



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

APPELLANT: BMO Harris Bank N.A.  
DOCKET NO.: 11-01362.001-C-1  
PARCEL NO.: 09-34-132-028

The parties of record before the Property Tax Appeal Board are BMO Harris Bank N.A., the appellant, by attorney Thomas J. McCracken, Jr., of the Law Offices of Thomas J. McCracken, Jr. & Associates in Chicago; and the Kane County Board of Review.<sup>1</sup>

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:

**LAND:** \$47,344  
**IMPR:** \$117,145  
**TOTAL:** \$164,489

Subject only to the State multiplier as applicable.

**Statement of Jurisdiction**

The appellant timely filed the appeal from a decision of the Kane 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 ground floor commercial unit in a mixed-use three-story building. The unit

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<sup>1</sup> This appeal was part of a consolidated hearing with Docket No. 11-01361.001-C-2. Portions of the testimony and evidence discussed during the hearing of Docket No. 11-01361.001-C-2 will be incorporated or referenced in this decision where appropriate.

has 2,469 square feet of building area. The building was constructed in 2008. The greatest portion of the interior space consists of a lobby composed of general open offices and teller counters. The subject unit has a small conference room located in the southeast corner of the unit and a copy/storage room located off the lobby in the west section of the building. Other features include two restrooms, a vault for safe deposit boxes and teller cash, central air condition, a drive-through with three lanes served by pneumatic tube systems and a 1,078 square canopy that covers the drive-through. Site improvements include an asphalt paved parking lot with approximately 2,500 square feet and a parking lot striped to accommodate 4 cars. The property has an irregular roughly L-shaped interior parcel with 5,261 square feet. The property is located at 409 South 1<sup>st</sup> Street, St. Charles, St. Charles Township, Kane County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Charlie Hynes and Frank C. Urban of Frank C. Urban & Co. estimating the subject property had a market value of \$495,000 as of January 1, 2011. (Appellant's Exhibit #2). The appellant called as its witness Frank C. Urban.

Urban is a State of Illinois Certified General Real Estate Appraiser and has the MAI designation from the Appraisal Institute. Urban stated he conducted a 2011 appraisal of the subject property. The witness testified the subject property is used as a bank branch with a drive-through operation. The witness testified the subject property is a commercial condominium unit. The appraiser further testified the subject property has 5,261 square feet of land resulting in a land to building ratio of 2.1:1, which is well below typical suburban branch banks.

Urban determined the highest and best use of the property as improved was continued use as a bank branch. In estimating the market value of the subject property Urban did not prepare a cost approach to value because he was valuing a portion of a larger building. In estimating the market value of the subject property the the income capitalization approach to value and the sales comparison approach to value were developed.

Using the income capitalization approach, market rent was estimated using two branch banks, the second floor office space located in a branch bank and two units in mixed-use buildings. The comparables were located in St. Charles and Batavia. Rental

comparables #1 and #2 were improved with one-story bank branches that had 6,495 and 5,757 square feet of building area, respectively, and were built in 2005. These properties each had a 5-lane drive-through with canopies and had land-to-building ratios of 6.0:1 and 9.8:1, respectively. These two comparables had asking rents of \$28.00 per square foot of building area. Comparables #1 and #2 had been available for lease since March 2009. Comparable #3 was a two-story bank branch with the second-floor office space renting for \$14.00 per square foot of building area. The lease for comparable #3 was entered in July 2008. Rental comparable #4 had 2,821 square feet and was located in a mixed-use building constructed in 1990. This property is finished as a branch bank. It has 400 square feet of second floor space and no drive-through. Urban testified this comparable is commercial space within a multi-tenant retail property occupied by a bank branch. The property was leased in January 2010 for \$12.19 per square foot, net. Rental #5 was a 1,616 square foot commercial unit in a mixed use building constructed in 2008. Urban testified this is a ground floor commercial condominium space located on 1<sup>st</sup> Street in St. Charles and is roughly similar to the subject in size and condition. This property, however, has no drive-through. The property was leased in July 2011 for \$15.00 per square foot on a modified gross basis with the lessor paying the real estate taxes and CAM (common area maintenance). The appraisers explained in the report they consider rental comparables #1 and #2 superior to the subject property and comparables #3, #4 and #5 inferior to the subject property. The appraisers stated in the report that the subject's rent would be below the asking rents of the two full-service branch banks that have superior drive-through facilities, superior land-to-building ratios and superior parking. The appraisers also stated in the report that rental comparables #4 and #5 show downtown commercial spaces in the subject's market area command relatively low rental rates. The appraiser estimated the subject's market rent to be \$20.00 per square foot on a net basis resulting in a potential gross income of \$49,380.

The appraisal report stated that CB Richard Ellis Marketview, Chicago First Quarter 2011, reported a vacancy rate of 14.1% for retail properties in the Chicago market area. The appraisers also indicated in the report that in the subject's Kane County submarket the vacancy rate is 14.1%. The appraisers stabilized the subject's vacancy and collection loss at 10.0% of potential gross income or \$4,938, resulting in an effective gross income of \$44,442.

The appraisers then deducted expenses for a management fee, reserves for replacement and leasing commissions totaling \$2,839 to arrive at an estimated net operating income of \$41,603. As support for their conclusion of the various expenses the appraisers cited Price Waterhouse Coopers, PwC Real Estate Investors Survey, First Quarter 2011.

The next step in the income approach was to estimate the capitalization rate. The band of investment method and published sources were used to estimate an overall capitalization rate of 8.5%. Capitalizing the net income of \$41,603 resulted in an estimated value under the income capitalization approach of \$490,000 or \$198.46 per square foot of building area, including land.

The next approach to value developed by the appraisers was the sales comparison approach. The appraisers used five comparable sales located in St. Charles and McHenry. Comparables #1 through #3 were improved with one-story bank branch buildings at the time of sale while comparables #4 and #5 were commercial condominium units. The comparables were one-story buildings that ranged in size from 2,339 to 6,604 square feet of building area. The buildings were constructed from 1999 to 2006. These properties had land-to-building ratios ranging from 2.3:1 to 9.3:1. Comparables #1 through #3 had drive-through lanes. The sales occurred from August 2008 to April 2011 for prices ranging from \$500,000 to \$1,250,000 or from \$145.99 to \$237.10 per square foot of building area, including land. The appraisers made adjustments to the comparables for sale conditions, market conditions, location, basement, drive-through facilities, land-to-building ratio and parking. Sales #1, #3 and #4 were considered superior to the subject property while comparables #2 and #5 were considered inferior to the subject property. Based on this analysis the appraisers estimated the subject property had an indicated value under the sales comparison approach of \$200.00 per square foot of building area, including land, for a total indicated value of \$495,000.

With respect to comparable sale #3, Urban testified he visited the property in 2009, 2010 and 2011. At the time of his visits the property was improved with a bank branch building. Urban was aware of testimony in the prior consolidated hearing that this property was purchased by McDonalds. He was of the opinion this is illustrative of the weakness of the bank branch market as of the date of valuation. Urban testified that bank branches typically have a high land-to-building ratio with a lot of value in the land and the buildings very often suffer from significant

external obsolescence. He thought this was illustrated by the fact that there was not a buyer available for this property at McDonald's price.

He also explained he had two different types of properties as comparable sales because he was unable to find ground floor commercial condominium comparable sales that were of bank use and had a drive-through operation. Thus he employed both bank branch sales and commercial condominium sales.

In reconciling the two approaches to value, the appraisers gave ample consideration to the income approach and primary consideration to the sales comparison approach to arrive at an estimated value of \$495,000.

Under cross-examination, Urban explained that just because McDonald's purchased comparable #3 doesn't mean the sale is not a good indicator of value.

Urban described the subject's location as being on a lightly traveled street, not a very high quality location for a bank. He explained the subject property is not located along a heavily traveled arterial street and does not benefit from having significant retail properties in the area which draw consumers. He also explained that his reference to parking is in relation to the subject property not having the type of off street parking a typical bank branch would have. Urban agreed there was street parking available.

Urban also explained that commercial condo units were used as comparables to show this type of property sells for a lower rate than free-standing bank branch buildings. In the report Urban also noted that the remaining ground floor commercial units in the subject's building are vacant, raw space. Urban testified this space was vacant since construction and was vacant when he inspected the property in September 2011, indicating there is limited demand for that space, which has a negative impact on value.

Urban also agreed that his sale #5 sold in August 2008, right on the edge of when the market nose-dived.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$246,875. The subject's assessment reflects a market value of \$742,928 or \$300.90 per square foot of building area, land included, when using the 2011 three year average median level of

assessment for Kane County of 33.23% as determined by the Illinois Department of Revenue.

The board of review called as its witness David Medlin, St. Charles Township Deputy Assessor. In rebuttal, Medlin testified that appraisal sale #1 was a sale of a bank located west of Randall Road; sale #2 was a sale of a bank that was converted to an office use and sale #3 was demolished subsequent to purchase.<sup>2</sup> He was of the opinion sale #1 was the best comparable of the three.

He described the subject property as being located on 1<sup>st</sup> Street, in downtown St. Charles just off the river, in an area that has been redeveloped. Across the street from the subject is some retail and residential development with high-priced residential condominiums and townhouses in St. Charles due to the view of the river. The witness indicated the development has been two to three years in the making and there has been an effort to strengthen the downtown area of St. Charles.

With respect to the drive-through, Medlin testified this was valued under the cost approach using CAMAvision, and does contribute to the overall appeal of a bank. Medlin was also of the opinion that on-site parking is not as significant because of the off-site parking, such as street parking and garage parking, is available in the area. He testified public parking is across the street, there is a parking garage north along 1<sup>st</sup> Street, and a city owned parking spot next to the Blue Goose grocery store, which is one block from the subject property.

The board of review submitted a letter prepared by Medlin dated January 24, 2013, wherein he provided some information on sales along Randall Road in South Elgin. The first sale was located at 534 Randall Road, South Elgin. This property was improved with a 5,006 square foot bank branch building constructed in 2006 that sold in May 2011 for a price of \$2,933,333 or \$585.96 per square foot of building area, including land. The second sale provided by Medlin was located at 536 Randall Road, South Elgin. The property was improved with a bank branch building constructed in 2004 with 5,815 square feet of building area. This property sold in April 2011 for a price of \$3,050,000 or \$524.50 per square foot of building area, including land. Medlin's third sale was located at 2402 West Main Street, St.

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<sup>2</sup> During the hearing of Docket No. 11-01361.001-C-2, Medlin testified that appraisal sale #3 was purchased by McDonalds and in 2012 and a new 4,048 square foot building was constructed. It was Medlin's opinion the purchase was reflective of the land as the original building was demolished.

Charles. This property was improved with a bank branch building with 6,495 square feet constructed in 2005. The property sold in March 2008 for a price of \$4,835,000 or \$744.42 per square foot of building area, including land. This property was the same as appraisal rental comparable #1.

Under cross-examination Medlin indicated the subject's property record card indicated the land was valued at \$142,047 and the improvement was valued at \$699,562. The source of the cost data was CAMAvision. Medlin also identified Lot 1, Lot 4 and Lot 3 on page 2 of the subject's property record card as retail units located in the subject's building. He indicated these three units are vacant.

Medlin provided copies of the transfer declarations (PTAX-203) for appraisal comparable sales #1 and #2, which indicated the properties were advertised for sale. Form PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A, indicated that appraisal comparable sale #1 was on the market for 11 months and was not occupied on the date of sale.

Medlin also provided copies of the Illinois Real Estate Transfer Declaration (PTAX-203) for and the Illinois Real Estate Transfer Declaration Supplemental Form A (PTAX-203-A) for the properties located at 534 Randall Road, 536 Randall Road and 2402 West Main Street. These documents indicated 534 Randall Road was not advertised for sale and the improvement was occupied on the date of sale. The additional documentation provided by the deputy assessor from LoopNet indicated this property had a triple net ground lease and the property had 10+ years left on the lease. The forms indicated the property at 536 Randall Road was advertised for sale for six months and was not occupied on the date of sale. The transfer declaration documents indicated that the property at 2402 West Main Street was advertised and 100% occupied or leased on the date of sale. Medlin also agreed this property sold in March 2008, at a time when the economy was in better shape.<sup>3</sup> He agreed that none of these properties are commercial condominium units but each is a free-standing bank.

The board of review also submitted a list of 14 sales, which included 534 Randall Road and 536 Randall Road to show the appraiser had some other opportunities for sales in the market area to consider. The board of review representative indicated that none of these sales were commercial condominium units used as banks.

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<sup>3</sup> Medlin provided this evidence in Docket No. 11-01361.001-C-2 and indicated his testimony would be the same as given in that hearing.

The appellant also submitted rebuttal comments prepared by Urban on the 14 sales provided by board of review.

### 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. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> 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 to be the appraisal and the testimony of the appraiser, Frank C. Urban, presented by the appellant. The appellant's appraiser estimated the subject property had a market value of \$495,000 as of January 1, 2011. The subject's assessment reflects a market value of \$742,928, which is above the appraised value presented by the appellant.

The Board finds the subject property was a commercial condominium unit operated as branch bank. The Board finds the appellant's appraiser, in selecting the comparable sales and rental comparables, utilized some properties that more resembled the subject's commercial condominium unit attribute. In contrast the sales identified by the board of review and Medlin were exclusively free standing branch bank facilities that differed from the subject's commercial condominium unit characteristic. As a result, the Board finds the appellant's appraiser's report and testimony to be more credible in estimating the market value for the subject property. The Board also finds the testimony disclosed that the three other ground floor commercial units located in the subject's building remain vacant since construction, demonstrating demand may not be particularly strong for this type of property in the subject's location. This in turn has a negative impact on value.

The appraisal contained two approaches to value to support the market value conclusion. With respect to the sales comparison the appraiser made adjustments to the sales for sale conditions, market conditions, location, features such as a basement and

drive-through, land-to-building ratio and parking. Importantly the sales included two commercial condominium units demonstrating these types of buildings command less in the market than free-standing commercial buildings. In contrast, the board of review provided numerous sales but did not adjust for differences from the subject property and all were free-standing branch banks that differed from the subject's ground floor commercial condominium unit configuration. Additionally, the evidence in the record indicated that the deputy assessor's sale at 534 Randall Road was not advertised for sale and was occupied on the date of sale. Furthermore the evidence indicated this property had a ground lease with 10 years remaining on the lease on the date of sale. These factors call into question the arm's length nature of the sale and whether the sale was representative of a fee simple transaction. The evidence also showed the deputy assessor's sale located at 2402 West Main Street occurred in March 2008, which was during a superior marketing period, and this property was 100% occupied or leased the date of sale. Due to the date of sale and occupancy issues, the Board gives this sale little weight. Based on this record the Board finds the sales comparison approach developed by the appraiser was more credible and better supported.

In the income approach to value the appraiser provided rental comparables to support the estimate of market rent and used two methods to estimate the capitalization rate to be applied to the net income. The appraiser also referenced publications to support the estimated vacancy and collection loss as well as expenses. The Board finds although the board of review questioned elements in the of the income approach to value contained in the appellant's appraisal, it provided no data or rental comparables to challenge the market rent, vacancy and collection loss, and the expenses used to calculate the net income. Furthermore, the board of review provided no evidence to challenge the capitalization rate used by Urban to arrive at an estimated value under the income approach. The Board finds the board of review did not refute or rebut the estimate of value under the income approach developed by the appellant's appraiser.

In summary, after considering the evidence and testimony provided, the Board finds the best evidence of market value in this record was presented by the appellant. Based on this record the Board finds the subject property had a market value of \$495,000 as of January 1, 2011. Since market value has been established the 2011 three year average median level of

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assessments for Kane County of 33.23% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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. Crit*

Chairman

*K. L. Fan*

Member

*Richard A. Huff*

Member

*Mark A. Lewis*

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: June 20, 2014

*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.