



## Illinois Appellate Court Refines the Role of Comparable Sales in Assessment Disputes

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The Second District Appellate Court recently issued a decision addressing the role of comparable sales when determining a property's fair market value under Illinois law. The decision, *Board of Education of Meridian Community Unit School District No. 223 v. Property Tax Appeal Board*, holds that an appraisal which excludes the sales comparison approach can still be sufficient evidence of value under Illinois law if it is found that reliable sales data does not exist. The decision clarifies and interprets a prior decision from the First District Appellate Court (the "*Omni Decision*") that held the sales comparison approach to value is the preferred method for valuing property and should be used when market data is available.

Under Illinois law, real property must be valued at its fair cash value, which means the price it would command at a fair, voluntary sale where both buyer and the seller are ready, willing, and able to enter into the transaction and neither is acting under compulsion. The best evidence of fair cash value is a contemporaneous, arm's-length sale of a property. Absent a sale, one must turn to an appraisal. Under standard appraisal practice, there are three approaches to valuing property: sales comparison, income capitalization, and reproduction cost. The sales comparison approach relies on sales of similar properties on the open market. And, under the *Omni Decision*, it is the preferred method when market data is available.

The *Meridian School District No. 223* decision, however, upholds reliance on appraisals that exclude the sales comparison approach where the property at issue is a special use property and there is no reliable evidence of comparable sales. The decision resulted from an appeal to the Property Tax Appeal Board (PTAB) of the assessed value of a landfill in Ogle County. The Board of Review set the assessed value of the landfill at \$8.6 million as of January 1, 2003. The taxpayer submitted two appraisals. One used only the income capitalization approach to value and concluded the property's assessment should be \$3.2 million. The other used only the reproduction cost approach and concluded the property's assessment should be \$3.5 million. Meridian School District No. 223 intervened and submitted an appraisal that used all three approaches to value and concluded the Board of Review's assessed value of \$8.6 million was correct. The PTAB ruled in favor of the taxpayer, finding that the assessed value should be reduced to \$3.3 million.

At the heart of the Appellate Court's decision upholding the PTAB's decision is the lack of reliable evidence of sale prices of either the subject property or of other landfills. While the subject property was sold three years prior to the tax year at issue, that sale was part of a bulk sale of multiple properties ordered by the U.S. Department of Justice, and thus was not considered arm's length. Further, PTAB made findings of fact, based on the testimony of multiple appraisal experts, that the sales of landfills are unreliable indicators of value because they include the going-concern value of the business, including the license to operate the business, and sales prices vary based on local regulations concerning waste disposal. The Appellate Court noted that neither the School District nor the Board of Review argued on appeal that these findings of fact by the PTAB were against the manifest weight of the evidence.

The *Meridian School District No. 223* Court's explanation of the *Omni Decision* is consistent with the general understanding of that opinion. The *Meridian School District No. 223* decision is noteworthy, however, because it is the first opinion since the *Omni Decision* to define when the sales comparison approach may be excluded and why sales data may be considered unreliable.



### **More Information**

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