



DECISION OF THE VALUE ADJUSTMENT BOARD
VALUE PETITION

DR-485V
R. 01/ 17
Rule 12D-16.0 02
F.A.C.
Eff. 01/17

County

The actions below were taken on your petition.

These actions are a recommendation only, not final These actions are a final decision of the VAB

If you are not satisfied after you are notified of the final decision of the VAB, you have the right to file a lawsuit in circuit court to further contest your assessment. (See sections 193.155(8)(l), 194.036, 194.171(2), 196.151, and 197.2425, Florida Statutes.)

Table with 2 columns: Petitioner information (Petition #, name, taxpayer status) and Parcel information (Parcel ID, Property address).

Decision Summary Denied your petition Granted your petition Granted your petition in part

Table with 4 columns: Value (Lines 1 and 4 must be completed), Value from TRIM Notice, Before Board Action (Value presented by property appraiser), After Board Action.

\*All values entered should be county taxable values. School and other taxing authority values may differ. (Section 196.031(7), F.S.)

Reasons for Decision Findings of Fact Conclusions of Law

Large text area for providing reasons for decision, including findings of fact and conclusions of law.

Recommended Decision of Special Magistrate Finding and conclusions above are recommendations.

Signature lines for special magistrate and VAB clerk, including date and address information.

Final Decision of the Value Adjustment Board

Signature lines for the chair of the value adjustment board and VAB clerk, including date of decision and date mailed to parties.

### **Findings of Fact for Petition 2017-00400:**

Present at Collier County offices was Property Appraiser (PAO) represented by Mr. Clyde Quinby, Mr. Dennis Staruch and Ms. Jenny Blaje. The Petitioner (PET) was not present but requested that their evidence and petition be heard and considered in their absence. PAO's were sworn in.

SM read the petitioner number. PAO confirmed the folio number, and just value of \$2,454,144. The TRIM value has not changed.

PAO described the property as a vacant land site; zoned R1-10 for residential development. The land size is .29 acres or 12,632-sf. The lot has frontage along 13th Avenue of 111.90. ft.; sides measure 110ft and 110 feet; the rear measures 111.90feet. The property sold in November 2016 for \$2,400,000. The site is located approximately two blocks from the beach at 190 13th Avenue South, Naples FL.

As part of PAO's evidence, Ms. Blaje presented a 50-page report on the Level of Assessment and Equalization Support Data. Ms. Blaje presented this report once, on the first petition heard in 2017 only, and this report applies to all 2017 petitions and forms part of PAO's evidence in every petition.

The Level of Assessment and Equalization Support Data report contains Collier County's statement of compliance, Florida real property guidelines, two Florida Department of Revenue Attorney opinion letters, attorney opinion letter on the eighth criterion, case law on the eighth criterion 2nd District Court of Appeals, Administrative court findings PTO Bulletin 11-01, Levy Law Firm, Bond Schoeneck & King (2016 VAB Attorney), Florida Department of Revenue Sales Qualification Study, Florida Department of Revenue Tax Roll Approval Letter, Form DR-493, Level of assessment statistics and graphs. This report explains the methods used in mass appraisals and how Collier County applies the eighth criteria. Ms. Blaje indicated that the just value of properties in Collier County includes the Cost of Sales adjustment of 15% made to the recorded selling prices or fair market value. Collier County groups their properties by stratum and the properties within a stratum are put on a bell curve-50% of the properties within a stratum are assessed at below market value and 50% are assessed above market value with the median being at about 85%.

PAO, Mr. Staruch presented a report containing 31 pages. The report included the evidence and witness list, summary of salient facts and conclusions, definitions, limiting conditions and assumptions, scope of the appraisal, zoning, aerials, location map, photographs of the subject and site plan. PAO developed the Sales Comparison Approach only, the Cost Approach and Income Approach was not developed. The addenda contain photos of the comparable building sales, and the property record card. PAO considered the 8 criteria from Section 193.011 F.S.

The evidence presented by PAO was considered credible, relevant and was admitted for consideration.

PAO presented the Sales Comparison Approach which consisted of 6 land sales. The

land sales are as follows:

#### PAO Land Sales

Sale #	Date	Price	Price/FF
1	1/16	\$2,250,000	\$24,100
2	8/16	\$2,775,000	\$27,750
3	2/16	\$2,450,000	\$36,787
4	6/16	\$2,650,000	\$26,527
5	4/16	\$2,950,000	\$29,530
6	10/16	\$2,500,000	\$25,000
112	FF	\$27,000	
		\$3,024,000	
		0.88	
		\$2,661,120	

PAO analyzed the sales on a price per front foot basis. PAO considered adjustments to the sales for location, site size/front foot, access and frontage, zoning and site condition. PAO considered all the sales similar and no adjustments were made. The adjusted sales range from \$24,100 to \$36,787/ff. PAO estimated \$27,000/ff or \$3,024,000 and made a further deduction of 12% for an indicated value of \$2,661,120.

The Property Appraiser is required by Florida Statutes (F.S.) to assess real property at its just value as of January 1 of each year, F.S. 192.042 (1). The phrase “just value” has been determined to be synonymous with “fair market value”. See *Valencia Center, Inc. v. Bystrom*, 543 So.2d 214, 216 (Fla. 1989). Further, an assessment challenge must stand or fall on its own validity, unconnected with the assessment of any prior or subsequent year. See *Keith Investments, Inc. James*, 220 So.2d 695 (Fla. 4th DCA 1969).

The Department of Revenue (DOR) has developed specific evidence rules for presenting relevant and credible evidence. See Rule 12D-9.025 (1), Florida Administrative Code (F.A.C.). Generally, “relevant evidence” is evidence that is reasonably related, directly or indirectly, to the statutory criteria that apply to the issue under review. This description means the evidence meets or exceeds a minimum level of relevance necessary to be admitted for consideration, although it does not necessarily mean that the evidence has sufficient relevance to legally justify a particular conclusion. See Rule 12D-9.025(2)(b), F.A.C.

The Legislature has enacted eight factors which a property appraiser must consider when determining just valuation, which are enumerated in F. S. 193.011. In any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the property appraiser’s assessment is presumed correct if the appraiser proves by a preponderance of the evidence that the assessment was arrived at by complying with F.S. 193.011, any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. See Section 194.301, F.S., as amended by Chapter 2009-121, Laws of Florida (House Bill 521), and Section 193.011, F.S. A taxpayer who challenges an assessment is entitled to a determination by the value adjustment board or court of the appropriateness of the appraisal methodology used in making the

assessment. F.S. 193.011 outlines eight factors that must be considered to make a just value determination for each property. Refer to F.S.194.301, as amended by Chapter 2009-121, Laws of Florida (House Bill 521) and F.S. 193.011.

The eight criteria specified in Florida Statute 193.011 were considered by the PAO in the following manner:

- (1) Present cash value - the PAO applied the Sales Comparison Approach to the subject utilizing arm's length transfers of competitive properties presumably under normal market conditions.
- (2) Highest and best use - land use and building codes representing highest and best use of the property were applied which were consistent with the current use;
- (3) Location - PAO considers locational features of the subject through the use of neighborhood codes as identified on the Property Record Card (PRC);
- (4) Quantity or size - the subject's size was considered based primarily on land and building areas as identified on the PRC;
- (5) Cost and present replacement value - PAO did not develop the Cost Approach as the site is vacant;
- (6) Condition - The condition of the subject was factored into the estimated value via the Sales Comparison Approach;
- (7) Income – PAO did not develop the Income. This approach is typically not developed for single family dwellings;
- (8) Net proceeds of sale - the PAO considers costs of sale as previously explained in the 50-page report submitted.

The weight given to each of the factors is within the discretion of the property appraiser; reliance on a particular approach is dependent upon the type of property being assessed. *Id.*: Atlantic International Inv. Corp. v. Turner, 383 So.2d 919,929 (Fla. 5th DCA 1980). Ultimately, the proof of the correctness of value is paramount over the emphasis placed on the applicability of one particular method of value over another.

Special Magistrate determined the appraisal methodology used in making the assessment was appropriate and in compliance with criteria of F.S. 193.011, as well as consistent with professionally accepted appraisal practices. PAO is entitled to the Presumption of Correctness.

PAO's Just Value Conclusion: \$2,454,144

PET was not present, PAO, Mr. Staruch presented PET's evidence. PET's evidence was a 34-page appraisal report completed by Mr. Kevin Lindheim, a local appraiser. The report had an effective date of December 21, 2016. The appraisal is a land summary appraisal report. This report summarizes the features of the property, site and building; neighborhood; market area; history of the property. The Sales Comparison Approach only was developed. The appraiser included a location map, aerial, plat map of the property and a map of Old Naples. The addenda contain photographs of comparable sales, location map of the sales, 5-year Collier County Tax Assessment, zoning map, property deed, flood map, 2017 trim notice, demolition permit, definition of market value, limiting conditions and appraiser certification.

PET's evidence was considered credible, relevant and was admitted for consideration.

PET presented the Sales Comparison Approach which consisted of 6 land sales. The land sales are as follows:

#### PET Land Sales

Sale #	Location	Date	Price	Land/SF	Adjusted Price/lot
1	1380 Gordon Dr	1/16	\$2,250,000	15,000	\$2,225,000
2	1385 5th St S	7/15	\$2,080,000	12,000	\$2,367,000
3	277 Gulf Shore Blvd S	4/16	\$2,950,000	15,000	\$2,777,500
4	171 3rd Ave S	6/16	\$2,067,000	15,000	\$2,145,000
5	141 9th Ave s	2/16	\$2,450,000	10,050	\$2,302,500
6	450 13th Ave S	5/16	\$2,177,500	9,580	\$2,479,125
Subject	12,632		\$2,225,000		

At time of sale, all the sales were improved with older buildings that have been removed for new construction; these were essentially land sales. All sales are zoned for residential construction. PET adjusted the sales downward by \$25,000 for demolition of the improvements. PET did not adjust for lot size; PET indicated the proximity to the beach is the key adjustment in adjusting the sales and not the lot sizes. (Building Envelope for each lot is 1-SF home). PET adjusted for interior lots, the subject is a corner lot. PET's sales adjusted range from \$2,145,000 to \$2,777,500. PET estimated the value by the Sales Comparison approach at \$2,225,000. PET placed most emphasis on Sale # 1 located in close proximity to the subject.

As rebuttal, PAO indicated PET did not make an adjustment for zoning; some lots are zoned R1-10 which allows a building area of 10,000-sf and some sales are zoned R1-7.5 for a building area of 7,500-sf. PAO indicated Sale # 4 sold for \$2,650,000 as additional deeds were recorded to settle the estate; PAO did not provide evidence to this sale. PET did not provide a time adjustment to the sales.

PET was not present and no rebuttal evidence was submitted.

The subject property sold in November 2016 for \$2,400,000. PAO considered adjustments to the sales; however, considered all the sales similar and made no adjustments. PAO does not indicate the front footage (site size per front foot) of the comparable sales; it is difficult to determine if the comparable sales are larger or smaller than the subject. PAO does not indicate if the comparable lots are interior lots or corner lots; or if the lots were improved at time of sale. PET provided adjustments for location, interior lots and demolition of existing buildings. PET places most emphasis on Sale # 1, located two properties from the subject; this is also a corner lot. PET and PAO sale # 1 sold in January 2016 and neither PET or PAO made a time of sale adjustment. PET's evidence is considered more relevant and credible. PET has overcome the presumption of correctness.

PET's value conclusion: \$2,225,000

Rule 12D-9.027(3)(a) states that if the hearing record contains competent, substantial evidence for establishing a revised just value, the board or SM shall establish a revised just value based only upon such evidence. In establishing a revised just value, the board or SM is not restricted to any specific value offered by one of the parties.

SM has considered the evidence and revised the value to \$2,400,000, the price paid in November 2016, two-month prior to the effective date of this just value.

**Conclusions of Law for Petition 2017-00400:**

Pursuant to Section 194.301 and Rule 12D-9.027(2)(a), the Property Appraiser's assessment shall be entitled to a Presumption of Correctness if the PAO shows, by a preponderance of the evidence, that the PAO considered each of the eight criteria set forth in Section 193.011 and that the appraisal methodology utilized by the PAO in making the assessment is appropriate. The Presumption of Correctness is not established unless the admitted evidence proves by a preponderance of the evidence that the PAO's valuation methodology complies with Section 193.011, FS. and professionally accepted appraisal practices, including mass appraisal standards, if appropriate.

In this case, the PAO used proper methodology and properly considered all 8 criteria in establishing value. PAO established the presumption of correctness.

In administrative reviews of just valuation, the Petitioner can overcome the Presumption of Correctness by showing that the PAO's assessed value:

A. Is arbitrarily based upon appraisal practices that are different than the appraisal practices generally applied by the PAO to comparable properties within the same county; or

B. Does not represent the just value of the property after taking into account any applicable limits on annual increases in the value of the property. (See subsection 194.301(2), F.S., as amended by Chapter 2009-121, Laws of Florida (House Bill 521))

The subject property sold in November 2016 for \$2,400,000. PAO considered adjustments to the sales; however, considered all the sales similar and made no adjustments. PAO does not indicate the front footage (site size per front foot) of the comparable sales; it is difficult to determine if the comparable sales are larger or smaller than the subject. PAO does not indicate if the comparable lots are interior lots or corner lots; or if the lots were improved at time of sale. PET provided adjustments for location, interior lots and demolition of existing buildings. PET places most emphasis on Sale # 1, located two properties from the subject; this is also a corner lot. PET and PAO sale # 1 sold in January 2016 and neither PET or PAO made a time of sale adjustment. PET's evidence is considered more relevant and credible. PET has overcome the presumption of correctness.

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or SM is not restricted to any specific value offered by one of the parties.

SM has considered the evidence and revised the value to \$2,400,000, the price paid in November 2016, two-month prior to the effective date of this just value.

SM recommends the petition be approved at a just value of \$2,400,000.