

STATE OF MAINE
KENNEBEC, SS.

STATE BOARD OF PROPERTY TAX REVIEW
DOCKET NO. 95-163

AWD MANAGEMENT (CHIRICAHUA, INC.),)	
Petitioner,)	
)	
v.)	DECISION
)	
CITY OF WESTBROOK,)	
Respondent.)	

This matter came before the State Board of Property Tax Review (hereinafter, the "Board") on the timely appeal by AWD Management (Chiricahua, Inc.) from the denial by the City of Westbrook (hereinafter, the "City") of Petitioner's property tax abatement application for the 1994 tax year. The property which is the subject of this appeal is located at 850 Main Street and is designated as Map 32, Lot 7 on the City's tax maps.

A hearing was held on March 4, 1996 with Board members Robert Libby, Stephen Morgan, Harry Hodson, and Lynwood Hand, Chair, participating. Christopher Snow of Property Tax Advisors, Inc. represented Petitioner; David A. Lourie, Esq. represented the City. Jean Jesson, Assessor, testified for the City.

Testimony shows that Chiricahua, Inc. (hereinafter, "Chiricahua") is a subsidiary of People's Heritage Bank handling foreclosed property. Property Tax Advisors, Inc. works under contract with Chiricahua to obtain the lowest possible assessed values for properties held by Chiricahua. Chiricahua acquired the subject property by means of a deed in lieu of foreclosure. During the course of this appeal, AWD Management acquired the property from Chiricahua. Property Tax Advisors continues to represent the new owner's interest, following transfer of ownership to AWD Management. Petitioner is seeking abatement from an assessed value of \$649,400.

According to testimony, Chiricahua acquired the subject property in December of 1993 and subsequently listed it for sale at \$425,000 with Malone Commercial Brokers. After thirteen months on the market, the property was sold to AWD Management (hereinafter, "AWD") for \$285,000.

An appraisal by Appraisal Associates of Portland, prepared for People's Heritage Bank

and dated December 20, 1993 yielded a value of \$335,000. See Petitioner's Ex. No. 3, 66. The property is described as a single-story, brick office building built in 1970 housing four tenants: Casco Bank who holds a twenty-two year lease expiring on February 11, 1998; ERA of Maine with a three-year lease expiring on June 10, 1996; Hilton Medical Consultants who are tenants at will; and former building owner Robert Davis who pays no rent and will be vacating soon. See id. at 3, 29 & 31.

The appraiser used the income approach, based upon a mixture of leased fee interest and market rent. The appraiser did not use the cost approach as a result of his determination that the age of the building precluded an effective application of the cost approach to determination of value. Thus, the bank vault, teller stations and drive-up window were not captured in the valuation of the property. See id. at 3. Property taxes were included as an expense. See id. at 52. The sales approach was also used.

A second appraisal, in the form of a review of that done by Appraisal Associates, prepared by Maine Valuation Company of Gorham, presented a value range of \$340,000 to \$348,000 for the subject property on December 20, 1993. See Petitioner's Ex. No. 9, 3. In this appraisal the real estate taxes were excluded and the capitalization rate adjusted.

The City challenged the methodology employed in Petitioner's appraisals on several points: the failure to employ the cost approach and the exclusion of bank improvements, the averaging of market rents, the use of lease figures from the subject property itself, and the reliability of the income figures supplied by Petitioner. According to testimony, the City's assessment figure was based upon a 1991 appraisal figure of \$839,000 adjusted downward for quality of construction and condition to \$649,000.

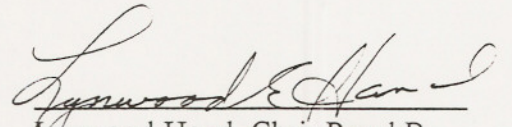
In these proceedings, Petitioner has the burden of proving that the judgment of the City was "so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results; or there was unjust discrimination; or the assessment is fraudulent, dishonest or illegal." See Town of Vienna v. Kokernak, 612 A.2d 870 (Me. 1992).

The Board notes it is unable to give much weight to Petitioner's appraisals as there were no witnesses to testify to the appraisals. Although there may be some validity to Petitioner's claim of overvaluation, the Board does not find Petitioner has presented sufficient credible

evidence to support a figure against which the assessment can be judged. See City of Waterville v. Waterville Homes, 655 A. 2d 365 (Me. 1995). Therefore, by unanimous vote, the Board finds Petitioner has failed to meet his burden of proving overvaluation and this petition is hereby denied.

Any party wishing to appeal this Decision must file a Petition for Review in the Superior Court within (30) days of the date of receipt of this Decision, pursuant to 5 M.R.S.A. §§ 11001-11008 (1990). If this Decision is not appealed, it shall become binding on the parties at the end of said 30-day period.

DATED April 3, 1996


Lynwood Hand, Chair Panel B
State Board of Property Tax Review