

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Candlewood Hotel
DOCKET NO.: 01-22392.001-C-3
PARCEL NO.: 12-16-315-023-0000

The parties of record before the Property Tax Appeal Board are Candlewood Hotel, the appellant, by attorney Patrick C. Doody, of Golan & Christie, Chicago; the Cook County Board of Review by Assistant State's Attorney Aaron Bilton; and School District No. 81, the intervenor, by attorney Matthew G. Holmes of Storino, Ramello & Durkin of Rosemont.

For hearing purposes, this appeal was consolidated with Property Tax Appeal Docket Nos. 02-21132.001-C-3 and 03-22082.001-C-3. The intervenor in this appeal will only be allowed to participate in those matters pertaining to the 2001 appeal. Any intervenor arguments will only be considered by the Board as applicable for the date at issue, or January 1, 2001.

The subject property consists of a rectangular shaped 88,339 square foot parcel improved with a seven-story masonry constructed, extended stay, limited-service hotel containing 90,349 square feet of building area with a 1.98:1 land to building ratio. The improvement was constructed in 1999 and contains 160 guest rooms, a laundry room, a vending area and an office. The subject is located in Leyden Township, Cook County.

As a preliminary matter, the board of review made a motion to exclude from evidence the appellant's appraisal based on a decision of The Property Tax Appeal Board in Docket No. 99-25370-C-3, The Lurie Company. Counsel argued that the Board ruled that

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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 is:

LAND: \$ 1,254,000
IMPR.: \$ 190,000
TOTAL: \$ 1,444,000

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.

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an appraisal outside of the triennial assessment period is irrelevant.

In the Lurie case at the hearing, the board of review attempted to submit two appraisals submitted to the board of review by The Lurie Company for the year 2000. This Board held that these appraisals were inadmissible because the time to file evidence had long since been closed and that such evidence would unfairly prejudice the appellant's case. Furthermore, this Board held that such evidence may constitute rebuttal evidence specifically prohibited by the *Official Rules of the Property Tax Appeal Board*, §1910.66(b) wherein the rule states:

Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. 86 Ill. Adm. Code 1910.66(b)

The Property Tax Appeal Board finds that the board of review misconstrues the findings in the Lurie case. Accordingly, the Property Tax Appeal Board denies the motion.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject was not accurately reflected in its assessed value. In support of the market value argument, the appellant submitted a summary report of a complete appraisal with a valuation date of January 1, 2000 (Appellant's Exhibit No. 1) and the testimony of its author, Joseph M. Ryan. Mr. Ryan is a State of Illinois certified general real estate appraiser with a Member of the Appraisal Institute (MAI) designation. After an examination of Mr. Ryan's appraisal experience, he was tendered and accepted as an expert witness.

Mr. Ryan testified that he completed a full interior and exterior inspection of the subject on April 24, 2001. Although Mr. Ryan's report had an effective date of January 1, 2000, he opined that the subject's value would be more or less the same as of January 1, 2001, 2002 and 2003. He described the subject as being located in an area of mixed commercial and industrial properties which is not a prime hospitality market. The prime hospitality area, in his opinion, is north of O'Hare Airport whereas the subject is south of O'Hare. Further, in the witness' opinion, the extended-stay market in the Chicago area was over-built during the 1990s causing a negative impact on the subject's market value. The subject is considered within a sub-market described by Mr. Ryan as the lower tier of the extended stay market. He based this classification on sources such as Bear Stearns & Co., Smith Travel Research and Coopers & Lybrand L.L.P.

Mr. Ryan testified the subject was appraised as a fee simple estate; appears to conform to current zoning laws; and its effective age is one-year with a remaining economic life of thirty-nine years. After an analysis of the four sequential tests of highest and best use, it was the appraiser's testimony, the subject's highest and best use as vacant would be development for hospitality use and its highest and best use as improved is continued use as an extended-stay hotel building.

To estimate a total market value of \$3,800,000 for the subject, the appraiser employed the hypothetical condition that the subject had been open for twelve months prior to January 1, 2000.

In the appraisal and in testimony, the witness indicated, based on Steven Rushmore's analysis in the book *Hotels and Motels: A Guide to Market Analysis, Invest Analysis and Valuations*, the long start up periods, from one to four years for lodging facilities, hostelry investors are advised to financially carry the property until profits are produced. This viewpoint, he suggested, bears out the view that the subject's construction costs are not indicative of its value and a cost approach was not of significance in the subject's estimate of market value. Further, he testified that a typical buyer in this market does not base an investment decision on a cost approach but relies principally on potential income with some emphasis on comparable sales.

In the appraisal's summary of the subject's history it was noted that the subject's recorded land sale price in June 1998 was \$3,300,000 or \$37.36 per square foot of land area. Mr. Ryan indicated that according to ownership, the building project cost was \$8,903,916, or \$84.71 per square foot, which included furniture fixtures and equipment (FF&E) as well as other costs.

Although Mr. Ryan did not utilize the cost approach, he prepared an estimate of the subject's land value through an examination of the sales of five vacant properties purchased for hotel development. The appraiser selected parcels in similar market areas to the subject. The parcels range in size from 51,219 to 191,664 square feet in land area with zoning comparable to the subject's zoning. The sale comparables sold from March 1997 to April 2000 for prices ranging from \$615,000 to \$3,225,000, or from \$7.30 to \$29.84 per square foot of land area. After adjustments to the comparables for market conditions, location, size, utility/zoning, time of sale, and other pertinent items, Mr. Ryan estimated \$32.50 per square foot as a unit of value for the subject land, resulting in an estimated land value of \$2,870,000 rounded.

Appellant's counsel inquired of the witness why a party would pay more for land than the appraiser's opinion of its worth. Ryan testified that his client, the appellant, indicated the land was

purchased at its asking price in order to quickly construct a hotel and have presence in the market.

As the bases for his income approach to value, the appraiser relied on the 1999 edition of *Trends in the Hotel Industry* (TRENDS 2000), for the nation and the north central market, *Korpacz, First Quarter 2000 Edition* as well as other sources and his experience.

From his sources, the appraiser developed \$65.00 as the subject's average daily room rate, which resulted in potential gross room revenues of \$3,796,000 for the subject. He then applied an average occupancy rate of 70% to arrive at an estimated \$2,657,200, or 94.66% of total revenue, as the effective gross room revenue for the subject. In the main, other income was stabilized by applying industry standard percentages resulting in a potential gross income (PGI) of \$2,822,200. Expenses based on industry standards were stabilized at \$1,749,765, or 62% of the PGI. The deduction of the stabilized expenses from the PGI resulted in an estimated net operating income of \$1,072,435 for the subject. The witness testified that other refinements to the income stream of \$330,650 representing return of and return on personalty and \$71,932 as amortized start-up costs were deducted, resulting in \$669,853 as an adjusted stabilized net operating income (NOI) for the subject.

Mr. Ryan used both the market extraction and the mortgage equity techniques to develop an overall capitalization rate for the subject. Sources such as the *Korpacz Real Estate Investor Study*, a thorough analysis of market activity and his experience led to his conclusion of 10.50% as an overall capitalization rate for the subject. Mr. Ryan then calculated an effective tax rate of 6.80%, which he added to the overall capitalization rate. The total capitalization rate of 17.30% was then applied to the subject's NOI. The appraiser's estimate of value for the subject via the income approach was \$3,870,000.

Mr. Ryan testified that he had the opportunity to examine the subject's operating statements subsequent to preparing the 2000 appraisal and found the subject had not achieved the results projected in his report. He testified that the events surrounding the September 11, 2001 terrorist attacks had a profoundly negative impact on all aspects of the hospitality and airline industries. People traveled less, hotel occupancy fell as did room rates.

In the sales comparison approach, Mr. Ryan testified he examined the sales of four hotel properties in the subject's general area, two of which are south of the airport. The other two are located northwest of the airport. Containing between 102 and 197 guest rooms, the buildings ranged from 12 to 35 years old. The

improvements were situated on parcels ranging from 117,663 to 196,020 square feet of land area. These sales took place between July 1997 and April 2000 for prices ranging from \$2,224,500 to \$4,050,000, or from \$13,325 to \$32,843 per guest room including land.

The appraiser adjusted the sales comparables for conditions of sale, market conditions, location, age, condition, occupancy and services offered along with other unique characteristics individual to the comparables. The appraiser testified that from this information he selected a unit of value for the subject of \$22,500 per guest room thus his estimate of value for the subject using the sales comparison approach, as of January 1, 2000, was \$3,600,000, rounded. The appraiser testified the same market factors existed in 2001.

Mr. Ryan testified as market participants place more weight on the income approach in his reconciliation of the methods used to estimate a market value for the subject, the income approach was given more weight and less reliance was placed on the sales comparison approach. His final opinion of value for the subject was \$3,800,000, as of January 1, 2000. He further testified that his value as of January 1, 2001 would not be significantly different.

Mr. Ryan was questioned by the hearing officer regarding the extensive discussion in the appraisal about Real Estate Investment Trusts (REITs.) Mr. Ryan responded that the mission of REITs is to invest in properties and/or build new properties to generate a return which is in turn paid to shareholders. In the witness' opinion, REITs overpay for properties because of the high motivation to pay a return to shareholders. As the appellant is part of a REIT, it is the appraiser's opinion that the appellant over-paid for the subject land because of the mandate to invest and return. The witness testified that his client, the appellant, paid the advertised asking price for the land which is unusual. The witness' client indicated its motivation was to acquire the property, build a hotel and generate a return on the investment.

The intervenor's attorney deferred his cross-examination privilege to attorney Ares Dalianis. The Board allowed Mr. Dalianis to conduct the Mr. Ryan's cross-examination. The appellant offered no objection.

During cross-examination, Mr. Ryan was questioned extensively regarding the subject's project costs versus his estimate of the subject's market value. Mr. Ryan agreed that while the purchase of a property for the asking price was not typical it was also not unique. He also agreed that during the time period from 2000 to 2002 REITs were the buyers in the market for properties such as the subject.

Next, the witness was questioned in detail regarding the sales utilized, his sources, and adjustments made to the sales. He answered the inquiries exhibiting knowledge and understanding of the hotel market.

Mr. Ryan also was cross-examined regarding the extent of his reliance and understanding of the *Korpacz Investor Survey*. The witness acknowledged that based on his experience some information from the *Korpacz* report was modified to comply with the requirements of the subject property. Mr. Ryan was thoroughly cross-examined about each line-item in his stabilized operating statement for the subject; and the methodologies utilized to determine a final estimated value through the income approach. Mr. Ryan responded to the questions with confidence and an awareness of the financial complexities of properties such as the subject.

The board of review submitted the "Board of Review Notes on Appeal" wherein the subject's final assessment of \$3,997,554 was disclosed. This assessment reflects a fair market value of \$10,519,879 when the Cook County Real Property Assessment Ordinance level of assessments of 38% for Class 5a property, such as the subject, is applied.

In support of its assessment, the board offered an appraisal report prepared by Hugh MacKinnon of the Cook County Assessor's Office (Board of Review Exhibit No 1.) The report indicates Mr. MacKinnon is a Certified Illinois Assessing Officer (CIAO.) Mr. MacKinnon was not present at the hearing to testify regarding his credentials, appraisal methodologies, and the validity of the data contained in the appraisal. The appraiser indicated in the report he inspected the subject, no dates were noted, and it was appraised as a fee simple estate. The description of the subject's history indicated the subject began operating in November 1999. Mr. MacKinnon cites the appellant's appraisal as the source for the information that the subject's building costs were \$8,903,916 and public records as the source for the subject's land cost of \$3,300,000. Mr. MacKinnon's opinion of the subject's highest and best use as vacant and improved agrees with the appellant's appraiser's opinion.

To estimate a value for the subject of \$11,000,000 as of January 1, 2001, Mr. MacKinnon employed the income approach and the sales comparison approach to value. The author did not develop a cost approach or an estimate of value for the subject's land.

The initial approach utilized by the appraiser was the income approach to value. The appraiser reported that after reviewing the market the subject should command \$110.00 per night with an average occupancy rate of 65.00%, or \$4,175,600. Income from guest services was estimated at \$167,024 and other income at

\$41,756, resulting in an estimated gross income (EGI) of \$4,384,380. To ascertain a NOI the appraiser deducted \$1,972,971 for operating expenses; \$131,531 for management fees; \$175,375 for franchise fees; \$136,000 for return of personalty; and \$78,200 for return on personalty, resulting in a NOI of \$1,890,303. The next step in this process was the determination of a capitalization rate. Using the mortgage-equity method, the appraiser determined 10.38% as a capitalization rate. The appraiser then added 6.93% as an effective tax rate, resulting in total capitalization rate of 17.31%. After application of the capitalization rate to the NOI, the appraiser's opinion of value through the income approach was \$10,900,000, rounded, as of January 1, 2001.

When developing the sales comparison approach to value, the author used four sales located in Chicago, Schaumburg and Elk Grove Village. The sales comparables contain from 108 to 255 rooms and range from one to thirty-one years old. The report does not disclose whether these sales comparables are in the same extended-stay market as the subject. These sales took place from September 1997 to April 2000 for prices ranging from \$9,460,000 to \$21,630,000, or from \$60,098 to \$89,380 per guest room. From the foregoing sales data, the appraiser estimated a market value for the subject of \$70,000 per guest room, or \$11,200,000, rounded, as of January 1, 2001.

After reconciliation Mr. MacKinnon's final estimate of value for the subject is \$11,000,000 as of January 1, 2001. Based on the foregoing, counsel for the board of review requested confirmation of the current assessment.

Appearing before the Property Tax Appeal Board on behalf of the intervenor was its attorney arguing the fair market value of the subject is reflected by the current assessment. The intervenor adopted the Cook County Board of Review's evidence as its own.

Appellant's counsel concluded by arguing that the appellant has borne its burden of proof showing that the subject is over-valued. Additionally, that based on Mr. Ryan's appraisal and testimony the subject's value should not exceed \$3,800,000 as of January 1, 2001.

In summation, the board of review's counsel argued the purchase price of the subject parcel is a fact placed in evidence. Further, he argued that the roughly \$8.9 million cost to build the subject improvement is also a fact placed in evidence during this proceeding. He argued that these facts are the only credible evidence of the subject's fair market value as of the date at issue. Counsel requested that the current assessment as of January 1, 2001 be confirmed by the Property Tax Appeal Board.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value as of January 1, 2001 for *ad valorem* tax purposes.

When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill. Adm. Code §1910.65(c)). Having considered the evidence and testimony presented, the Board concludes that the appellant has satisfied this burden.

Initially, the Property Tax Appeal Board finds that the evidence and testimony in this appeal established that the subject's recorded land sale price in June 1998 was \$3,300,000 or \$37.36 per square foot of land area. According to testimony the land purchase was at the asking price due to the appellant's desire to build a hotel on that particular parcel in order to have a presence in the market. Ryan's testimony indicated that a purchase at an asking price is not typical but when questioned further the appraiser admitted while not typical this type of purchase is not unusual. The Board finds that the subject's land purchase was not under any unusual duress thus appears to fulfill the conditions of an arm's length sale. Therefore, the Property Tax Appeal Board finds that the subject's land sale for a price of \$3,300,000 is the best indicator of fair market value as of January 1, 2001 in the record.

The board of review's counsel argued that the roughly \$8.9 million cost to build the subject improvement is the preeminent fact placed in evidence during this proceeding. The Board finds this argument inaccurate and unconvincing. The board of review presented no substantive evidence to support counsel's argument. However, the Board does find it problematic that neither of the appraisers developed a cost approach for a structure that was completed and opened in November 1999, just fourteen months prior to the date at issue. Mr. Ryan's testimony and appraisal indicate that ownership supplied him with the building cost; however Mr. Ryan did not give any details of how the building costs were determined. Further, the Board finds that the record indicates that Mr. McKinnon simply restated that figure without verification. In fact, there is no evidence in this record that Mr. Ryan or Mr. McKinnon independently verified what comprised the subject's building cost or whether the figure provided by ownership was true and correct.

Next, the Board finds the content of the board of review's and intervenor's presentation unpersuasive. Neither the board of review nor the intervenor presented a witness to testify regarding credentials, appraisal methodologies, and the validity of the data contained in the report. Further, the appraiser was not present at the hearing to undergo meaningful cross-examination. Rather, the board of review simply presented an appraisal report to stand as its evidence and the intervenor adopted it. The Board, therefore, places diminished weight on the board of review's and the intervenor's evidence.

The Property Tax Appeal Board places the most weight on the appellant's appraisal, with supporting testimony from Joseph Ryan. The appellant's appraisal was a thorough report giving details and foundation for the estimates of value for the subject. Under scrupulous cross-examination Mr. Ryan credibly explained the sources and the methodologies employed to estimate a value for the subject and his answers to all questions were succinct. Therefore, after considering all the evidence and testimony the appellant has met the burden of proving the fair market value of the subject by a preponderance of the evidence and the Board finds that the subject had a fair market value of \$3,800,000 as of January 1, 2001. Further, the Property Tax Appeal Board finds that the Cook County Real Property Classification Ordinance level of assessments of 38% for Class 5A property such as the subject shall apply to the fair market value as found within and a reduction is warranted.

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

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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.