



CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WISCONSIN 53213
Telephone: (414) 479-8917
Fax: (414) 479-8989
Web Site: www.wauwatosa.net

BOARD OF REVIEW
Tuesday, June 8, 2011 – 12:00 p.m.

PRESENT: Mr. Benz, Mr. Duffey, Mr. Rice

ALSO PRESENT: Mr. Kesner, City Attorney; Ms. Aldana, Asst. City Atty.; Mr. Miner, City Assessor; Mr. Lenski, Dep. City Assessor; Mr. Tuff, Appraiser III

Mr. Benz in the Chair

The board reconvened at 9:30 a.m.

10100 Innovation Drive
Tax Key #379-9999-38

Land	\$959,400
Improvements	\$6,156,600
Total	\$7,116,000

Ms. Maureen McGinnity, Foley and Lardner, Attorney for the objector, 777 E. Wisconsin Avenue, made a motion to exclude the assessor's testimony due to his admission that his numbers were wrong and were in fact old numbers. She cited state statute 70.47(8)(h) saying that he must defend the number he had submitted.

Mr. Kesner clarified that Section 70.47 specifically refers to initial valuation. There is no case law as to what number is to be addressed and given the presumption, and 2) even if found presumption is overcome the assessor can determine a different value. Ms. Aldana added that legally Ms. McGinnity is giving an overly strict interpretation of the statute. She noted that the assessor may look at valuation issues after the initial assessment.

Ms. McGinnity responded that hypothetical information does not apply here. The assessor received all the information before making their assessment and the assessor is stuck with that assessment. She continued saying that the statute is not ambiguous. Mr. Tuff said that number is no longer good.

Mr. Kesner responded that the assessor does have the ability to review the number. Market conditions affect more than one property. There may be specific market conditions pertaining to a specific property.

Ms. McGinnity repeated that \$7.116 million is not correct by the assessor's admission. She added that the assessor ignored evidence provided by the property owner. Then they came in with new information that her client hadn't seen. They chose to stand on an assessment from 2006 and admitted they were wrong.

Ms. Aldana stressed that even though that is a correct statement. The assessor continued to work with the property owner to try to find a number they both could live with.

Ms. McGinnity noted that all the information was provided before the valuation went out. This is a situation where they had all the information. They don't get to say never mind we will come in with another number.

Mr. Benz commented that the Board of Review is charged to claim that the assessor's valuation is correct unless the owner can prove the assessor wrong. The board is not bound by one or the other.

Mr. Duffey commented that he was distressed that there isn't more of a set procedure. He assumed a determination was made before the meeting. If the assessor has the ability to choose another value, he was concerned about the way this has played out.

Ms McGinnity stressed that the assessor is supposed to defend his/her number. She asked what evidence the board should consider.

Moved by Mr. Duffey, seconded by Mr. Rice that the board has determined that the assessor's initial assessment has been overcome; however, the board is not accepting the property owner's number – 3

Mr. Tuff continued saying that fair market value on the property is rounded to \$6,137,230. The ratio to assessed value is \$6,444,100. He noted that Exhibit 16 contains the property record. He went on to describe how property valuation is determined by the Markarian Hierarchy. He added that they would not use the income approach.

Ms. McGinnity objected to the relevance of Mr. Tuff's information. Mr. Benz denied the objection noting that this hearing was continued from an earlier date. He asked that both party's refrain from constant objections so as to be able to conclude the matter in a timely manner. He then asked Ms. Aldana to proceed.

Ms. Aldana explained that in interim years they review properties to see if work has been done. Originally the assessment was \$7.1 million. She asked Mr. Tuff if he continued to work with the property owner to come to a number both could live with. In this case, the assessor's number was rejected by the property owner.

Ms. Aldana asked Mr. Tuff how he determined a new number. Mr. Tuff responded that they are always in negotiation with property owners. They relied on a sales approach and an income approach. They looked at the comparable sales and gave those to the property owner. The comparables were adjusted for location and size. He described what determined the adjustment between properties. He added that the cap rate is used to determine the risk on the building; however, they don't always have the cap rate so they use what they have.

Mr. Tuff noted that, while making his calculations, he added a number in that was left out by the property owner so the corrected amount was \$6,177,940.

A discussion continued regarding comparisons of property owner's appraisals using income, operating expense and market value data. Mr. Tuff noted that when a property sells, tenant improvements are included in the sales.

The board recessed at 10:50 a.m. and reconvened at 11:02 a.m.

Ms. McGinnity asked if an occupancy adjustment was made because of concerns voices by the taxpayer. She also noted that for sales to be used they have to be similar or arms length sales and have to be open to the general market. The assessor also must verify and validate the sale. Mr. Tuff responded in the affirmative to all of the above. Mr. Tuff added that it should be followed up to determine if it was an arms length sale.

Ms. McGinnity asked about the sales data. Mr. Tuff, in general, agreed. Ms. McGinnity asked about transfers between related parties and the need to have three properties to compare with. Mr. Tuff responded that there doesn't have to be three properties, but it is a good number that will not skew the other data.

Ms. McGinnity noted that she sent an open records request on May 31st. Mr. Tuff acknowledged. He also spoke with the assessor and confirmed the sale price, the date, and the rent.

Mr. Tuff commented that he did not rely on any other information on page 27C of Exhibit 19. He further commented that he did not make any follow-up calls on the properties listed. He noted that he had a confidential document for Innovation Drive. He added they would have relied on the confidential information for making their decision and the fact that they look at a three-year average.

Mr. Tuff explained that they are required to look at the cost approach, but they did not use it because they are bound by the Markarian Hierarchy.

A discussion followed on the use of cap rates in determining valuation as well as how and if it was determined that any of the sales the assessor used involved related parties.

Because of time constraints, it was the consensus of the board to recess this hearing to a later date.

The board recessed at noon and reconvened at 1:05 p.m. to hear another case

11333 W. Burleigh Street

11221 W. Burleigh Street

11221 – Tax Key #299-9972-02

Land - \$1,088,600 Property owner's value - \$805,000

11333 – Tax Key #299-9967-02

Land - \$1,634,400

Improvements - \$1,195,300

Total - \$2,829,700 Property owner's value - \$907,000

Total Land - \$2,723,000

Total Improvements - \$1,195,300

Total of all - \$3,918,300

Mr. Michael Stein, Beck Chaet Bamberger & Polski, 330 E. Kilbourn Avenue, Milwaukee, commented that the property owner's total value is \$1,512,000 or \$6 per square foot. He noted that the owner's company, 114 Place LLC, is, at the current time, subject to a state court receivership proceeding. Real estate is the only asset of the debtor.

Mr. Stein introduced Joel Schneider, Atlas Partners, 55 E. Monroe Street, Chicago, IL, saying that Atlas Partners will work with the local real estate broker. This property has been on the market between mid 2007–2009. It was listed with CB Richard Ellis. They have had no offers for two years.

Mr. Stein submitted information on five properties that he felt were comparable to his client's property. They have recently received a letter of intent to buy the 11333 W. Burleigh Street property at a purchase price of \$6 per square foot. He added that there has been a Phase I on the property and a Phase II as well as environmental conditions.

Mr. Schneider commented that the five comps presented were transactions in the last year. They sold for about \$7 per square foot. He noted that across the street from his client's property the land sold for approximately \$6.49 per square foot to the HSA project. The purchase involved several buildings that they will be able to use.

Mr. Stein noted that there have been two improvements to the property. One building has been razed and another one is scheduled to be razed. Mr. Miner observed that the buildings are still there.

List of Exhibits for June 8, 2011

- #1 - List of comparables
- #2 - Real estate ad flyer
- #3 - Order appointing receiver, enjoining creditors from proceedings against One 14 Place, LLC, and granting other relief
- #4 - Atlas Partners informational flyer
- #5 - Letter of Intent to purchase property located at 11333 W. Burleigh Street
- #6 - 2011 Real Estate Assessment of 11221 and 11333 W. Burleigh Street presented by City Assessor, Steve Miner

Mr. Miner gave a synopsis of his background and qualifications. He noted that Assessors have to follow a set of guidelines provided by the state. They went through the Assessor's exhibits. The structures on this property are approximately 34,000 square feet. It was listed for auction through CB Richard Ellis. Mr. Miner went through the pictures in the Assessor's exhibit #6. He mentioned that the property was on the market for about \$8,000,000. He also described other comparables and their locations. He noted the added vacant land sales comparison.

Mr. Stein pointed out that their comparable properties were on average \$7.3 million. The price was motivated by profit. They were hoping they could get as much as they can. Mr. Schneider noted that the comparables are about location.

Moved by Mr. Duffey, seconded by Mr. Lemke to sustain the City Assessor's valuation – 3

Tax Key #343-1344-00
8223 Stickney Avenue

Ms. Linn Bonovich appeared to request another appointment. She explained that she received the letter after her scheduled date to appear. She wasn't aware of the meeting and therefore didn't appear.

Moved by Mr. Duffey, seconded by Mr. Lemke to grant another hearing for Ms. Bonovich. Vote on the motion was Ayes: 2, Noes: 1 (Benz)

Stipulations

Tax Key #258-0001-09 – Target Corporation – Board sustained the 2011 assessment of the property
Tax Key #296-9999-05 – Sears Holdings Corporation – Board sustained the 2011 assessment of the property

Account #230800 – Safety Kleen Syst., Inc.	From	To	\$Change
Machinery	0	0	0
Furniture & Fixtures	0	0	0
Other	880	1,230	350
Total	880	1,230	350

Account #230800 – Safety Kleen Syst., Inc.	From	To	\$Change
Machinery	0	0	0
Furniture & Fixtures	0	0	0
Other	110	680	570
Total	110	680	570

Account #230800 – Safety Kleen Syst., Inc.			
Machinery	0	0	0
Furniture & Fixtures	0	0	0
Other	160	750	590
Total	160	750	590

Account #098725 – GE Capital Corp.			
Machinery	0	0	0
Furniture & Fixtures	0	0	0
Other	428,170	1,010	427,160
Total	428,170	1,010	427,160

Account #095725 – GE Capital Information Tech. Solutions			
Machinery	0	0	0
Furniture & Fixtures	0	0	0
Other	103,220	128,930	25,710
Total	103,220	128,930	25,170

	Original Land Assessments	Revised Land Assessments	\$Change
Helmut Toldt – property owner			
Tax Key #375-0034-00	\$128,900	\$76,400	\$52,500
Tax Key #375-0035-00	\$252,900	\$149,800	\$103,100
Tax Key #375-0036-00	\$128,900	\$76,400	\$52,500
Tax Key #375-0037-00	\$121,500	\$72,000	\$49,500
Tax Key #375-0038-00	\$128,900	\$76,400	\$52,500
Tax Key #375-0039-00	\$99,200	\$58,800	\$40,400
Totals	\$860,300	\$509,800	\$350,500

	Original Personal Property Assessments	Revised Personal Property Assessments	\$Change
Pers. Prop. Account #014120	\$656,440	\$432,440	(\$224,000)
Pers. Prop. Account #060217	\$614,470	\$340,990	(\$273,480)
Pers. Prop. Account #162313	\$68,680	\$44,200	(\$24,480)
Pers. Prop. Account #197995	\$975,860	\$649,950	(\$325,910)
Pers. Prop. Account #263475	\$85,360	\$56,130	(\$29,230)
Pers. Prop. Account #289570	\$749,170	\$484,910	(\$264,260)
Totals	\$3,614,190	\$2,314,610	(\$1,299,580)i

Tax Key #341-005800			
2102 Menomonee River Parkway			
	From	To	Change
Land	63,900	63,900	0
Improvements	264,000	235,000	-29,000
Total	327,900	298,900	-29,000

It was the consensus of the board to recess the meeting and reconvene on June 29th.

The board recessed at 3:37 p.m.

Susan Van Hoven, Deputy City Clerk

svh