

Strongsville Board of)	
Education and the City)	
of Strongsville,))	
)	CASE NOS. 96-A-611
)	96-A-612
Appellants,)	
)	
vs.)	(REAL PROPERTY TAX)
)	
Cuyahoga County Board of)	
Revision, Cuyahoga County)	DECISION AND ORDER
Auditor, and the Strongsville))	
South Investment Company,)	
)	
)	
Appellees.)	

APPEARANCES:

For the	
Appellants	- John P. Desimone
	Kolick & Kondzer
	Suite 175
	24500 Center Ridge Road
	Westlake, Ohio 44145-5698
For the County	
Appellees	- Stephanie Tubbs Jones
	Cuyahoga County Prosecuting
	Attorney
	By: Sandra Curtis-Patrick
	Assistant Prosecuting Attorney
	Courts Tower, 9th Floor
	1200 Ontario Street
	Cleveland, Ohio 44113
For the Property	
Owner-	Annrita S. Johnson
	Fred Siegel Co., L.P.A.
	Suite 208
	3001 Bethel Road
	Columbus, Ohio 43220

Entered July 17, 1998

Mr. Johnson, Ms. Jackson, and Mr. Manoranjan concur.

This cause and matter came on to be considered by the Board of Tax Appeals upon two notices of appeal filed herein by the above-named appellants, from a decision of the Cuyahoga County Board of Revision, mailed to the parties on May 9, 1996. In said decision, said board determined the taxable value of the subject property for tax year 1994.

The matter was submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript certified to the Board by the county board of revision, the evidence presented at a hearing before this Board, and the briefs submitted by counsel to the appellants and the appellee property owner. Although duly notified, the county appellees did not participate in the proceedings before this Board.

The subject property, a two-story office and retail complex, is situated on approximately .92 acres of land in the Strongsville taxing district, Cuyahoga County, Ohio and is identified in the auditor's records as parcel numbers 393-27-013 and 014, listed together. The building, which was constructed in 1988, contains approximately 12,968 square feet of leasable area and is located on the main north-south artery in the city of Strongsville in an area of commercial/retail development.

Recognizing that the suite configuration can be changed, the first floor of the building has approximately four office/retail spaces, which house businesses that would be characterized as service-oriented industries, e.g., an insurance company, a dentist office. The second floor, which houses traditional "offices", has approximately twelve office spaces. The

first floor tenants each have individual access doors in both the front and rear of their space, in addition to carpeted and tile floors, painted drywall walls, drop ceilings, fluorescent lighting, a half bath, and independent combination heating and air conditioning. The second floor tenants have access to their space via stairwells to an inside corridor, in addition to carpeted floors, painted drywall walls, drop ceilings, fluorescent lighting, central heating and air conditioning, and community bathrooms. There is no elevator in the building.

The combined value for the subject parcels for tax year 1994 as determined by the Cuyahoga County Auditor and retained by the Cuyahoga County Board of Revision is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 109,800	\$ 38,430
Bldg	<u>890,200</u>	<u>311,570</u>
Total	\$1,000,000	\$ 350,000

Whereas, the appellants (hereinafter "city and board of education"), in their Notice of Appeal, contend that the subject should be valued as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 109,800	\$ 38,430
Bldg	<u>1,216,200</u>	<u>425,670</u>
Total	\$1,326,000	\$ 464,100

Finally, the property owner (hereinafter "Strongsville South") contends that the subject should be given a true value of \$900,000, with a corresponding taxable value of \$315,000.

Initially, this Board notes the decisions in Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision (1994), 68 Ohio St. 3d

336, 337, and Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision (1994), 68 Ohio St. 3d 493, 495, wherein the Supreme Court held that an appealing party has the burden of coming forward with evidence in support of the value which it has claimed. Once competent and probative evidence of true value has been presented, the opposing parties then have a corresponding burden of providing evidence which rebuts appellant's evidence of value. Id.; Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision (1988), 37 Ohio St. 3d 318, 319.

When determining value, it has long been held by the Supreme Court that "the best evidence of 'true value in money' of real property is an actual, recent sale of the property in an arm's-length transaction," Conalco v. Bd. of Revision (1977), 50 Ohio St. 2d 129; State, ex rel. Park Investment Co. v. Bd. of Tax Appeals (1964), 175 Ohio St. 410. Absent a recent sale, as in the instant matter, true value in money can be calculated by applying any of three alternative methods provided for in OAC 5705-3-03: 1) the market data approach, which compares recent sales of comparable properties, 2) the income approach, which capitalizes the net income from the property, and 3) the cost approach, which depreciates the improvements to the land and then adds them to the land value.

In support of their position that the Cuyahoga County Auditor and Board of Revision have undervalued the property, the city and board of education offered the testimony and appraisal report of Frank J. Basile, MAI and state certified general real estate appraiser in Ohio. Mr. Basile stated, "the presently

improved use of the subject is concluded to be its highest and best use." (Ex. A, p. 21)

In estimating the true value of the subject under consideration, Mr. Basile utilized the three standard approaches to valuation. He indicated that "(T)he Cost Approach will be given some weight since the subject is still relatively new. The Sales Comparison Approach is typically the most reliable indicator of value, however, in this case it is afforded only the penultimate weight in this report. The Income Approach is accorded the most weight in the final value estimate because the subject is a multi-tenant type office/retail structure not intended primarily as an owner user but to provide an income stream of good quality, quantity and duration." (Ex. A, p. 27)

Using the sales comparison approach, Basile did a combined approach to account for the intended dual purposes to which the building was to be put. Thus, he utilized both commercial/retail property sales and office property sales in arriving at a final valuation.

First, Basile compared 6 sales of commercial/retail properties dating from November 1989 through January 1993 to the subject. In doing so, Basile adjusted these sales for such differences as time, age, size, location, and building material. Based upon these commercial/retail comparables, Basile's final estimate of value was \$79 per square foot, or \$1,270,000.

Basile then surveyed comparable office property sales dating from July 1988 through December 1994. He adjusted these

sales for differences from the subject in time and age and arrived at a final value estimate of \$71.50 per square foot, or \$1,150,000.

The foregoing valuations were weighted based upon the percentage of the building used for each type of endeavor and resulted in an overall, final valuation of the subject via the sales comparison approach of \$1,200,000.

In completing the cost approach, Basile first determined a value for the land on which the building is located. Using a sales comparison approach, he compared the subject to three land sales, dating from November 1989 to December 1993. After making adjustments for time, size, and location and determining the mean of the foregoing sales, Basile concluded that the subject land should be valued at \$175,468 per acre or \$161,500.

Basile then went on to determine the replacement cost new of the improvements, using actual cost information from recently constructed retail and office buildings of similar quality in addition to the Marshall & Swift cost reporting manual, or \$1,138,432. From that value, he deducted all accrued depreciation and obsolescence, as extracted from sales of comparable properties, i.e., physical deterioration, or \$129,613. From the remaining \$1,008,819, he deducted the depreciated value of the site improvements, or \$49,000. After adding the value of the site to that total, Basile's final indicated value via the cost approach was \$1,222,000. (Ex. A, p. 72-74)

In completing his income approach, Basile first estimated a stabilized income for the subject. Based upon the subject's actual experience, which he determined after surveying

the market to be reflective of the general market for office and retail space, Basile derived an effective gross income of \$182,828. After deducting 5% for vacancy and credit loss, a total effective gross income of \$173,687 resulted. Deductions for fixed, operating, and reserve-type expenses are made, resulting in a net operating income, including reimbursements, of \$142,127. Based upon sales from his sales comparison approach, as well as the Korpacz Study and the American Council of Life Insurance Study, Basile used a capitalization rate of 12.10%, including the tax additur of .0210. Accordingly, Basile's final rounded value for the subject, using the income approach, is \$1,175,000.

Basile's calculations under the income approach can be summarized as follows:

Rental Income	=	\$182,828
Vacancy & Credit Loss @ 5%	=	\$ 9,141
Effective Gross Income	=	\$173,687
Expenses	=	\$ 54,591
Reimbursements	=	\$ 23,031
NET INCOME	=	\$142,127
capitalization rate = 10.0%		
+ 2.10 tax additur		
12.10%	=	\$1,175,000
		(ROUNDED)

Basile reconciled his three valuations by determining that:

"The Income Capitalization Approach is given the paramount weight in establishing the final value estimate since the subject develops a considerable income stream.

"The Sales Comparison Approach is accorded the penultimate position in the final value estimate due to the fact that only one other retail center with walk-up offices above it was uncovered during a search of the local marketplace.

"The Cost Approach is accorded the tertiary weight in establishing the final value estimate. This approach is used as a check for validity concerning the other two approaches. This approach also has the advantage of valuing the underlying land via a full sales comparison approach for commercial sites in the Strongsville marketplace." (Ex. A, p. 89)

Accordingly, Basile relied first upon his income approach to arrive at a final rounded valuation of \$1,200,000.

The property owner offered the appraisal of Richard D. Racek, MAI and state certified general real estate appraiser in Ohio. Racek stated that the highest and best use as if vacant of the subject parcels is "for permitted office development in accordance with both community zoning ordinances as well as the development plan submitted for this particular General Business District." Further, "(T)he highest and best use of the subject site as improved is considered to be for the continued multi-tenant office utilization." (Ex. 1, p. 24)

Racek, like Basile, utilized all three standard approaches to value in appraising the subject. In completing the cost approach, Racek first determined a value for the land on which the building is located. Using a sales comparison approach, he compared the subject to six land sales, dating from July 1989 to September 1995. After making adjustments for time, size, and location and zoning, and giving the most weight to sales 5 and 6,

Racek concluded that the subject land should be valued at \$120,000 per acre or \$109,920.

Racek then developed a replacement cost estimate for the subject, using cost information from Boeckh's Building Valuation Manual of \$1,126,550. From that value, he deducted accrued depreciation of 20%, or \$225,310. After adding the value of the site to that total, Racek's final indicated value via the cost approach was \$1,000,000. (rounded)(Ex. 1, p. 34-35)

In his market data approach (sales comparison approach), Racek utilized sales of four office buildings, dating from September 1990 through December 1994. In his report, Racek specifically stated that "(T)he appropriate unit of comparison for properties such as the subject is the price per square foot of net rentable area. This reflects the motivation of the typical buyer and is the basis on which these properties are frequently marketed." (Ex. 1, p. 37) Thus, his adjustments to those sale prices, for items like location, size, income and expenses, condition, and age, were also made in light of the net operating incomes of the sale properties. Racek ultimately concluded that the appropriate unit price for the subject was \$70.00 per square foot of net rentable area, or \$900,000 (rounded).

In his income approach, Racek considered the rental rates of fifteen comparable properties as compared to those from the subject in order to stabilize the rents at \$177,023, or approximately \$13.65 per square foot, at full occupancy, which approximates the middle of the range of the comparables utilized. To that base rental income, he deducted a vacancy and credit loss

of 10%, or \$17,702, based upon his survey of the market as well as the subject's experience. He then added maintenance reimbursement income and utility reimbursement income to arrive at an effective gross income of \$181,320.

From the effective gross income, Racek deducted expenses for utilities, janitorial and maintenance areas, administrative and other payroll items, insurance, services of a non-maintenance/repair type, and replacement reserves amounting to \$72,477 or \$5.59 per square foot. According to the subject's history, these expenses fall at the high end of the range it has experienced, however, they would be considered "significantly lower than competing properties located within the immediate area" of the subject. (Ex. 1, p. 57) Racek then determined an overall capitalization rate of 10%, as taken from the marketplace for similar property sales. To the capitalization rate, Racek added a tax additur of 2.1%, for an overall rate of 12.1%.

His calculations under the income approach can be summarized as follows:

Rental Income	= \$177,023
Vacancy & Credit Loss (10%)	= \$ 17,702
Adjusted Gross Income	= \$159,321
Maintenance Reimbursement Income	= \$ 9,000
Utility Reimbursement Income	= \$ 13,000
Effective Gross Income	= \$181,321
Expenses	= \$ 72,477
NET INCOME	= \$108,844
capitalization rate =	10.00%
+ 2.1 tax additur	
12.1%	= \$900,000
	(ROUNDED)

When reconciling the foregoing approaches to value, Racek indicated that his final valuation was "based primarily on the Income and Direct Sales Comparison methods of valuation." (Ex. 1, p. 59) Racek determined a final value of \$110,000 for the subject land and \$790,000 for the subject building, resulting in a total value of \$900,000.

Upon review of the two appraisals presented to this Board, we note that both appraisers used the same approaches to estimate the subject's value. However, the initial premise upon which the appraisers based their valuations were very different. Basile acknowledged that when the building was built, it was intended to serve two uses, both retail and office; therefore, he valued the building considering both uses, as a mix of retail and office. Racek, on the other hand, when commenting about the building, indicated that "(W)hile it was built and marketed for retail, it was not successful. So as a result, to me it's a commercial building. It isn't a hybrid retail/commercial. It's a commercial building. I think the office sales are a better indication of the present worth of the future benefits. The present worth of the past benefits is really not a measure of value." (R., p. 119) Racek elaborated that "the market speaks for itself. It's owned and operated as a commercial building rather than operated for the use that it was originally designed to be used, and it's just been converted into office space now that is treated as an office space user and the leases reflect that rather

than a typical retail lease where you rent it as is and you do all the other work." (R., p. 167-168)

We agree with Racek's treatment of the subject as a commercial building and his determination that the subject building should not be characterized as a hybrid when making a value determination for it. We also note that Racek testified that even if he had treated the subject as part retail/part office, as Basile did, his valuation determination would not have changed. (R., p. 168) He contended that "(T)here's no particular difference between a capitalization rate on a viable commercial property and a viable retail property. So when you look at the income streams, an investor would readily pay the equivalent of a ten percent run on either of them * * * . It's a measure of the economics rather than the physical entity." (R., p. 166)

We must also note that Basile's hybrid theory most dramatically impacts upon his conclusions under the sales comparison and cost approaches and not as definitively on the income approach to valuation, which, as both appraisers herein agree, is the most appropriate and reliable methodology to utilize when valuing the subject, considering that it is an income-producing property. As stated in R.C. 5715.01, "in determining the true value of lands or improvements thereon for tax purposes...the income capacity of the property, if any...shall be used." The income approach is a method of valuation that can be "property-specific", i.e., many of the figures used in the income approach often originate in the subject's records and are then compared to the rates of comparable properties in the marketplace. Thus,

arguably, the income approach leaves less opportunity for the appraiser's personal bias or guesswork to influence the outcome as compared to other, more subjective methods of valuation. Accordingly, we will primarily focus upon the income approach in determining value herein, and will evaluate the other methodologies, as utilized by each appraiser, based upon how each supports the values determined under the income approach.

First, when we compare the two income approaches utilized, we find that the differences between them are minimal, at best, with the exception of the amounts allocated for vacancy and credit loss and expenses.

Basile, describing how he arrived at his vacancy and credit loss rate, indicated that "by talking with players in this, the Strongsville marketplace, and other evidence that I had, that was an appropriate rate." (R., p. 46) No other information about the vacancy rate was provided in the appraisal report. Racek, on the other hand, included documentation in his report to support his rate of 10%, which was based not only upon the subject's experience, but that of other comparable properties in the subject's vicinity.

With regard to his expenses, this Board finds that Basile's unsubstantiated deductions, with no supporting documentation included, lacks the depth of analysis and support necessary for this Board to place any reliance upon it. Racek's expenses were based upon the actual experience of the subject as well as comparable properties in the subject's general locale, which more clearly reflects the marketplace as a whole.

A review of each appraiser's treatment of the remaining approaches to value indicates that Basile's characterization of the subject as part retail/part office, in part, led to some questionable results. Specifically, in his cost approach, Basile's valuation of the land is flawed not only because the valuation date he utilized reflected the entire tax lien date year instead of the tax lien date only (R., p. 78), but also because of the lack of comparability of the land sales to the subject land in size and location. Further, Basile's determination of the replacement cost of the subject building amounted to a valuation of two separate buildings with two distinct uses; he used two sections of Marshall & Swift that refer to the two different planned uses for the building and combined them for the ultimate valuation. By doing so, his calculations included a roof and foundation for each "use". (R., p. 82) In addition, his deductions for obsolescence do not appear to take into consideration the functional and external obsolescence present in the subject. (R., p. 82)

Basile's sales comparison approach reflects a compilation of both office and retail sales which he weighted according to the proportion of the building utilized for each use. He provided no support in his report for using this type of calculation, and without same, we will not assume its accuracy or applicability to the subject.

With regard to Racek's remaining approaches to value, appellants criticize both his sales comparison and cost approaches for making unsubstantiated adjustments under both. While every facet of his approaches to value may not be set forth in writing

within the appraisal report itself (which, incidentally, has never been a requirement of appraisal reports submitted for this Board's review), Racek does supply considerable background and support data for the comparables he utilized, allowing this Board to make informed determinations as to the credibility of the information upon which he relied.

Accordingly, this Board adopts the valuation determination as set forth in the appraisal authored by Racek and offered on behalf of the property owner. We find his income approach to value, as supported by the cost and sales comparison approaches, to be the most reflective of the marketplace and the most complete and credible evaluation of the subject with more thorough supporting documentation. Thus, the value of the subject property, as of January 1, 1994, shall be as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 110,000	\$ 38,500
Bldg	<u>790,000</u>	<u>276,500</u>
Total	\$ 900,000	\$ 315,000

It is the Decision and Order of the Board of Tax Appeals that the Cuyahoga County Auditor shall list and assess the subject property in conformity with this decision.

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