FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: JP Morgan Chase & Company
DOCKET NO.: 11-01810.001-C-2 through 11-01810.003-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are JP Morgan Chase & Company, the appellant, by attorney Kevin B. Hynes of O'Keefe Lyons & Hynes, LLC, Chicago; 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
11-01810.001-C-2	03-17-153-002	161,927	0	$161,927
11-01810.002-C-2	03-17-153-008	46,935	27,882	$74,817
11-01810.003-C-2	03-17-153-009	39,895	0	$39,895

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 is composed of three contiguous parcels improved with a one-story building of concrete block and structural steel with masonry face brick construction with 4,335 square feet of building area. The building was constructed in

2008. Features of the building include a concrete slab foundation, central air conditioning, two restrooms and a kitchenette/break room. The building has specialize bank build-out including secured teller areas, open customer space, work cubicles, private offices and a drive-through facility with three lanes as well as one ATM lane under a canopy. The property has a 46,173 square foot site resulting in a land to building ratio of 10.65:1. The site has 30 parking spaces. The subject property is used as a bank branch facility and is located at 2163 Randall Road, Carpentersville, Dundee Township, Kane County.

The appellant appeared before the Property Tax Appeal Board through counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Roxanna K. Ferris, Peter D. Helland and Edward V. Kling of Real Valuation Group, LLC estimating the subject property had a market value of $830,000 as of January 1, 2011. (Appellant's Ex. #1.) The appellant called as its witness Edward V. Kling. Kling is a licensed general real estate appraiser in the State of Illinois and has the MAI designation from the Appraisal Institute. Kling testified he was personally familiar with the property and the appraisal that his company prepared.

In estimating the market value of the subject property the sales comparison approach to value and the income approach to value were developed. In the sales comparison approach the appraisers used five comparable sales and two listings located in Hampshire, Addison, Buffalo Grove, Naperville, McHenry, Campton Hills and Elgin. Six of the comparables were improved with bank branch facilities at the time of sale and one was improved with an office building. The comparables were improved with one-story buildings that ranged in size from 2,322 to 7,740 square feet of building area and in age from 6 to 30 years old. Comparable #2 was described as having a partial finished basement. These properties had sites ranging in size from 13,983 to 147,668 square feet of land area with land to building ratios ranging from 4.79:1 to 23.42:1. The five sales occurred from November 2009 to December 2010 for prices ranging from $400,000 to $825,000 or from $146.15 to $172.27 per square foot of building area, including land. The two listings, comparables #6 and #7, had prices of $550,000 and $965,000 or $196.43 and $124.68 per square foot of building area, including land, respectively. These two properties were FDIC owned and had been on the market for over one year. Comparable sale #5 was purchased by McDonald's Corporation and razed for redevelopment

as a new McDonald's restaurant. After making adjustments to the comparables for sale conditions, date of sale, location, size, land to building ratio, construction and age/condition; the appraisers estimated the comparables had adjusted prices ranging from $143.38 to $196.43 per square foot of building area, including land. The appraisers estimated the subject property had an indicated value under the sales comparison approach of $190.00 per square foot of building area, including land, for a total estimated value of $825,000, rounded.

Kling testified each of the transactions, excluding the listings, was a fee simple sale and not a leased fee.

Under the income approach to value the appraisers identified ten rental comparables located in St. Charles, McHenry, Elgin, Campton Hill, Carpentersville and Algonquin. Only one of the rental comparables, #8, was described as being occupied by a bank. The other comparables were described as being occupied by a restaurant, retail space and office space. The comparables ranged in size from 1,265 to 6,864 square feet. Comparables #1 through #3 had leases that commenced from January 2010 to July 2011 for rates ranging from $28.50 to $32.28 per square foot on a gross basis. The remaining comparables were listings with rates ranging from $15.00 to $28.00 per square foot on a gross basis. Rental comparable #6 was described as formerly a Charter One bank space with a listing rent of $24.00 per square foot, gross. Based on these comparables the appraisers estimated the subject's market rent to be $25.00 per square foot resulting in a potential gross income of $108,375. The report stated that vacancy levels in Kane County for retail properties were reported at 14.7% and at 23.3% for the Chicago suburban office markets. The appraisers estimated the subject property would have a vacancy rate of 8% of potential gross income or $8,670. Deducting vacancy resulted in an effective gross income of $99,705. The appraisers estimated a management expense of 3% of effective gross income or $2,991, an insurance expense of $.20 per square foot or $867 and reserves of $.15 per square foot or $650 resulting in total expenses of $4,508. Deducting the expenses resulted in an estimated net income of $95,197.

Using the band of investment technique the appraisers estimated an overall capitalization rate of 8.58%. With reference to market capitalization rate data, the appraisal stated that Real Estate Research Corporation (RERC) reported a first quarter 2011 first tier office capitalization rate in the Midwest of 8.7% with retail at 8.8%. According to the appraisal, Korpacz Real Estate Survey by PriceWaterhouseCoopers indicated retail

capitalization rates at 5.5% to 9.5% during the first quarter of 2011. The appraisal further indicated that listings throughout the subject's market for office and retail buildings typically range at capitalization rates of 7.0% to 12% at point of listing. Based on this data the appraisers estimated a base capitalization rate of 8.5% and added an effective tax rate of 2.64% to arrive at a total capitalization rate of 11.44%. Capitalizing the net income resulted in an estimated value under the income approach of $830,000.

In the reconciliation section of the report the appraisers explained that equal consideration was given both approaches to value to arrive at a market value estimate of $830,000 as of January 1, 2011.

Under cross-examination Kling stated he did an exterior inspection of the subject property. The witness was also questioned about the statement on page 9 of the appraisal referencing the purchase of the subject property by 256 Third Avenue Realty Corporation in April 2009 for a price of $2,750,000 or $634.37 per square foot of building area. Kling testified that there would have been a purchase of a lease in place at that facility and the $2,750,000 number is considerably above what it would cost to replace the subject. He thought the sale was kind of irrelevant for a fee simple analysis. Kling did not know what the rent was at the subject but asserted he had a good idea that any market lease rate would not be applicable.

Kling testified the cost approach was not developed even though the building was only two years old due to lack of comparable land sales and the difficulty in estimating functional and external obsolescence.

With respect to the comparable sales, Kling testified comparable #1 is located approximately 20 miles from the subject property; comparable #2 is located approximately 15 miles from the subject property; comparable #3 is located approximately 35 miles from the subject property; comparable #4 is located approximately 10 miles from the subject property and comparable #5 is located approximately 10 to 15 miles from the subject property.

Kling testified that the 2009 sale of the subject property was not viable given that the amount of the sale was not representative of the market as of the date they did the appraisal.

With respect to sale #5, which was purchased for redevelopment as a McDonald's restaurant, Kling testified this shows the high amount of depreciation associated with this type of property due to the building being 11 years old at the time of purchase and that it was torn down.

With respect to the income approach the appraiser testified they used gross rent. Kling, however, agreed that if you use gross rent you are going to have quite a few expenses as compared to expenses when net rent is used. He agreed that the expenses used in the income approach analysis looks more like a net rent analysis instead of a gross lease analysis.

Kling testified he did more of a review of the appraisal as opposed to being the appraiser that formulated the opinion of value. He also agreed there is nothing in the report that discuss the 2009 sale of the subject property as a being a leased fee transaction.

The grantor associated with comparable sales #1, #6 and #7, was identified as the Federal Deposit Insurance Corporation (FDIC). With respect to comparable #1, Kling testified that when the FDIC takes over a bank it liquidates the assets. He did not agree that this would be a distress sale and asserted sale #1 was exposed on the market but he could not recall how long. The appraiser testified comparables #6 and #7 were being marketed and that is why they were used.

With respect to the rental comparables, he agreed only one was a bank but testified in-line space was setting the trend for market rental rates.

Based on this evidence the appellant requested the subject's assessment be reduced to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $435,595. The subject's assessment reflects a market value of $1,310,849 or $302.39 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.

Appearing on behalf of the Kane County Board of Review was board member Michael E. Madziarek. In support of its contention of the correct assessment the board of review submitted a narrative

prepared by Mr. Madziarek that identified 14 sales and a printout listing 100 sales of retail bank buildings.

Mr. Madziarek asserted in the narrative that the appellant's appraiser did not sufficiently research available sales to ascertain their individual circumstances in regard to market transactions. He identified sales #1, #2, #12 and #13 from the list of 14 sales in the narrative to support this proposition. Madziarek asserted in the narrative and testified that real estate broker Nick Peters of CBRE was contacted and confirmed each sale was a market transaction and not a leased fee transaction. These four comparables had prices ranging from $187.88 to $585.86 per square foot of building area. Madziarek testified these four sales are located within 10 miles of the subject property. Furthermore, sales #1, #12 and #13 are located on Randall Road.

In summary, the 14 sales listed by Madziarek had buildings that ranged in size from 1,672 to 16,500 square feet of building area. These comparables sold from October 2009 to December 2011 for prices ranging from $850,000 to $4,632,500 or from $187.88 to $586.53 per square foot of building area, including land.

Madziarek also argued sales #5, #16 and #18 on the printout of 100 sales had reported capitalization rates of 6.70%, 6.45% and 6.25%, respectively. He was of the opinion this was a better indication of the capitalization rate for a property like the subject property than what was used in the appraisal.

Mr. Madziarek requested the subject's assessment be confirmed.

Under cross-examination Madziarek testified the list of 100 sales was provided to demonstrate there were more sales than sales used in the appellant's appraisal. The board member testified, however, he was relying on all 14 sales with an emphasis on sales #1, #2, #12 and #13 of the list of 14 on page 2 of the narrative. (BOR Group Ex. #2). Excluding sales #1, #2, #12 and #13, the witness testified no adjustments were made to the sales for such features as location, size, age and time of sale. He agreed adjustments would be needed if an appraisal was being prepared but the submission was not an appraisal. Madziarek was of the opinion sales #1, #2, #12 and #13 were the most comparable due to location on Randall Road.

Madziarek testified he spoke with Nick Peters sometime prior to November 2013. According to Madziarek, Peters told him sales

#1, #2 and #12 were arm's length transactions. The witness thought Peters represented the buyer on these transactions.

With respect to sale 13, which was listed as sale #85 on the printout of 100 sales, there was no identification as to who bought the property but the sale conditions state, "Investment Triple Net." It was Madziarek's understanding this means a pure net lease. He indicated the building was leased but did not know if it was a leased fee sale. The witness was of the opinion the statement, "Investment Triple Net" was incorrect. Madziarek was shown Appellant's Ex. No. 2, a CoStar Comps printout for sale #13, which did not list Nick Peters as a the buyer's representative. Appellant's Ex. No. 2 indicated the property leased. Madziarek's testified his data was also from CoStar and indicated the property was leased.

Madziarek was also questioned about sale #12 and whether or not Peters had indicated there was personal property involved with the sales. Madziarek was shown Appellant's Ex. No. 3, a Quitclaim Bill of Sale and Assignment, in which counsel for appellant asserted JP Morgan Chase bought the property. The document indicated that personal property was transferred with the property and listed on Exhibit "B" to the Quitclaim Bill of Sale. Madziarek testified he had not seen this document before and had not talked to anyone at Chase about the conditions of the sale.

Madziarek also noted that sale #10 was located on Randall Road in North Aurora. This property sold for $210.05 per square foot of building area, including land in December 2011. He also agreed that the document he submitted indicated that sales #1 and #12 were REO (Real Estate Owned), which could be considered distress.

In rebuttal, Kling testified that REO stands for real estate owned, meaning that it is held by a bank. According to Kling, this is property that has been taken back, there are no borrowers in place any longer, or it is property that is being liquidated.

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 (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 to be the appraisal submitted by the appellant and the testimony provided by the appraiser, Edward V. Kling, estimating the subject property had a market value of $830,000 or $191.46 per square foot of building area, including land, as of January 1, 2011. The subject's assessment reflects a market value of $1,310,849 or $302.39 per square foot of building area, land included, which is above the appraised 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 and listings for date of sale, location and differences from the subject property. In contrast, the board of review provided numerous sales but did not adjust for differences from the subject property. Furthermore, of three sales that were given most weight by the board of review, two were described as REO sales (#1 and #12) and another was described as being leased at the time of sale (#13). The Board finds this calls into question whether these sales were reflective of the fee simple value of the subject property. The Board does find board of review sales #2 and #10 were both located on Randall Road and sold for unit prices of $187.88 and $210.05 per square foot of building area, including land, respectively. These sales seem to support the conclusion the subject's assessment is excessive and add support to Kling's conclusion of value.

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 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 or expenses used to calculate the net income. Furthermore, even though the board of review made reference and cited sales that may indicate the capitalization rate used by Kling was too high, this is not sufficient by itself to refute or rebut the estimate of value under the income approach developed by the appellant's appraisers.

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 a reduction in the subject's assessment is justified.

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.