TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	**Milan SB Properties, LLC**	)	**Gibson County**
	Property ID: 143 047.01	)	
		)	
	Tax Year 2014	)	**Appeal No. 97076**

INITIAL DECISION AND ORDER

Statement of the Case

The Gibson County Board of Equalization ("local board") has valued the subject property for tax purposes as follows:

Land Value	Improvement Value	Total Value	Assessment
$857,400	$4,142,600	$5,000,000	$2,000,000

The taxpayer, Milan SB Properties, LLC ("Milan"), filed an appeal with the State Board of Equalization ("State Board") on July 31, 2014.

The undersigned administrative judge conducted a hearing of this matter on January 8, 2015, in Jackson. At the hearing, Milan was represented by attorney Clay Purdom of Martin, Tate, Morrow & Marston, PC. Also present for the appellant was commercial real estate broker Jack Wohrman. Gibson County Assessor of Property Gary Paschall appeared on his own behalf. He was assisted by Mark Volner of the Division of Property Assessments.

Findings of Fact and Conclusions of Law

The subject property in this appeal consists of an 82.92 acre site improved with a warehouse and located at 13901 Telecom Dr. in Milan. The property was sold on May 14, 2014. The ultimate price paid for the property is in dispute.

The appellant contended that the property should be valued at $1,400,000. In support of this, the appellant cited the purchase price of the property. The appellant also offered an income and sales analysis.

The Assessor contended that the value established by the local board be affirmed. In support of this position, the Assessor introduced a comparable sales analysis.

The basis of valuation set out in Tenn. Code Ann. § 67-5-601(a) is that [t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values. . ."

As the party seeking to change the current assessment of the subject property, the appellant has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

General appraisal principles require that the sales comparison, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 130 and 140-141. (13th ed. 2008). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 559-565.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market

in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 23.

In view of the definition of market value, the income producing nature of the subject property and the age of subject property, generally accepted appraisal principles would indicate that the sales comparison and income approaches have greater relevance and should normally be given greater weight than the cost approach in the correlation of value indicators.

The appellant in this appeal listed several factors in seeking a reduction of the value of the property. Most importantly, the appellant cited the purchase price of the property, an arms-length transaction occurring on May 14, 2014. The appellant argued that the purchase price was $1,400,000. In support of this, Mr. Purdon offered an affidavit from Dennis Pike, the treasurer of the lessee of the property. In the affidavit, Mr. Pike avers that the purchase price of the property was $1,400,000, and that the additional amount paid to the seller by the lessee, $4,445,070, was in consideration of breaking the lease between the lessee and the seller.

Mr. Wohrman also testified for the appellant. He submitted an analysis based on the income approach and a comparable sales analysis.

The Assessor took exception to several aspects of the appellant's proof. First, the appellant did not provide any real income analysis. Specifically, no appraisal by a licensed appraiser was introduced. Secondly, although Mr. Wohrman is qualified to testify as to the amount for which the property should be listed, in this instance he did not adjust any of the comparable sales he cited.

The Assessment Appeals Commission has said that for comparable sales to be relevant, they must be properly adjusted. In E.B. Kissell, Jr. (Shelby County, Tax Years 1991 and 1992) the Commission said:

> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value . . . .

Final Decision and Order at 2.

With respect to the sales price of the property, the appellant's proof is likewise lacking. First, the sale took place on May 14, 2014. Because January 1, 2014, constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a), the data would seem to be irrelevant. Indeed, the Assessment Appeals Commission has said: "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Acme Boot Company and Ashland City Industrial Corporation (Cheatham County, Tax Year 1989, Final Decision and Order) p. 3.

Secondly, even assuming the sale had taken place in a timely manner, the appellant's argument that the amount paid by the lessee to the seller should not be considered part of the sale price strains credulity. It seems unlikely that the seller, with a viable lease in place, would sale the property for only $1,400,000. Indeed, in the affidavit introduced *by the appellant*, Mr. Pike said:

> At closing on the purchase of the Property by Milan SB from Owner, Milan SB paid $1,400,000 to Owner and the Company (the lessee) paid $4,445,070 to Owner **so that Owner received the full**

> **Floor Net Sales Price of $5,845,070** and the Property was released from the operation of the Master Lease. [Emphasis added.]

For the forgoing reasons, the administrative judge is persuaded that the value established by the local board must be affirmed.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2014:

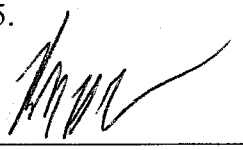
Land Value	Improvement Value	Total Value	Assessment
$857,400	$4,142,600	$5,000,000	$2,000,000

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

The result of this appeal is final only after the time expires for further administrative review, usually seventy-five (75) days after entry of the Initial Decision and Order if no party has appealed.

Entered this 7th day of April 2015.



Brook Thompson, Administrative Judge
Tennessee Department of State
Administrative Procedures Division
William R. Snodgrass, TN Tower
312 Rosa L. Parks Avenue, 8th Floor
Nashville, Tennessee 37243

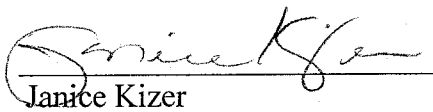
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

Clayton C. Purdon, Esq.
Martin, Tate, Morrow & Marston, P.C.
Tower II, Suite 1000
6410 Poplar Avenue
Memphis, Tennessee 38119

Gary Paschall
Gibson Co. Assessor of Property
Gibson County Courthouse
One Court Square, Suite 202
Trenton, Tennessee 38382

This the 7th day of April 2015.



Janice Kizer
Department of State
Administrative Procedures Division