



CITY OF WAUWATOSA
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BOARD OF REVIEW
Tuesday, August 16, 2011 – 12:00 p.m.

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

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

Mr. Benz in the Chair

The board reconvened at 10:01 a.m.

10001 Innovation Drive
Tax Key #379-9999-38

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

Continuing from the last meeting, Mr. Moegenberg noted that some space remodels may not suit subsequent tenants. He added that brokers are typically paid up front. Ms. McGinnity commented that, based on personal review, the approximate value of the property is \$4.4 million.

Ms. Aldana requested that an appraiser be present to testify. She stressed that submission of an appraisal is fine, but the opinion of value cannot be used unless an appraiser is present.

Ms. McGinnity moved the admission of Exhibit #20

Exhibits were the same as the previous meeting

- #16 - 2011 Real Estate Assessment of 10001 Innovation Drive by Rhett Tuff , Assessor's Office
- #17- Wauwatosa Improved Sales per Pete Moegenberg
- #18- Stabilized Operating Statement per Pete Moegenberg
- #19- Property Owner's Board of Review Exhibits – part 1
- #20- Certified mail correspondence from the property owner's representative
- #21 - Property Owner's Board of Review Exhibits – part 2

Ms. Aldana addressed the question of city sales comps. The first comp sale is in Pewaukee. She asked Mr. Moegenberg if he had spoken with the assessor. Mr. Moegenberg responded that he hadn't. Ms. Aldana referenced Tab #34 of Exhibit #19 saying that they concluded that this was not a valid sale. She asked the owner and owner's attorney if they remembered directing the attention of the Board to Tab #34 pages one and two. She asked if the city relied on the sale for July, 2010. Ms. Moegenberg responded that that sale was incorrectly identified by the assessor.

Ms. Aldana commented that Mr. Moegenberg had noted that there was a different sale that occurred in April, 2011. Under that listing it says that interrelated parties were involved. It doesn't indicate that under the July, 2010 sale. Sale of a leaseback is an invalid sale. She noted that the report the property owner submitted from Collateral Evaluation Services, LLC (CES) is a national aggregate report. A highlighted excerpt from that report notes that "today's values are 40%-45% lower than back in 2007." She

commented that this statement represents a national aggregate, but it is not saying that sales in Wauwatosa follow the same pattern. Mr. Moegenberg agreed.

Ms. Aldana asked Mr. Moegenberg if he was aware that Clifton Gunderson has a lease until October, 2011. Ms. McGinnity asked if a buyer would value the Clifton Gunderson lease. Mr. Moegenberg thought it would affect the value. He added that he did not make a direct application of the 40%-45%. Mr. Moegenberg added that a litany of subsequent transactions should have sparked some interest. Sales of individual units in the Madison and Pewaukee properties were not exposed to the public market and therefore the purchase price was not tested.

Mr. Duffey noted that economic stabilization adjustments were made for tenant improvement or leases. He asked if those could be found in the Assessor's Manual. Mr. Moegenberg answered yes, if they take that and calculate it out in perpetuity. Mr. Duffey asked if this was a double dip. Mr. Moegenberg responded that there are structural vacancies over the life of an investment, for example, due to a holiday the property owner missed a day of income. If it is known that a property has a vacancy, that should be taken into consideration.

Mr. Moegenberg commented that prior to January 1, 2011 Clifton Gunderson made it clear that they intended to vacate the building by October, 2011. A buyer would know that there would be a vacancy. Ms. McGinnity asked what a hypothetical buyer would pay for this property. She added that the board is not restricted in its consideration of Clifton Gunderson being there. Mr. Moegenberg stressed that market conditions in the future should be anticipating the vacancy.

Ms. Aldana noted that there is one relevant date specific to Assessor Law. The manual says that January 1st is the date that matters. The assessor's office is obligated to go no further than January 1st. They are not able to chase changing conditions over the year and still be fair to other properties.

Ms. McGinnity pointed out that an anchor tenant vacating a building is public knowledge. Ms. McGinnity reiterated that they are asking for an amount of \$4.4 million in valuation. She thought the board played an important role in protecting the taxpayer if the assessment is wrong.

Mr. Moegenberg, recalled that the owner, Mr. Luterbach, went to the assessor's office when he found that Clifton Gunderson was leaving. His recollection was that the Assessor admitted he was wrong and the assessment was too high. Mr. Moegenberg expressed frustration that the owner had to go through this lengthy, expensive hearing especially when he felt that the Assessor was wrong. He noted that the Assessor is now trying to put the value at \$6.1 million and the owner would like the value to be \$4.4 million. This is the first time the owner is contesting an assessment.

Mr. Benz acknowledged that the loss of a tenant is a severe challenge. Ms. McGinnity noted that Mr. Moegenberg is an MAI certified appraiser. She asked what method a buyer would use to determine the value of a property. She felt the income approach was the best approach and this is the approach Mr. Moegenberg used. His cap rate was an 8.5% base rate. She explained that cap rate is the reflection of market risk. The Assessor's 7% rate is used for a higher value property. The Assessor also used a 2% tax rate. She believed this board should find that the property should be valued at \$4.4 million. The economic characteristics are more reliable. The Assessor did not challenge anything regarding Mr. Moegenberg's testimony. The Assessor eliminated one of the dates so it is difficult to rely on the comparable sales appraised. She noted that Cushman and Wakefield came up with the same result as Mr. Moegenberg.

Ms. McGinnity believed that the Assessor failed to validate the sales during that time adding that four out of five sales don't meet the definition of comparable sales. The Assessor should talk with the property owners regarding the sale. There is only one sale in the Research Park and the Assessor made only a 5% adjustment for the vacancy rate.

The board recessed at 11:09 and reconvened at 11:15.

Ms. Aldana there were three issues she wanted to address: 1) she agreed with the city that the sales approach is the best approach and is the best opinion of value, 2) she would like to highlight the differences between the sales and income approaches, and 3) the evidence of values first considered before the board. She noted that there is a context in which to view the state statutes and the Assessor's Handbook. The Wisconsin courts have said the Assessor must use comparable sales. It does say that the income approach can be used when comparable sales are not available; however, the sales data has been available. Cushman and Wakefield used many of the same comps that Mr. Moegenberg has questioned. She noted that vacancies happen all over the city. It is the owner's responsibility to show there is something wrong or different going on with this particular property. When the city corrected the math they did not use the Blue Mound Road sale because it was a fee simple sale. Also using the sales approach is still the best approach and puts Mr. Moegenberg's figures at \$6.1 million. There is no explanation why this property is having problems with leasing. The city sales are valid. With regard to the property in Pewaukee, Mr. Tuff spoke with the Assessor there and they confirmed that the sale was valid. The Madison Assessor also said it was a valid sale.

Ms. McGinnity voiced an objection.

Ms. Aldana continued that property owners are asked to evaluate the validity of their sales. Comp. sale #4 is a valid sale and comp. sale #5 was not questioned. The city ends up with the same number as the property owner adjusting for Mr. Moegenberg's math. She added that the city did an income approach, but she asked the board not to use it. Mr. Moegenberg used CES as an example using the market downturn nationally to calculate value. Mr. Moegenberg used contract rents at \$9 per square foot. If he had used market rents the value would still be \$5.2 million. A high cap rate of 10.72% is used for lower valued properties and low cap rates are used for higher valued properties. She pointed out that the property in question is in a great location in Wauwatosa. They came up with a \$900,000 difference between the difference in cap rates.

Ms. Aldana commented that the city and the property owner came up with similar amounts within range. She noted that this information shouldn't be used in this context and Mr. Moegenberg's mistake brings them closer to the Assessor's numbers.

Ms. McGinnity stressed that the property owner's request for a lower assessment is being sought because: 1) they have lost their anchor tenant and, 2) his property is being assessed during a time of economic decline. She noted that the assessor should be calling the parties to the transaction not the appraiser. Mr. Moegenberg used an 8.5% cap rate. She observed that both sides were ignoring the economic characteristics; however, the Assessor made the mistake.

Mr. Duffey commented that he was persuaded that because of the conditions of the property, the income approach is more valid. Mr. Moegenberg did the legwork and exposed the sales as not being arms length. Not using the actual expenses is not the way to do this. The property owner did his homework this time and they were proactive in meeting with the Assessor right away.

Mr. Rice commented that it is difficult when the arguments are chosen. He kept going back to the number of \$5.8 million from Tab #39. He did a number of calculations using both the Assessor's and the properties owner's numbers and kept coming back to each side ending up with an assessment of \$5.8 million.

Mr. Benz concurred with the concept that the city has to go with the January 1st date. He stressed that the reason the state picked that date was because the assessor's office cannot predict the future.

Moved by Mr. Rice, seconded by Mr. Duffey that the Assessor's original valuation was incorrect – 3

Moved by Mr. Rice, seconded by Mr. Duffey that the assessment for 10001 Innovation Drive, is reduced to \$5.8 million with \$954, 400 for the land and \$4,840,600 for the improvements. Vote on the motion was Ayes: 2, Noe: 1 (Duffey)

Stipulations

Account #095725 – GE Capital Info Tech Solutions Inc.	From	To	\$Change
Machinery	0	0	0
Furniture & Fixtures	0	0	0
Other	128,930	192,660	63,730
Total	128,390	192,660	63,730
 Account #042920 – CIT Tech Financing Serv Inc.			
Machinery	0	0	0
Furniture & Fixtures	0	0	0
Other	66,030	97,320	31,290
Total	66,030	97,320	31,290

It was the consensus of the board to recess at 12:00 p.m. and reconvene at a later date.

The board recessed at 12:00 p.m.

Susan Van Hoven, Deputy City Clerk

svh