PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Saks, Inc.
DOCKET NO.: 99-25136-C-3 and 00-21178.001-C-3
PARCEL NO.: 10-09-411-072

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are Saks, Inc., the appellant, by Attorney Eugene P. Griffin with the law firm of Eugene L. Griffin & Associates; the Cook County Board of Review by Assistant State's Attorney Brian Grossman with the Cook County State's Attorney's Office in Chicago; and the two intervenors, Skokie School District #68 as well as Niles Township High School District #219, both by Attorney Robert Swain with the law firm of Hodges Loizzi Eisenhammer Rodick & Kohn in Arlington Heights.

The subject property consists of a three-level, masonry, commercial retail facility with one level below grade used as a single-tenant, anchor store in the Old Orchard Mall. The building contains 104,553 square feet of gross floor area constructed in 1978.

At the commencement of the hearing, several preliminary matters were addressed. First, the appellant submitted a verbal Motion to Default the Board of Review with a subsequent Motion by the board of review to Vacate a Default. Upon due consideration and there being no objections from the appellant and the intervenors, the board of review's motion was granted.

Secondly, the PTAB considered consolidation of the 1999 and 2000 property tax appeal years due to the similarity of parties, evidence, and the fact that these two years represent the later two years of this subject's triennial reassessment period.

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds *a reduction* in the assessment of the property as established by the **Cook** County Board of Review is warranted. The correct assessed valuation of the property for the 1999 and 2000 tax assessment year is:

LAND:	$ 223,796
IMPR.:	$ 1,581,204
TOTAL:	$ 1,805,000

Subject only to the State multiplier as applicable.

Final administrative decisions of the Property Tax Appeal Board are subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and Section 16-195 of the Property Tax Code.

PTAB/KPP

Without objection from the appellant's and the intervenors' attorney, the PTAB consolidated these matters.

Lastly, the appellant requested an amendment to the initial pleadings withdrawing the median level of assessment issue and proceeding solely on the issue of valuation. Therefore, the appellant's requested assessment would be the same for both appeal years at issue. There being no objection from the intervenors, the PTAB granted appellant's request.

As to the merits of this appeal, the appellant argued that the fair market value of the subject is not accurately reflected in its assessed value as the basis for this appeal.

As to this argument, the appellant's pleadings included a copy of a full, narrative appraisal. The appraiser, John Mundie, testified that he holds the designations of Member of the Appraisal Institute (hereinafter MAI) since 1979 and Certified General Real Estate Appraiser in the State of Illinois. He further testified that he has been an appraiser for 31 years and has completed over 100 appraisals of properties similar to the subject.

He was offered as an expert in appraisal theory and practice without any objection from the intervenors and was accepted as such at hearing. The Mundie appraisal addressed the three traditional approaches to value, while espousing an estimated market value of $4,750,000 for both tax years at issue.

He testified that he undertook an interior and exterior inspection of the subject. As to the land size, Mundie indicated that the subject's actual land size or pad size was 45,303 square feet of area, while its assumed size with parking area was 315,000 square feet. He testified that a typical purchaser of this type of property would be interested in the ancillary, long-term parking around the store; therefore, in this appraiser's opinion the purchaser would pay the same amount as they would for a property with a typical land-to-building ratio. Therefore, he used a more standard land-to-building ratio of 3.0:1 applicable to anchor tenants in estimating an assumed land size for this subject of 315,000 square feet. He further stated that in his experience this land-to-building ratio was expected for an anchor department store.

He described the subject property as improved with a three-level, masonry, commercial retail facility with one level below grade that was constructed in 1978. The structure was used as a single-tenant, anchor department store in a super-regional shopping mall. The subject contains a total gross floor area of 104,553 square feet. He stated that the building had an effective age of 17 years due to upgrades over the years.

As to the highest and best use analysis, Mundie testified that the property's highest and best use as if vacant was its present use as a commercial, retail structure, while its best use as improved was its current use as an anchor-type, commercial retail facility. Moreover, he stated that his highest and best use analysis would not vary when applied to the subject's pad site.
The Mundie appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of $4,890,000, rounded; the income approach reflected a value of $4,750,000, rounded; and the sales comparison approach indicated a value of $4,705,000, rounded. In reconciling these approaches to value, Mundie placed main reliance on both the income and sales comparison approaches to reflect his final value of $4,750,000 for the subject.

The first method developed was the cost approach. The initial step under the cost approach was to estimate the value of the site. Mundie used four suggested land sales that ranged in size from six acres to 11.56 acres and in price from $5.15 to $8.01 per square foot. After adjustments, he estimated the land value at $8.50 per square foot and applied that to the subject's "assumed" land size indicating a land value of $2,680,000.

Using the Marshall Swift Valuation Service, Mundie estimated a reproduction cost new of a Category class C building of $8,686,263, or $83.00 per square foot. He testified that he chose a reproduction cost over a replacement cost because by using the replacement cost you assume that there is no functional deficiencies. With an economic life of 45 years, physical depreciation was at 40% with economic obsolescence at 10%. Functional obsolescence was estimated at 25% due to the subject's large size, a below grade floor level, and a floor plan spanning three levels that is atypical of an anchor store in the national marketplace. The appraiser testified that the below grade level was merely glorified storage space that was enclosed without a distinct entrance. He also stated that he is unaware of any anchor stores currently being built with enclosed, below grade square footage. Mundie concluded that 75% depreciation was appropriate for the subject, resulting in a depreciated value for the improvements of $2,209,066. Adding the land value resulted in a final value estimate under this approach of $4,889,066.

The next developed approach was the income approach. Mundie analyzed four leases structured on a percentage of gross sales incorporated into the rent clauses. These properties ranged: in age from 7 to 39 years; in size from 102,564 to 155,500 square feet; and in rental rates from $2.03 to $4.90 per square foot.

In stabilizing the subject's gross sales he used data from 1995 through 1998 indicating a range from $157.98 to $218.27 per square foot. For the subject, Mundie chose $210.00 per square foot while applying that to the gross floor area of 104,533 square feet to indicate a gross sales projection of $21,955,000, rounded. In support of this estimate, he also referred to the Urban Land Institute's 1997 "Dollars & Cents of Shopping Centers" publication; specifically the analytical table entitled U.S. Super Regional Shopping Centers: Summary of Information on Department Stores. Super-regional Centers are generally classified as those which contain at least three major anchor tenants each having a gross floor area in excess of 100,000 square feet with a total mall area of approximately 1,000,000 square feet. Mundie stated that the subject's mall meets this criteria and contains five anchor tenants with 1,600,000 square feet of area. The data reflected a median of $164 in sales per square foot for national chain stores. Reviewing the data in totality, the appraiser chose 2.25% of gross sales as a derivation of rental income for the subject. Potential gross income was estimated at $493,988 or $4.75 per square foot less a vacancy and collection loss of 3% to indicate an effective net annual income of $479,168. Subtracting expenses including management expenses at 2.5% as well as reserves for replacement resulted in a stabilized net annual income of $451,506. Mundie used two methods to estimate a capitalization rate for the subject of 9.5%. Capitalizing the subject's annual income produced a value estimate under the income approach of $4,750,000, rounded.

Under the sales comparison approach, Mundie utilized five suggested comparables that are anchor tenants from national retailers located in super-regional malls, all of which were unencumbered with any type of lease agreement. The properties sold from January, 1993, through July, 1998, for prices that ranged from $1,500,000 to $6,000,000, or from $12.27 to $33.90 per square foot before adjustments. The improvements ranged: in lot size from 266,761 to 639,025 square feet; in building size from 76,069 to 209,355; and in age from 2 to 25 years. The appraiser testified that none of the properties were pad sites and that typically, anchor tenants are not located on a pad site. He also testified that the sale data was confirmed by public records as well as in speaking to one of the parties involved in each sale.

Mundie further testified that minimal weight was accorded to sale #1 due to the recent nature of the sale, but stated that this was a negotiated sale representative of market value. As to sale #2, he stated that he had personally been in the store prior to its sale and that the building was in good condition. As to sale #3 and #5, he testified that both buildings had been vacant for a significant number of years prior to each sale. However, he stated that just because a property is vacant does not mean that a sale is under duress. Moreover, he testified that the buildings in sale #1 through #4 contain 2-story structures that are easily accessible to the public; therefore, adjustments were made to account for the fact that the subject's improvement contained three floors with one floor located below grade without access from above.

After making qualitative adjustments for age, sale time, location, size and condition, Mundie considered a unit value of $45.00 per square foot to be appropriate for the subject indicating a value estimate of $4,705,000, rounded.

In reconciling the three approaches to value, Mundie accorded minimal weight to the cost approach due to the subject's age. In contrast, considerable weight was accorded the income and sales comparison approaches. Therefore, he testified that his market value estimate for the subject of $4,750,000 is applicable to both the 1999 and 2000 tax years at issue for the market for this type of property had not changed during that time period.

The board of review timely submitted "Board of Review Notes on Appeal" wherein the subject's final assessment of $2,558,607 was disclosed indicating a market value of $6,733,176. The evidence includes a cover memorandum and market analysis prepared by Nancy McLinden submitted with an effective date of January 1, 1998 and a market value of $6,800,000. The analysis provided limited data and explanation while addressing two of the three traditional approaches to value. Moreover, Ms. McLinden was not presented to testify regarding the methodology used therein.

McLinden's report described the subject site as improved with a 20-year old, average, three-story, retail building containing 104,553 square feet. In the income approach, she used four improved rental properties all improved with either one-story or two-story, commercial retail buildings. They ranged: in age from 6 to 16 years; in building size from 100,600 to 153,368 square feet; and in rental range from $4.72 to $5.40 per square foot. McLinden further indicated that the typical percentage rental of gross sales is 3%. She estimated a rental value for the subject of $7.00 per square foot for a potential gross income of $731,871. Less a vacancy and collection loss of 2% resulted in an effective gross income of $717,233. A 2% miscellaneous charge to cover expenses during a vacancy as well as an additional expense of $0.10 per square foot were deducted indicating a net operating income of $706,778. A capitalization rate of 9.7% was applied to develop a value of $7,285,000, rounded.

McLinden used four suggested sale comparables built from 1968 to 1995. They sold from July, 1992, through October, 1995, for prices ranging from $6,000,000 to $15,000,000, or from $28.66 to $81.15 per square foot. They ranged in size from 127,086 to

209,325 square feet and in land-to-building ratio from 2.81:1 to 4.65:1. In estimating the subject's value, she chose $65.00 per square foot or $6,795,945 as of the assessment date.

The intervenors, Niles Township High School District #217 and Skokie School District #68, submitted a brief argument, copies of the Gloudemans and Dornfest report relating to sales ratio studies, as well as portions of a Byrnes appraisal with an effective date of January 1, 1998. Lastly, the intervenors submitted a full, narrative appraisal prepared by Kevin Byrnes with an effective date of January 1, 1999. In testifying solely with regards to the 1999 report, Byrnes stated that he is accorded the designation of associate member of the Appraisal Institute as well as that of a Certified General Real Estate Appraiser. He stated that he has been an appraiser for 15 years and has appraised approximately 12 anchor department stores. Byrnes was offered as an expert in appraisal theory and practice without any objection from the appellant and was accepted as such at hearing.
He testified that he undertook a personal inspection of the interior and exterior of the subject as well as other anchor properties in the subject's mall. He stated that he researched the market data, some of which had been completed for other projects, which was then applied to the subject's appraisal.

As to the land size, Byrnes indicated that the subject's actual land size or pad size was 45,303 square feet of area and that the subject's improvement contained 104,553 square feet of building area. He described the subject property as improved with a two-story, masonry, retail facility with a basement that was constructed in 1978. The structure is used as a single-tenant, anchor department store in a super-regional shopping mall. The Byrnes appraisal indicated that an adjusted land size of 261,383 square feet be applicable to the subject. The appraisal stated that the subject's current land size was basically a pad site that was significantly below the land-to-building ratios of similar anchor stores as well as the improved comparable sales that ranged from 2.81:1 to 3.76:1.

Moreover, Byrnes testified that two other anchor stores located in the subject's mall contain a land-to-building ratio of either 2.36:1 or 2.53:1. Therefore, he stated that in order to compare the subject property with similarly improved sales of anchor department stores; it was his opinion that an appropriate land-to-building ratio for the subject was 2.50:1. Byrnes indicated that this opinion was further supported by the fact that the subject's owner through various arrangements with the mall owner, was accorded additional land so that the developer's parcel was available to the subject. He explained that the owner of the pad site actually had additional utility that was off-site in the parking and access areas of the developer's parcel.

Furthermore, Byrnes testified that in estimating a value under the cost approach, he utilized that actual real estate in existence of 45,303 square feet, rather than taking into consideration all the rights of use that the ownership of the subject's parcel had within its shopping mall. He stated that for the purposes of undertaking the sales comparison approach in his report, he then considered a larger land-to-building ratio of 261,000 square feet for purposes of comparison with other improved properties.

As to the highest and best use analysis, Byrnes testified that the property's highest and best use as if vacant was its present use as a commercial, retail structure, while its best use as improved was its current use as an anchor-type, commercial retail location. He also indicated that he considered the adjusted square footage of approximately 261,383 in considering the subject's highest and best use. He stated that the building had an effective age of 16 years.

The Byrnes appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of $7,320,000, rounded; the income approach reflected a value of $6,840,000, rounded; while the sales comparison approach indicated a value of $6,800,000, rounded. In reconciling these approaches to value, Byrnes placed main reliance on both the income and sales comparison approaches to reflect his final value of $6,800,000 for the subject.

The first method developed was the cost approach. The initial step under the cost approach was to estimate the value of the site. Byrnes used five suggested land sales that ranged in size from 102,000 to 980,971 square feet and in price from $7.00 to $16.67 per square foot. After adjustments, Byrnes estimated the subject's land value at $15 per square foot and applied that to the subject's pad size of 45,303 square feet to indicate a land value of $680,000.

Under examination, Byrnes stated that if he had utilized the assumed land size for the subject that he applied in his highest and best use analysis as well as in the sales comparison approach, he believes that he would have adjusted downward the land comparables; thereby, altering his estimate of value.

Using the Marshall Swift Valuation Service, Byrnes estimated a replacement cost new of a Category Class C building of good quality at $10,245,000, or $98.00 per square foot. With an economic life of 40 years, total depreciation was estimated at 40%, while an entrepreneurial profit at 8% or $819,600 was added to reflect an estimated value of the building improvements at $6,638,760. Adding the land value resulted in a final value estimate under this approach of $7,318,760. Byrnes testified that entrepreneurial profit is a cost-related factor that says that if you are looking at the motivation for an investor to develop a property to its own use or to sell to another, that there is going to be some level of profit for that entrepreneur.

The next developed approach was the income approach. Byrnes analyzed four leases of one-story or two-story, anchor department stores located in regional malls with triple net rental rates from $4.90 to $7.38 per square foot of building area. These properties ranged in age from eight to 11 years and in size from 83,354 to 118,526 square feet. Byrnes testified that rental #1 and #2 were both located in the same, enclosed mall. He also stated that these two rentals were the only anchors located in this mall; that they were both new structures; that the mall location was inferior to the subject; that the lease rates began in 1989 prior to the real estate crash in the early 1990's; that rental #1 was larger than the subject; and that construction costs for these new stores could have been added to the lease if they were over market costs. However, Byrnes indicated that he did not verify these costs with a party to the leases. Furthermore, he testified that he relied on these two rentals most heavily in determining the rental rate for the subject. As to rental #3, he testified: that this location was inferior to the subject's; that the store was newer and smaller than the subject; and the rental was only a one-story structure, while he stated that rental #4 was in a less densely populated and unestablished area than the subject property.

In support of this analysis, he also referred to the Urban Land Institute's 1997 "Dollars & Cents of Shopping Centers" publication, specifically the analytical table for Super-regional Centers that reflected a median rental rate of $2.84 per square foot with the top 10% indicating rates of $5.05 and $8.38. He stated that the subject's shopping mall is considered a high-end shopping center; and therefore, a rental rate of $6.75 per square foot or $705,733 was estimated as the subject's potential gross income. A vacancy and collection loss of 2% was used as well as management fees at 3% and reserves for replacement at $0.30 per square foot, resulting in a net operating income of $649,958.

Byrnes used several methods to estimate a capitalization rate for the subject, including reference to the Korpacz Real Estate Survey for institutional grade national regional shopping center properties with overall rates from 7% to 10.50% as well as using improved sales comparables #1 and #2 that reflected overall rates from 8.18% to 10.60%. Based upon his analysis, Byrnes selected an overall rate for the subject of 9.5%. Capitalizing the subject's annual income produced a value estimate under the income approach of $6,842,105. Under examination, Byrnes testified that he considered the gross sales of the subject, but did not include this data within the parameters of his report.

Under the sales comparison approach, Byrnes utilized five suggested comparables that are anchor tenants. The properties sold from July, 1992, through August, 1998, for prices that ranged from $4,000,000 to $88,000,000, or from $28.66 to $89.53 per square foot before adjustments. The improvements ranged: in land-to-building ratio from 2.81:1 to 3.76:1; in building size from 103,043 to 982,964; and in age from 11 to 25 years.

Specifically as to sale #1, the appraisal indicated that this was a purchase in 1997 by the current tenant with a pre-determined price included within the 1989 lease agreement. Moreover, Byrnes testified that pursuant to a conversation with a member of the Carson Pirie Scott real estate department, this lease agreement identified an escalating, exercise price for the property's sale for each year of the lease. However, he stated that the sale was not negotiated on the open market. Furthermore, he testified that in verifying a sale, he would ordinarily speak with the parties involved in the sale as well as review transfer declarations, warranty deeds, or other recorded instruments.

Under examination, Byrnes was shown the real estate transfer declaration for sale #1, identified for the record as Hearing Exhibit #1, but could not recall reviewing the document when verifying and analyzing this sale.

As to sale #2, the appraisal reflected that this was a bulk sale of six stores located in Illinois and Indiana that were leased before and after said sale. Byrnes testified that this sale was a leased fee sale with the total package valued at $88,000,000 in contrast to a fee simple valuation applicable to the subject. He also indicated that he was personally familiar with the property types and locations, while indicating that the subject's location was superior to these six locations. He stated that the six properties were all larger than the subject and located in regional malls that were older than the subject's mall; however, he testified that he did not make comparisons on an individual basis to the subject property. He stated that he considered the overall transaction in comparison to the subject, rather than utilizing each individual sale's characteristics.

As to sale #3, a sale that is also utilized by the appellant's appraiser, Byrnes testified that he spoke with the regional real estate representatives for the seller shortly after this sale occurred in 1996. The seller's representative had indicated that this location was the oldest and least profitable location in the Chicago area and that the property was considered excess real estate when sold. However, Byrnes testified that this sale was a negotiated purchase and an arm's length transaction. Byrnes indicated that he believed that this sale was inferior to the subject because of the disclosed motivation of the seller as well as the inferior location.

As to sale #4 which is used by all three parties to this appeal, Byrnes testified that this location had been vacant for several years prior to its sales and that thereafter, the buyer gutted the store and renovated that entire building. He stated that he believed the renovation was so extensive as to have an affect on the sale price. Nevertheless, Byrnes testified that this sale was also an arm's length transaction. As to sale #5 which is also utilized by the board of review, Byrnes stated that this property was located in a large, regional shopping center, but that the building was younger and larger than the subject property. He stated that this property sold in 1988 for approximately $38.00 per square foot, while it sold again in 1992 for approximately $5.00 per square foot. He also stated that the later time period was not a good time period for commercial real estate sales. He also indicated that he made no adjustment for this store being a two-story structure, while the subject is a three-story structure.

After making adjustments, Byrnes considered improved sale #1 and #5 to be most similar to the subject reflecting a range from $45.00 to $75.00 per square foot. He estimated a unit value of $65.00 per square foot to be appropriate for the subject indicating a value estimate of $6,800,000, rounded.

Under examination, Byrnes stated that he had made no adjustments to the properties on the basis of the number of stories present in each structure even though the improved comparables contained two-story buildings. He asserted that he did not believe there was functional obsolescence by virtue of containing three floors. However, he could only recall one anchor department store being built containing three stories.

In reconciling the three approaches to value, Byrnes also accorded minimal weight to the cost approach due to the subject's age. In contrast, primary weight was accorded the income and sales comparison approaches. Therefore, he testified that his market value estimate for the subject of $6,800,000 is applicable to both the 1999 and 2000 tax years at issue. Moreover, he testified that there was no variation in market value for the subject from 1998 to 1999, as well.

In the appellant's rebuttal, Mr. Mundie was recalled as a witness. Mundie testified that in his cost approach he did not apply entrepreneurial profit because this profit is expected by an entrepreneur when compiling a real estate venture. However, in the subject's case, he stated that most anchor department stores are owner occupied as in the subject's case; and therefore, these properties are not going to reflect any profit of this type because they are specifically built for the user who then occupies the building. Moreover, he stated that such a profit would not be garnered until the property was sold.

As to the issue of functional obsolescence, Mundie further testified that the anchor store market prefers a two-story floor plan for it allows retailers greater flexibility in terms of presenting their specific product. When a third level is added, it requires rearranging a different section of the property which becomes an added issue when the third level is below grade. He referred to Mr. Byrnes testimony regarding a Nordstrom store in Oak Brook that contained three-levels. Mundie testified that the distinguishing characteristics in this store is that all three levels are above grade with the lowest level opening onto a grade on one side and opening onto parking decks on two other sides. Whereas, he stated that this is not the case with the subject property with a lower level, below grade and no outside access.

As to the improved sales utilized in the Byrnes appraisal specifically sale #1, Mundie testified that he is personally familiar with that sale having spoken to the same individual as Byrnes as well as a review of this property's deed and real estate transfer declaration. Mundie stated that Mr. Ruby indicated that the sale was strictly a business decision to exercise a right to acquire the property through a lease option. Mundie further indicated that his review of the transfer declaration reflected that the acquisition price was neither based upon market value nor appraised value of the property, both of which were confirmed during his conversation with Mr. Ruby. He testified further that these reasons formed the rationale for Mundie not using this sale in his appraisal report.

In support of this testimony, Mundie referred to Hearing Exhibit #1 in identifying that this was the document that he previously reviewed in his verification process to obtain improved sales comparables. He indicated that the document stated that the above consideration or sale price of $7,750,000 was not derived from a market value or appraisal value for the property.
As to Byrnes sale #2, Mundie testified that he was personally familiar with this sale having spoken with representatives to the transaction and that this was a bulk transaction involving six properties sold for investment purposes. In Mundie's opinion, this was not an arm's length transaction. Moreover, he testified that he has personally appraised some of these stores prior to this bulk sale. Lastly, Mundie testified that in his opinion as an MAI, the appropriate method to determine the market rental of an anchor department store like the subject property is based upon gross sale projections of the related subject.

Mundie was further examined using Intervenor's Hearing Exhibit #2 which is a two-page document from The Appraisal of Real Estate, 12th Edition. Lengthy examination arose regarding Mundie's application of the age-life method in determining depreciation for his cost approach to value. As to this exhibit, Mundie credibly testified that his application was not contradictory for there are subsequent pages, specifically the sections on the cost approach, which he adhered to in completing his valuation of the subject's functional obsolescence. Mundie also reiterated his prior testimony regarding functional obsolescence and its application to this subject property.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When market value is the basis of an appeal to the PTAB, the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Property Tax Appeal Board 331 Ill.App.3d 1038, 1042, 780 N.E.2d 691, 695, 269 Ill.Dec.219, 223 (3rd Dist. 2002). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparables properties, or recent construction costs of the subject property. *86 Ill. Admin. Code 1910.65(c).* Having considered the evidence and testimony presented, the PTAB concludes that the appellant has met this burden and that a reduction is warranted.

In determining the fair market value of the subject property for tax years 1999 and 2000 representing one triennial assessment period, the PTAB closely examined the parties' three appraisal reports.

The PTAB accords little weight to the board of review's evidence for the report lacked the preparer's testimony to explain the methodology used therein. Moreover, the PTAB found: missing analytical components, limited property data, limited analysis, and usage of inferior properties.

That having been said, the PTAB then looks to the remaining evidence that comprises the Mundie appraisal and testimony submitted by the appellant as well as the Byrnes appraisal and testimony submitted by the two intervenors. The PTAB finds that the best evidence of market value was the appraisal and supporting testimony submitted by the appellant estimating the subject's market value at $4,750,000. The PTAB accorded less weight to the intervenors' appraisal due to a disparity: in the appraiser's experience relating to anchor department stores; in the inconsistent application of subject's land size; in the absence of adjustments for and/or obsolescence to the subject's unusual configuration; of the lack of development of the subject's gross sales; as well as the usage of weaker rental comparables and improved sales comparables.

The PTAB finds that there was some commonality in the experts' treatment of the subject property. Both parties' experts testified that there was no variation in the subject's market value between tax years 1999 and 2000, the two years at issue in this appeal. Furthermore, both experts considered the subject property as an anchor department store to be rightfully accorded an assumed land size due to accepted industry standards rather than analysis of a pad size. However, application of this assumed size was utilized consistently by the appellant's expert, while the intervenors' expert varied this application within his report. The intervenors' appraiser utilized the subject's assumed land size in his highest and best use analysis and sales comparison approach to value, while in contrast he used the subject's pad size in the cost and income approaches. This inconsistent application lessens its credibility.

Moreover, both experts: accorded less weight to the cost approach to value due to the subject's age; accorded a similar effective age to the subject; and utilized the same capitalization rate in the income approach to value. Therefore, the distinction lies in the rental and improved sales comparables.

As to the income approach, the appellant's appraisal reflects the usage of both rental comparables from the marketplace, but also the stabilized gross sales projection for the subject. Moreover, the appellant's rental comparables were not pad sites, but included contractual rents with a percentage of gross sales, and were properties of similar age, tenant size, and location in super-regional malls. In contrast, the intervenors' expert testified even though such a projection was appropriate for owner-occupied, anchor department stores, that he considered the subject's sales without developing such a gross sales projection or making reference to such in his appraisal. Moreover, the intervenors' rental comparables were weaker due to: inclusion in enclosed malls and/or regional malls, newer construction, larger size, and/or style referencing a one-story or two-story construction.

As to the sales comparison approaches to value, several improved sales were used by either two or three of the parties in this appeal. These sales were arm's length transactions with purchase prices reflective of the market, whereas the improved sale #1 and #2 solely used by the intervenors were not reflective of negotiated purchase prices for the aforementioned reasons listed herein. Of the five improved sales used by the appellant's expert, two of those properties were also utilized by the intervenors' expert with one also employed in the board of review's evidence.

On the basis of this analysis, the PTAB further finds that the subject had a fair market value of $4,750,000 as of the 1999 and 2000 assessment dates at issue. Since fair market value has been established, the Cook County Real Property Assessment Classification Ordinance level for class 5a of 38% for commercial properties shall be applied. (86 Ill.Adm. Code 1910.50(c)(3).

Docket No. 99-25136-C-3 & 00-21178-C-3

This is a final administrative decision of the Property Tax Appeal Board are subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman

Member

Member

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 28, 2007

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board’s decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.