

BOARD OF REVIEW

Friday, October 12, 2007 – 9:00 a.m.

PRESENT: Messrs. Benz and Lemke, Ms. Wakefield -3

ALSO Kathleen Isleb, Consultant for the Assessor; Mr. Lenski, Deputy Assessor; Mr. Kesner, City

PRESENT: Attorney; Ms. Ledesma, City Clerk

Mr. Benz in the Chair

Joseph Cici, 6420 Betsy Ross Place, approached the Board and requested that his objection form be accepted and scheduled for hearing under the provisions of State Statutes 70.47(7).

Mr. Kesner clarified that the Board may consider a late-filed objection within five days of the start of the current Board of Review session upon the petitioner providing proof of extra-ordinary circumstances that precluded a timely filing.

Mr. Cici explained that he learned on October 1st that an appraisal performed by a financial institution in connection with planned remodeling was \$50,000 lower than his property’s current assessment. Since the deadline to file an objection to the assessment had already passed, he was appealing directly to the Board for a waiver from the filing deadline based upon this new information. The amount set in the appraisal differs by nearly 20% from the assessor’s value.

Mr. Benz observed that the assessed value was set as of January 1, 2007 and that Mr. Cici apparently did not object to the figure prior to October 1.

Mr. Lemke opined that the date Mr. Cici received the appraisal results was arbitrary and did not constitute extraordinary circumstances.

It was moved by Mr. Lemke, seconded by Ms. Wakefield to deny the request to hear the objection as the property owner has not demonstrated extra-ordinary circumstances to warrant a waiver from the submittal deadline. -3

**258-0001-09
3900 N. 124th Street**

City Clerk Ledesma swore in Ms. Isleb, Mr. Lenski, and attorney Gregory Lafakis, Liston & Lafakis, PC, 33 N. LaSalle Street, Chicago, Illinois.

The assessor’s valuation as of January 1, 2007:	Land	\$ 8,938,600
	Improvements	<u>\$ 4,680,300</u>
	Total	\$13,618,900

The estimated fair market value (at a 99% ratio) is \$13,756,500.

Mr. Lafakis stated a March 2007 appraisal set a value of \$10,350,000. After meeting with the assessor’s staff and consultant, information exchanged then suggests a fair market value of approximately \$12,200,000. This includes only the Target store, not the former Jewel/Osco store that is immediately

adjacent. None of the comparables cited in the appraisal are truly comparable. There have been no comparable sales; neither has the subject property been sold. Both he and the assessor's office staff agree that the amount of depreciation applied (86%) in the appraisal seems excessive. While the building was constructed in 1970, it was remodeled in 1999, so it is not, strictly speaking, a 37-year old building.

Ms. Isleb stated the property owner requested a review in spring. Some square footage discrepancies were discovered, and corrected, at that time. Ms. Isleb opined that the appraisal had not taken into account the 1999 remodeling when setting a value. The estimated fair market value of \$13,756,500 equates to \$107.05/square foot. Target has a better interior finish and lower ceiling than does a nearby Lowe's. She noted that two sales across the street and the very recent sale of the adjacent Jewel/Osco building do give an indication of the value at this location.

Both parties presented their cases, contrasting the subject property's value in terms of income, cost, and sales approaches. At one point Mr. Lafakis requested an extension of time so that he could review information concerning the sale of property across the street, review information submitted on the nearby Lowe's property, and review circumstances regarding the very recent sale of the Jewel/Osco property. However, since other remedies are available to the property owner beyond the Board of Review, the extension request was withdrawn.

Following testimony and discussion, the Chair polled each Board member for comments. It was the consensus of the Board that the burden of proof was not met that there was an error in valuation made on the part of the assessor's office.

It was moved by Ms. Wakefield, seconded by Mr. Lemke to sustain the assessor's valuation. -3

299-9988-00
2855 N. Mayfair Road

City Clerk Ledesma swore in Ms. Isleb, Mr. Lenski, and Todd Shebesta, Easley, McCaleb & Associates, W67 N222 Evergreen Boulevard, Cedarburg (agent for the property owner).

The assessor's valuation as of January 1, 2007:	Land	\$2,285,500
	Improvements	<u>\$1,417,700</u>
	Total	\$3,703,200

The estimated fair market value is \$3,740,600.

Mr. Shebesta stated that the fair market value should be \$2,325,650, amended from \$2,375,460 listed on the objection form. This building was constructed in 1986 for a Best Buy store and is currently vacant. Since its construction, the Mayfair Road market and tenants' expectations have changed considerably. The current configuration and land/building ratio is inadequate and probably obsolete. The property has been marketed for 18 months with only one (rejected) offer. The income and sales approaches were used to determine value for this property. Upon their sales, buildings at 2747, 2767 and 2979 N. Mayfair Road were razed and are all being redeveloped at present. Mr. Shebesta opined that these three properties are good comparisons with the subject property. In using the income approach, Mr. Shebesta pointed out that the owner has lost income, lost leasing commissions and tenant improvement costs over the past year, though maintenance costs have continued.

Ms. Isleb noted the property owner requested a review of the property and received a valuation reduction to \$3,703,200, down from the 2006 assessed value of \$4,225,900. The reduction was made in part due to the building's location farther north along Mayfair Road and the fact it is vacant. The staff had not received information on the rejected offer from Dunham's Sporting Goods, though the rejection does give

some indication of what the building is *not* worth. Staff does not feel the sales of the three properties noted by Mr. Shebesta are valid as they were part of an assemblage. Ms. Isleb noted this is not a land-value only issue as Mr. Shebesta feels, since the building is only 21 years old. The buildings housing Cardinal Fitness and The Learning Shop are both similar in age and are not undergoing redevelopment.

Discussion ensued by both parties regarding the use of the income approach to value the property.

Following testimony and discussion, the Chair polled each Board member for comments. Mr. Lemke opined that the value should be less than what the assessor's office has placed on it. Ms. Wakefield countered that the assessor's office did take into account the vacancy issue when determining value. Mr. Benz characterized the Dunham Sporting Goods offer as a 'bottom scraper' and suggested that it has no bearing on the value of the property. He did not feel the property owner's agent has met the burden of proof to overturn the assessor's valuation.

It was moved by Ms. Wakefield, seconded by Mr. Benz to sustain the assessor's valuation. 2-1 (Lemke)

**384-0009-01
6700 W. State Street**

City Clerk Ledesma swore in Ms. Isleb, Mr. Lenski, and David Israel, 161 E. Chicago, Chicago, Illinois. Attorney Alan Marcuvitz, Michael Best & Friedrich LLP, 100 E. Wisconsin Avenue, Milwaukee, was present on behalf of the property owner.

The assessor's valuation as of January 1, 2007:	Land	\$2,165,200
	Improvements	<u>\$5,376,300</u>
	Total	\$7,541,500

The estimated fair market value (99% ratio) is \$7,617,700.

Mr. Marcuvitz stated the fair market value should be \$5,537,500, amended from \$3,308,400 on the objection form.

Mr. Israel stated the parcel consists of 6.73 acres; in 2006 additions were built (66,000 square feet) and completed by January 1, 2007, though not fully rented. The site houses a Sentry food store, Applebee's restaurant and several small outlets located in 7,200 square feet on the east side of Sentry. Approximately 775 square feet was unleased as of the first of the year. Overall rent income and common area charges total approximately \$570,000 annually. Expenses average \$127,000 annually, bringing net operating income to \$443,000. Multiplying that figure by an 8% capitalization rate brings one to the \$5,537,500 fair market value stated before.

The following exhibits were presented and entered into the record:

Exhibit 1 Property owner's income, expense, and net operating income summary

Ms. Isleb stated that staff applied new cost information supplied by the owner and then added 5% depreciation to that amount. Additionally, staff reviewed lease information, analyzing it by the income approach. Staff relied on the sales comparison approach only to the extent that it supports the cost value. She noted that a major tenant (Sentry) has paid for many of its improvements and that the property owner has very few duties because of the terms of that lease.

Both parties discussed the relevance of a recent Court of Appeals case involving Walgreens & Co. v. the City of Madison as it relates to the setting of value using market rent information. Mr. Kesner

Ms. Isleb referenced the exemption issue, noting that the zero value exists only if a parcel is considered exempt. The court has the power to determine whether property is assessable. There is *up to* a 10-acre limit for a single entity for exemption purposes. The city is not calling this excess or surplus land. It is land that exceeds the statutory limit for exemptions. It is beyond the 10-acre limit. Immediately to the north of this property is a commercial senior housing complex. To the southwest is another apartment housing complex. This is a commercial type use. The church has also constructed a cultural center on its property. The city is not envisioning a fast food restaurant on the southern part of the parcel. However, the value placed on the southerly 4.9-acre parcel is based on neighborhood values. Ms. Isleb reiterated that only the land necessary and convenient to the church is exempt. Nothing under the church building, west of the church building or north of the church building is considered for assessment, just that portion south and southeast.

Discussion ensued between the two parties over the exact boundaries of the 4.9-acre parcel.

RECESS 2:45 – p.m. – 3:05 p.m. to produce a map showing the boundaries of the 4.9-acre parcel.

After the recess, Assistant City Attorney Aldana was also present and received permission to sit with the assessor's office staff to offer guidance on issues of procedure only. Mr. Kesner verified that he and Ms. Aldana have maintained a wall of silence between themselves on this issue.

Exhibit 2 Aerial map delineating a 214,000-square foot parcel (4.9 acres more or less)

Ms. Isleb reiterated that this southerly portion of the parcel is not necessary for the convenience of the church property. Staff does not know for a fact that it can be actually split off; neither does it know whether anyone has ever asked to do so. That area within the heavy black line on the aerial map is currently zoned for residential use. This map has not been reviewed by the city's Historic Preservation Commission.

The \$6.30/square foot value is at the lower end of value. The property has the potential for various unknown uses. Property does not have to be sold to have value. It has value to whomever holds it. The land is neither surplus nor excess; it is an unused part of a specific parcel.

City Clerk Ledesma swore in Nancy Welch, City of Wauwatosa Community Development Director. She verified that the parcel is currently zoned AAA single family residential. In 1983 the church asked to create a certified survey map in order to create CSM parcel 4384 to house an elderly residence. That parcel was rezoned to Residential Planned Development. If the church decided to develop the 4.9-acre parcel, a new certified survey map should be filed to create a parcel for a different purpose; the parcel would then need to be rezoned if used for something other than single family residences. As minimum lot size is 9,000 square feet, the 4.9-acre parcel could accommodate this use.

Both parties summarized their positions. Ms. Isleb noted that while the owner has chosen not to develop the southerly portion of the property, that does not mean it does not have value. A value of zero can't be argued in the world of real estate. Exemptions are limited to land necessary *for the convenience* of the exempt use.

Mr. Marcuvitz argued that one can have an obsolete building on a parcel of land; that land is useless unless the building is gone. But if the cost to raze is greater than the land value, a negative value exists. How can the assessor's office determine what is necessary for convenience? The state statutes allow up to ten acres; the entire parcel is under that amount.

Testimony was closed.

It was moved by Mr. Lemke, seconded by Ms. Wakefield

to place a value of zero on the property. -3

222-9981-05
9400 W. Congress Street

The assessor's valuation as of January 1, 2007:

Land	\$1,390,500
Improvements	<u>\$2,935,700</u>
Total	\$4,326,200

The estimated fair market value (99% ratio) is \$4,369,900.

Attorney Alan Marcuvitz, Michael Best & Friedrich LLP, 100 E. Wisconsin Avenue, Milwaukee, was present on behalf of the property owner. The issue involving this property centers around the question of exemption, which is a matter over which the Board lacks jurisdiction. He requested that the Board sustain the assessor's valuation so that the matter can proceed through other legal avenues.

Ms. Isleb concurred on behalf of the city with this proposal.

It was moved by Mr. Lemke, seconded by Ms. Wakefield to sustain the assessor's valuation.

The Board recessed at 4:15 p.m. until 1:00 p.m. on October 24, 2007.

