

**BEFORE THE BOARD OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE EQUALIZATION
APPEAL OF MENARD, INC. FOR THE YEAR
2017 IN POTTAWATOMIE COUNTY, KANSAS

Docket No. 2017-1912-EQ

Parcel ID Number: 075-313-08-0-30-03-009.00-0

SUMMARY DECISION

Now the above-captioned matter comes on for consideration and decision by the Board of Tax Appeals of the State of Kansas. The Board conducted a hearing in this matter on April 9, 2018. The Taxpayer, Menard, Inc., appeared by Kevin Breer, Attorney. Michael R. Septer, MAI, appeared as a witness for the Taxpayer. Pottawatomie County appeared by John Watt, Pottawatomie County Attorney. Lois Schlegel, Pottawatomie County Appraiser, and Timothy Keller, MAI, appeared as witnesses for the County. The tax year in issue is 2017.

The County valued the subject property at \$11,689,600 for tax year 2017 using the cost approach to value. As support for its valuation, the County presented an appraisal of the subject property with an effective date of January 1, 2017, by Mr. Timothy Keller, MAI. Mr. Keller conducted a cost, sales, and income approach to value and, after reconciling all three approaches, estimated the value of the subject property to be \$11,950,000 for tax year 2017.

The Taxpayer asserted the subject property should be valued at \$6,500,000 for tax year 2017. As support for its recommended valuation, the Taxpayer presented an appraisal by Michael R. Septer, MAI, with an effective date of January 1, 2017. Mr. Septer presented only one approach to value – the sales comparison approach. The Taxpayer argued that users of big box stores primarily build their buildings to suit and do not renovate existing buildings. The Taxpayer further indicated that if these buildings are sold to a scarce supply of secondary users who are not typically national credit tenants, the sale prices so reflect the creditworthiness of the tenant.

The Board rules that the evidentiary burden is on the County and finds the County has sustained its burden to support its valuation of the subject property. The County has accurately identified the characteristics of the subject property and appropriately valued its components using the cost approach. The Board further finds the County's valuation to be supported by the actual construction costs for the subject property as well as by the appraisal by Mr. Keller in which all three

methods of value were considered. The Board considers Mr. Keller's comparables in his sales comparison approach to be more reliable as they are more similar to the subject and have been adjusted for critical differences. The Board notes that Mr. Septer presented only the sales comparison approach, utilized comparables primarily from outside of Kansas, and did not adjust the sales for differences such as location. Based on the evidence presented at the hearing, duly weighing such evidence, the Board determines that the appraised value of the subject property for tax year 2017 is \$11,689,600.

IT IS THEREFORE ORDERED that the appraised value of the subject property for 2017 is \$11,689,600.

Any party who is aggrieved by this order may file a written petition for reconsideration with this Board as provided in K.S.A. 77-529 and K.S.A. 74-2426(b), and amendments thereto. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Board's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to the Secretary of the Board of Tax Appeals. The written petition must be received by the Board within 15 days of the certification date of this order (allowing an additional three (3) days for mailing pursuant to statute). The Parties should note that, pursuant to K.S.A. 2016 Supp. 74-2426(c)(4)(A), in regard to any petition for review of the Board's order filed in the Kansas Court of Appeals, for purposes of such an appeal, the Board's order shall become final only after the issuance of a full and complete opinion.

Rather than filing a petition for reconsideration, any aggrieved party may request, within 14 days of receiving this order, a full and complete opinion be issued by the Board pursuant to K.S.A. 74-2426(a), and amendments thereto (allowing an additional three (3) days for mailing pursuant to statute).

Rather than filing a petition for reconsideration or a request for a full and complete opinion, any Taxpayer has the right to appeal this order of the Board by filing a petition with the district court pursuant to K.S.A. 74-2426(c)(4)(B), and amendments thereto. Said petition for judicial review must be filed within 30 days from the date of certification of this order. See K.S.A. 77-613(b) and (c), and amendments thereto and K.S.A. 74-2426(c), and amendments thereto. Pursuant to K.S.A. 77-529(d), and amendments thereto, any party choosing to petition for judicial review of this order is hereby notified that the Secretary of the Board of Tax Appeals is to receive service of a copy of the petition for judicial review. Please note, however, that the Board would not be a party to any judicial review because the Board does not have the capacity or power to sue or be sued. See K.S.A. 74-2433(f), and amendments thereto.

CERTIFICATION

I, Joeline R. Allen, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2017-1912-EQ and any attachments thereto, was placed in the United States Mail, on this 20~~17~~ day of April, 2018, addressed to:

Menard Inc
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IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.


Joeline R. Allen, Secretary