type of property investment." (Appraisal, p. 38)

For the sales comparison approach, the appraiser analyzed five sales and a listing of properties located in Romeoville, Joliet, Lockport and Orland Park. Comparable sale #5 was located in the same development as the subject property. The comparable buildings were built between 1938 and 2006. The buildings range from one to three stories in height and range in size from 2,034 to 10,000 square feet of net rentable area. Two of the comparables have basements. The five sales occurred between March 2008 and March 2011. The properties sold or had asking prices ranging from $360,000 to $910,000 or from $83.08 to $176.99 per square foot of net rentable area. The appraiser made various adjustments to the comparables as described on pages 47 through 49 of the report and as displayed in a qualitative adjustment chart on page 50 of the appraisal. Having considered this data and the adjustments, the appraiser opined a market value of $105.00 per square foot of net rentable area for the subject property resulting in a value conclusion of $850,500 or $850,000, rounded.

In reconciliation of the two approaches to value used in the appraisal, the appraiser gave primary weight to the income approach and opined the "market value of the leased fee interest of the subject property, based on a market period of 12 to 24 months" to be $925,000.

Based on the foregoing evidence, the appellant requested a total assessment of $308,333 which would reflect the appraised value at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $369,308. The subject's assessment reflects a market value of $1,112,039 or $137.27 per square foot of net rentable building area, land included, when using the 2011 three year average median level of assessment for Will County of 33.21% as determined by the Illinois Department of Revenue.

The board of review submitted a three-page letter from Karen Szynkowski, Homer Township Assessor, along with additional data. As to the appraisal report, the assessor asserted the income approach should not have relied upon the actual rents of the subject property, but rather should have analyzed market rents. Additionally, she contended that real estate taxes are not an allowable expense, but should be figured in the capitalization rate. She also erroneously cited to two separate parcel numbers and alleged the appraiser "appraised two buildings."

Next, as to the appraiser's sales comparables, Szynkowski outlined eight items critiquing the chosen properties including, design, foundation, mixed use and age as to the sales. For comparable #6, the assessor objected to consideration of a listing.

In support of its contention of the correct assessment, the township assessor presented a spreadsheet (Exhibit B) with six comparable sales, where board of review comparable #1 is the same property as appraisal sale #5. Furthermore, four of these comparables are located in the subject's development and two are located in Homer Township. The comparables consist of one-story masonry buildings that were built in 2006 or 2007. The buildings range in size from 1,725 to 4,068 square feet of building area. Two of the comparables have a basement. These properties sold between July 2008 and October 2012 for prices ranging from $325,000 to $785,000 or from $176.99 to $211.59 per square foot of building area, including land.

As Exhibit C, the assessor "redid the income approach" using market data and excluding real estate taxes as an expense item. Rental data was based upon office condos and the vacancy rate "is based upon the vacancies in Homer Township for Office Condos" like the subject property. To support the vacancy rate of 7%, there are three spreadsheets each entitled "Homer Township Office Condo Vacancies" with a subheading of 2010, 2011 and 2012 review. As shown in a side-by-side income approach comparison, the assessor's office estimated a market value for the subject by applying a loaded capitalization rate of 9.66% to a net operating income of $117,059 for a value conclusion of $1,211,794 under the income approach.

Exhibit D consists of the assessor's cost approach to value analysis along with a spreadsheet of nine land sales to support the land value. Given the age of the subject, 27% in total depreciation was applied. Applying the cost approach, the assessor estimated a market value of $1,389,913 for the subject.

In closing in her letter, the assessor presented a value conclusion for the subject after considering the three approaches to value of $1,250,000. Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 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 that the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

Section 9-145 of the Property Tax Code provides in part that 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. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428 (1970). In this regard it is noted that the appellant's appraiser calculated a leased fee value for the subject property. The Board finds that fee simple is equivalent to fair cash value and therefore, the Board gave little weight to the appraiser's leased fee value determination(s) in the appellant's appraisal report.

Furthermore, Illinois 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 Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989). Thus, given the applicable case law, the Property Tax Appeal Board finds it appropriate to analyze the raw sales data in the appellant's appraisal and compare and contrast that data with the raw sales presented by the board of review to determine whether the record establishes that the subject property is overvalued as argued by the appellant.

The record contains a total of 11 comparable sales and one listing to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's comparable #5 and each of the board of review's suggested sales comparables as each building presented is substantially smaller than the subject ranging in size from 1,725 to 4,068 square feet of building area whereas the subject contains 8,100 square feet. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. Thus, the smaller comparables which were suggested by the parties are less likely to be indicative of the subject's market value given these size differences.

In light of the foregoing, the Board finds the best evidence of market value to be listing price of the subject property along with the appellant's appraiser's sales #1, #2, #3, #4 and listing #6. The comparable buildings range in size from 6,377 to 10,000 square feet and had sales or asking prices ranging from $83.08 to $125.29 per square foot of building area, including land. Additionally, the Board finds the subject's estimated market value of $1,112,039 or $137.27 per square foot of building area, including land, based upon its assessment is well supported by the more similar comparables in the record. Furthermore, the Board finds that as of February 2011 the subject property was listed for sale on the market for an asking price of $1,250,000 or $154.32 per square foot of building area, including land, which would reflect the upper limit of value. The Board finds that the January 1, 2011 assessment of the subject property reflects an estimated market value of $1,112.039 or $137.27 per square foot of building area, including land, which is approximately 89% of the February 2011 asking price.

Based on this evidence and particularly in light of the listing price of the subject property in February 2011, the Board finds the appellant has not established overvaluation of the subject property by a preponderance of the evidence and a reduction in the subject's assessment is not warranted on this record.

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.