PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Lodgian, Inc.
DOCKET NO.: 02-22648.001-C-3 and 02-22648.002-C-3
PARCEL NO.: 08-07-205-004 and 08-07-205-006

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are Lodgian, Inc., the appellant, by Attorney Gregory Lafakis with the law firm of Liston & Lafakis in Chicago; the Cook County Board of Review by Assistant State's Attorney Aaron Bilton with the Cook County State's Attorney's Office in Chicago; and the two intervenors, Palatine Community Consolidated School District #15 as well as Arlington Heights Township High School District #214, both by Attorney Michael Hernandez with the law firm of Franczek Sullivan PC in Chicago.

The subject property consists of two parcels containing 300,665 square feet of land improved with a masonry, commercial structure built in stages from 1962 to 1983 and utilized as a hotel. The hotel contains varying story heights as well as 420 guest rooms, while sited in Rolling Meadows. The building contains 263,621 square feet of aggregate area with an additional 9,575 square feet of partially finished basement area.

At the commencement of the hearing, a preliminary matter was addressed. The appellant made a Motion to Exclude Witnesses with which the intervenors concurred and the board of review had no objection. Upon due consideration, the PTAB granted this motion.

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.

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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 valuations of the property are:

| **DOCKET #** | **PIN** | **LAND** | **IMPROVEMENT** | **TOTAL** |
|---|---|---|---|---|
| 02-22648.001-C-3 | 08-07-205-004 | $163,913 | $1,543,162 | $1,707,075 |
| 02-22648.002-C-3 | 08-07-205-006 | $978,614 | $3,812,311 | $4,790,925 |

Subject only to the State multiplier as applicable.

PTAB/KPP

As to this argument, the appellant's pleadings included a copy of a summary report of a limited appraisal conducted by LaSalle Appraisal Group. The appraiser, Joseph Ryan, testified that he holds the designations of Member of the Appraisal Institute (hereinafter MAI) and Certified General Real Estate Appraiser in the State of Illinois. He also testified that he has completed over a hundred appraisals of hotel properties similar to the subject. Ryan was offered as an expert in appraisal theory and practice without any objection from the other parties and was accepted as such at hearing. The Ryan appraisal with an effective date of January 1, 1999 opined an estimated market value of $11,570,000 for the 2002 tax year at issue. This appraisal was marked and identified for the record as Appellant's Hearing Exhibit #1.

Ryan testified that he undertook an interior and exterior inspection of the subject before undertaking this appraisal as well as reinspecting the property in 2003 and 2004. He noted that there had not been any changes in the subject to vary his initial market value estimation.

He described the subject property as improved with a part one-level, two-story, five-story and nine-story, masonry constructed hotel building with a basement level. The structure is used as a Holiday Inn Hotel with 420 guest rooms, restaurant, pool/health club, as well as office areas. He stated that the building had an effective age of 25 years as well as a land-to-building ratio of 1.14:1. As to the highest and best use analysis, Ryan testified that the property's highest and best use as if vacant was for hospitality purposes, while its best use as improved was its current use as a hotel building.

As to site improvements, the Ryan appraisal provided details regarding the subject's interior layout and finish. Specifically, the subject's first floor contains a lobby area, gift shop, banquet/meeting rooms, restaurant and lounge with kitchen. Moreover, the Holidome which is an indoor recreation area is located on the first floor within the two-story section of the subject. The basement area includes five meeting rooms, electrical/mechanical rooms as well as maintenance rooms. The swimming pool is located near the five-story section of the improvement, while there is a total of 348 parking spaces on the property.

As to the subject's purchase in November of 1997, Ryan stated that the subject was a part of a bulk sale transaction wherein $15,000,000 was allocated to this subject, with $11,700,000 allocated to the real estate and $2,300,000 allocated for the furniture, fixtures, and equipment (hereinafter FF&E); and $1,000,000 for intangible assets or goodwill.

The Ryan appraisal indicated that at the request of the client only one of the three traditional approaches to value was addressed in developing the subject's market value estimate. The income approach reflected a value of $11,570,000, rounded. Ryan also testified that in his research a cost approach regarding an existing hotel was worthless, while the sales comparison approach was not accorded much weight in a hotel appraisal due to the inherent inaccuracies of comparing amenities, locations, and room rates.

At hearing, Ryan testified that less weight is accorded a sale-leaseback transaction as a comparable sale because the properties are not exposed to the market to meet the test of market value; such a sale is based on credit worthiness of the operator. He stated that these sales are based on investment decisions and not on market value. As to bulk transactions, he indicated that there is little evidence on how valuations are allocated and whether they represent market value. Furthermore, he testified that in using a bulk sale transaction, he would have to: verify the details of the transaction with the parties involved; determine the criteria used to allocate the values therein to determine if it was a credible sale; and disclose this data within his report.

In estimating the remaining economic life of the property, Ryan used the Marshall Swift Valuation Service to estimate the economic life of the improvements. The appraisal stated that according to this manual, the typical structure life for a hotel building such as the subject is 50 years. Therefore, Ryan determined that the remaining life was 25 years for this hotel. In reviewing the hotel market, the appellant's appraisal indicated that one of the market factors in the hospitality industry had been the increasing segmentation of the product. Hotel development had been spurred under the premise that a limited service property would not directly compete with an upscale full service hotel. The appraisers submitted a brand segmentation chart reflecting that the subject's Holiday Inn was considered within a midscale segment.

In developing the income approach, the appraisers utilized historical income and operating expenses for 1997 and 1998 as well as market data from The 1999 HOST Study published by Smith Travel Research as a benchmark for hotel operations. The appraisal indicated that room revenues had remained constant for 1998 at $70.74 and 1999 at $70.96. In comparison, the subject's average daily room rates (hereinafter ADRR) in 1998 were $86.79 per night with an average occupancy rate of 58.6%, while in 1999 the ADRR was $90.84 per night with an average occupancy rate of 57.42%. According to The 1999 HOST Study, the full service hotels in the East North Central area had an occupancy rate of 70.8% with an ADRR of $110.89 per night. Moreover, suburban hotels reflected a 70.1% occupancy rate with an ADRR of $98.21 per night.

Furthermore, the appraisers consulted the December, 1998 edition of TRENDS in the Hotel Industry, published by PKF Consulting. This resource indicated that in the Northwest submarket, the ADRR increased by 7.69% to $92.05 per night, while occupancy rates decreased by 2.60% to 71.3%. With the subject's actual ADRR and occupancy rates lower than the market, the appraisers stabilized the subject's ADRR at $90.00 per night with an occupancy rate of 58.0%. Under examination, Ryan stated that he estimated an ADRR of $90.00 per night for the subject even though the market data reflected in his report indicated averages above $100.00. Furthermore, he stated that he used the subject's actual occupancy rate of 58% rather than the regional market data that reflected 70%. He also indicated that in developing his expense analysis that he relied on the subject's historical data which was, at times, similar to market data. Moreover, he indicated that the subject's actual departmental expenses were at approximately 31%, while the Host data reflected a range from 23% to 26%. Lastly, Ryan testified that in undertaking an income approach, a higher expense leads to a lower net operating income thereby reflecting a lower market value.

In stabilizing the subject's income and expense statement, Ryan used historical data indicating a potential gross income of $11,302,260. Departmental costs and expenses were broken down into room, food and beverage, telephone and other categories. The appraisers compared actual data for 1998 and 1999 as well as market data in these categories for East North Central area, Suburban areas, Mid-Price hotels and hotels with a room count from 300 to 500 rooms. An overview of these total market expenses ranged from 39.20% to 41.50%, while actual expenses ranged from 41.47% to 42.69%. The appraisers used 41.24% to reflect a total percentage of departmental expenses at $4,661,178. Undistributed expenses such as marketing, franchise fees, energy, management and insurance were estimated at 29% or $3,277,655. Therefore, total expenses were estimated at $7,938,833 leaving a net operating income for the subject of $3,363,427.

In valuing the subject's land and improvement, the appellant's appraisers deducted a reasonable portion of the net income stream attributable to personalty and entrepreneurial effort. As to personalty, the appraisers cited the prior industry sources as indicating that replacement cost new of FF&E for hotels range from $5,000 to $20,000 per room dependent upon the facility. This appraiser considered the subject to be a "high end" franchise type hotel and deducted a unit cost of $15,000 per room. In determining the rate of return, the appraisers used the band of investment technique to develop a safe rate of 8.15% and then added a risk rate of 5% because personalty depreciates rather quickly for an adjusted rate of 13.15%. In determining the return of personalty, Ryan indicated that a straight line calculation was undertaken using the total personalty of $6,300,000 divided by an 8-year life indicating a return of personalty of $785,000. Therefore, an adjusted net operating income was $2,161,000.

In developing a capitalization rate, the appraisers used the band of investment method as well as referencing the Korpacz survey resulting in an overall capitalization rate of 10.56% which the appraisers believed was supported by the market. The appraiser then adjusted for the tax load for a loaded capitalization rate of 18.67%. Capitalizing the subject's income produced a value estimate under the income approach of $11,570,000, rounded.
In reconciling a final value estimate, the appellant's appraisers indicated that while the rental information in the income approach was considered to be reliable and the most comparable to the subject in the marketplace, adjustments were necessary. The appraisal further indicated that this approach was weakened by the use of a limited amount of historical data for the subject property, but that the income approach was accorded primary consideration for this subject because it is an income-producing property.

Under examination, Ryan testified that the hotel market prior to January 1, 2002 had been overbuilt with older properties struggling to maintain occupancy levels. He stated that after September 11, 2001, the occupancy rates and room rates decreased within the hotel industry. Ryan testified that he had undertaken subsequent appraisals for the subject and in reviewing the actual income and expense statements, he noted that a downward trend for both occupancy rates and room rates, which was exasperated after 9-11-01. Furthermore, Ryan stated that subsequent to this property's appraisal date, new product entered the market such as extended-stay and suite hotels that became more prevalent; therefore, properties that were not well-positioned in the market have never recovered.

Thereby, Ryan testified that his market value estimate for the subject of $11,570,000 would be similar to and is applicable to the 2002 tax year at issue. Moreover, he stated that his opinion of value would not alter with the knowledge that the subject property underwent renovations at the end of 1999 and in early 2000. He indicated that the property did not sustain the room rates or occupancy rates over 2000 and 2001 to support the cost of those renovations and that historical data indicated that there was a loss of gross income over that time.

Upon lengthy cross examination, Ryan disclosed several miscalculations in his report specifically: to the subject's effective age and remaining economic life; to the calculation of net operating income, return on and return of personalty, and an adjusted net operating income. Intervenor's Exhibit #1 is a multiple-page document of copies of the Korpacz Survey, First Quarter of 1999, wherein Ryan was asked to indicate what the survey identified as the overall capitalization rate for the national full-service hotel market, which was a range from 8% to 13% with an average of 10.02%. Ryan testified that his report indicated that the multiplier for 1998 was 2.1799. However, Intervenor's Exhibit #2, a two-page document of townships and respective multipliers for 1998 and 1999 reflected that Ryan had used the 1997 multiplier in his report.

Ryan further testified that since his appraisal was undertaken 60% of the guest rooms and all of the basement meeting rooms were renovated as well as the installation of a new phone system and kitchen equipment, but that these renovations were not considered due to the fact that the effective date of his appraisal was January 1, 1999.

The board of review timely submitted "Board of Review Notes on Appeal" wherein the subject's final assessment of $6,703,200 was disclosed indicating a market value of $17,640,000. The evidence includes a cover memorandum and retrospective valuation prepared by Raymond Schofield, an analyst for the Cook County Assessor's Office. The valuation was submitted with an effective date of January 1, 2001 and a market value of $21,750,000. The analysis provided limited data and explanation while addressing only the income approach to value. Moreover, Mr. Schofield was not presented to testify regarding the methodology used therein.

Schofield's valuation described the subject site as had the appellant's appraisers. In the income approach, he used the Smith Travel Research Survey to develop an income and expense analysis. He stabilized the ADRR for the subject at $100.00 with an occupancy rate at 54% based upon historical statistics that were not enumerated within the analysis. An effective gross room revenue was estimated at $8,278,200. Departmental expenses were estimated at $4,430,538 with undistributed operating expenses estimated at $2,969,266. Schofield stabilized the replacement costs of new FF&E at the same value as the appellant's appraisers or $15,000 per room. While his return on and return of personalty were similar to the appellant's appraisers, Schofield espoused a net operating income of $3,742,741 for the subject.

A capitalization rate of 10% and an effective tax rate of 7.21% developed a loaded capitalization rate of 17.21%, which was applied to estimate a market value of $21,750,000, rounded.

The intervenors, Arlington Heights Township High School District #214 and Palatine Community Consolidated School District #15, submitted a brief argument as well as a complete, summary appraisal prepared by Eric W. Dost with an effective date of January 1, 2001 and an estimate of market value for the subject of $19,500,000. This appraisal was marked and identified for the record as Intervenor's Exhibit #4.

In testifying, Dost stated that he is accorded the MAI designation since 1993. He stated that he has been an appraiser since 1986. Dost was offered as an expert in appraisal theory and practice without any objection from the remaining parties and was accepted as such at hearing.

He testified that he undertook a personal inspection of the subject's lobby area and exterior in July of 2004 as well as the week prior to this hearing. Dost developed two of the three traditional approaches to value. The income approached estimated a value of $19,440,000, while the sales comparison approach reflected a value of $20,900,000. In reconciling these two approaches, Dost indicated a final market value of $19,500,000 for the subject as of the effective date of January 1, 2001.

Dost described the subject property as comprising 300,665 square feet of land improved with a full-service hotel with 422 guest rooms as well as 273,196 square feet of gross building area. His appraisal indicated that the FF&E was typical of a full-service hotel and were not included in this value estimate.

The Dost appraisal reflects that the subject was purchased in November, 1997, as part of a five-property portfolio with a sale price of $66,500,000 inclusive of which was the $15,000,000 allocated for the subject property. The subject's allocation was further broken down to $11,690,000 for the realty, $2,310,000 for the personalty, and $1,000,000 for intangible assets. Dost's appraisal further stated that due to the sale's older date and the significant changes in the condition of the property since the sale, this allocated price for the realty was not considered representative of the subject's market value for the assessment date of January 1, 2001. The appraisal also stated that the subject was renovated in 1999 and/or 2000 with approximately 60% of the guest rooms and all basement-meeting rooms renovated as well as new kitchen equipment and a new phone system installed.

As to the hotel market overview, the Dost appraisal referenced the Korpacz Real Estate Investor Survey, First Quarter 2001 and First Quarter 2002 as indicating solid gains in ADRR and increased occupancy rates. However the survey indicated that in 2001, the hotel industry experienced the beginning of a market downturn, which was exacerbated by the events of September 11, 2001. The appraisal further states that general destinations highly dependent on air travel suffered the worst in terms of occupancy loss, with investment activity falling to a 10-year low in 2001.

Furthermore, the Dost appraisal referred to The 2001 Host Study summarizing 2000 industry data and The 2003 Host Study summarizing 2002 data published by Smith Travel Research. Contrary to 2000 data reflecting an increase in room revenue per available room (hereinafter RevPAR), in 2001 the data reflected an increase in supply, a decrease in demand, and lower rates contributing to a decrease in RevPAR in 2001. Moreover, the appraisal references that The 2001 Host Study anticipated that the increase in rooms available would continue to exceed the increase in rooms sold and occupancy would decline. This decline was further accelerated by the events of September 11, 2001. The appraisal references this study's chart of Chicago Northwest Suburban Full-service Hotel Trends. In summary, this chart indicated a RevPAR increase from $67.26 to $73.05 in 2000, with thereafter a decrease to $54.98 in 2001. Average room rates increased by 3.6% from 1998 to 2000, and then fell 5.3% in 2001.

As to the highest and best use analysis, Dost indicated that the property's highest and best use as if vacant was its commercial development as a hotel or office building, while its highest and best use as improved was its current use as a hotel. Pursuant to Dost's inspection of the subject, he indicated that the subject did appear to have been adequately maintained with no visual deferred maintenance. Therefore, based upon the inspection, he opined that the existing improvements had an effective age of 10 years and that according to Marshall Valuation Service, similar properties have a typical useful life of 50 years. Thereby, he estimated that the subject has a remaining life of 40 years.

Without conducting a cost approach due to the subject's age, Dost reviewed four land sales. For demonstrative purposes, Intervenor's Exhibit #5 reflected an enlarged version of Dost's suggested land comparables grid and was used by the intervenor to elicit Dost's testimony. The land sales ranged in size from 192,187 to 332,147 square feet and in unadjusted price from $7.46 to $11.85 per square foot. Dost testified that the land sales were located within a close proximity to the subject and with similar zoning. He stated that the sales occurred from November, 1997, to October, 2002. After applying adjustments, he stated that he estimated a land value for the subject of $7.50 per square foot or $2,254,988 for the land as vacant as of January 1, 2001.

At the point in the proceedings, appellant's attorney offered to stipulate to the subject's land value at $7.50 per square foot, whereas the assessor's office had accorded the subject a land value of $10.00 per square foot. It was noted for the record that the appellant and the intervenor were in agreement with the subject's land value, while the board of review was not in agreement.

Under the sales comparison approach, Dost utilized five suggested sale comparables of hotels. He testified that since the subject hotel is a going concern, his sales analysis began at that point and then subtracted the business value and value of the FF&E. For demonstrative purposes, Intervenor's Exhibit #6, an enlarged copy of Dost's improved sales comparable grid, was used to elicit testimony. Dost testified that hotel properties sell infrequently; therefore, he was fortunate to locate sales within the subject's northwest suburban area. These properties sold from August, 1999, through April, 2003, for prices that ranged from $5,200,000 to $26,500,000, or from $50,980 to $81,957 per guest room before adjustments. The improvements ranged: in guest rooms from 102 to 380; in building size from 42,700 to 90,349; and in age from 3 to 36 years. It is noted that the analysis did not include gross building area for suggested comparable #5. Dost stated that sales #1, #2 and #3 occurred after the events of 9-11-01.

Based upon this data, Dost concluded a unit price of $58,000 for the subject representing a market value of $24,476,000. In determining an appropriate deduction for the business value, Dost testified that he quantified proprietary income in the income approach; and therefore, using that figure capitalized at an appropriate rate to deduct from the estimated market value. He estimated the business value at $1,332,000. The cost new of the FF&E was estimated at $7,500 per room due to extensive renovation to the subject in years 1999/2000. Dost opined that the FF&E would be approximately 2 years old with an expected life of seven years. Therefore, he calculated the depreciated value of the FF&E to be $2,278,800. Moreover, Dost estimated a business value of $1,332,620 for the subject. Both these deductions indicated a market value estimate of $20,900,000, rounded for the real estate only.

Under cross-examination, Dost testified that he worked with an associate in obtaining the land sales and improved sales comparables. He stated that his assistant's responsibility was to verify the sale conditions, but that the bulk of the sales data was obtained from the CoStar Comps Service which he indicated was a good initial source for data. Specifically as to the sales comparables, Dost stated that both sale #1 and #2 contained fewer guest rooms from 122 to 160 and were limited-service hotels, while the subject contains 420 guest rooms and is a full-service hotel.

As to sale #2, Dost did not mention in his report that this property involved a sale-leaseback transaction wherein the seller leased the property back for 16 years with three, 15-year options. He also indicated that he had not included data reflecting that this sale was also part of a bulk transaction relating to 21 hotels. As to this data, Dost responded that in a sale-leaseback transaction there is a willing buyer and seller and that the capitalization rate was consistent with survey data. As to the bulk transaction, he stated that he believed that there was a blended weighted average and that the prices were negotiated independently for each hotel. Yet, Dost failed to present this data in his report and did not make any adjustments for this sale's conditions in the report. Dost further testified that Appellant's Exhibit #2 is a copy of a CoStar Comps printout for sale #2. The exhibit reflects the aforementioned sale conditions. This sale is also the only sale by which Dost had an overall capitalization rate from the market for he indicated that he had undertaken an appraisal for this property opining a value estimate for this newly constructed, limited service hotel located near O'Hare Airport. Appellant's Exhibit #3 is a copy of Dost's appraisal for this property estimating a value of $6,500,000 as of January 1, 2000, even though the property's sold in April of 2002 for $12,688,500. Dost could not reconcile this sale price of $12,688,500 with his value estimate of $6,500,000 other than to cite a two-year differential between the appraisal date and the sale date. In reviewing this appraisal, he stated that he had stabilized the property's ADRR at $80.00 and occupancy rate at 75% and further indicated that this property is not entirely comparable to the subject property.

As to sale #3, Dost testified that he did not make a site adjustment for the property's location in Northbrook compared to the subject's location in Rolling Meadows even though he admitted that they were not in the same market. Dost explained that his site adjustment was attributed to visibility from an interstate highway. Dost also admitted that he had not included this property's prior sale in July, 1997, for $33,300,000 because of its four-year time disparity. Appellant's Exhibit #4 is a copy of the CoStar Comps printouts for this property evidencing the 1997 sale data. Dost admitted that he was aware of this prior sale, but did not believe that it was as relevant as the current sale in October, 2001, for $26,500,000. Overall, Dost stated that this sale was considered to be superior to the subject.

As to sale #4, Dost further testified that this property was a newer property than the subject, a limited-service facility, inferior amenities, and an FF&E allocation of $18,000 per room. As to Sale #5, he stated that the property has fewer guest rooms, superior location, inferior services and amenities and an FF&E of $4,900 per room. Upon review of Appellant's Exhibit #5 which is a copy of the CoStar Comps printouts for this property, Dost indicated that the documents reflected a sale price of $7,775,000 and a finance amount of $7,820,000 without further explanation. Lastly regarding the sales comparables, Dost explained that the allocation between FF&E and the real estate on the real estate transfer declarations is a less then meaningful allocated number and to the best of his knowledge the sale prices of the individual assets were negotiated independently.

The next developed approach was the income approach. Dost used income and expense statistics from The 2003 HOST Study as well as The STR Trend Report, the subject's actual income and expense history for 1998 and 1999 as well as two expense comparables. He also referred to five rental comparables. For demonstrative purposes, Intervenor's Exhibit #7 was an enlarged copy of Dost's rental comparable grid to elicit testimony. Dost stated that these hotels ranged in room count from 165 to 470 guest rooms and in standard rates from $79.00 to $159.00 with varying amenities. He stabilized the ADRR for the subject at $95.00 with an occupancy rate at 65%. Total revenue was estimated at $13,363,450 as of January 1, 2001.

Dost testified that he relied on the subject's historic expenses for 1998 and 1999, while also referring to The Host Study for 2003 which reports 2002 data comparing the subject's actual data to national statistics and the comparables. Departmental expenses were estimated at $5,557,008 with undistributed operating expenses estimated at $2,819,688. After allocating 4.0% or $534,538 for franchise and management fees, Dost indicated income before fixed charges to be $4,452,217. Fixed charges such as property taxes, insurance and reserves for replacement totaled $454,357. Net operating income excluding taxes was estimated at $3,997,859 or $39.93 per guest room.

The Dost appraisal described propriety income as providing a return to the business of running a hotel. It stated that the franchise fee and management fee are usually considered part of the proprietary income. The appraisal further indicated that based on typical percentages of net income attributable to propriety earnings for similar property types that have a business component, additional proprietary income of 5% of net operating income was deducted. Therefore, Dost also estimated proprietary income at $199,893 resulting in an adjusted net operating income of $3,797,966.

In developing a capitalization rate, Dost's appraisal stated that only one of the comparable hotel sales had a capitalization rate available for a going concern, which was 12.25%. It further stated that since the capitalization rates were based on the going concern and the appraisers had already deducted proprietary income, a significantly lower capitalization rate is considered appropriate.

With reference to the Korpacz Real Estate Survey, First Quarter 2001, for full-service hotel properties, overall rates from 8% to 13% were reflected with an average of 10.41% for the going concern of a full-service hotel. Based upon this data as well as the fact that the appraisers had already deducted proprietary income, an overall capitalization rate at the lower end of the range was deemed appropriate at 10% for the subject. Thereafter, Dost determined the tax-loaded overall capitalization rate at 17.49%. Capitalizing the subject's annual income produced a value estimate under the income approach of $46,066 per room or $19,440,000, rounded.

In reconciling the approaches to value, Dost's appraisal indicated that the recent hotel sales in the market were given consideration. It stated that even though the quantity and quality of the data in the sales comparison approach was adequate, hotels have unique features that require significant adjustments reducing the reliability of this approach. However, it further stated that the sales are all relatively recent and are considered to provide a good indication of value.

However, the appraisal considered the income approach a strong indicator of value for the subject. This approach considers both the tangible and intangible assets of a going concern and involved a detailed analysis of the earnings potential of the hotel. In updating the aforementioned data, Dost testified that <u>The 2003 Host Study</u> comparing the full years of 2001 and 2002 indicated that market net operating income decreased by 7.7% nationally for full-service hotels. Furthermore, he stated that the average capitalization rate increased from 10.41% to 10.77% according to the <u>Korpacz Survey</u>. He also stated that the hotel market had not stabilized after the events of 9-11-01 even in 2004 or 2005 well after his valuation date. Therefore, while the appraisal presented a final market value estimate for the subject at $19,500,000 as of January 1, 2001, Dost testified that based on the increase in capitalization rates and the decrease in net operating income, he believed the subject's value would have decreased from 8% to 12% for the 2002 tax year at issue, for a market value from $17,100,000 to $17,900,000.

Appellant's Exhibits #2 through #5 were admitted into evidence over the objection of the board of review's representative.

The intervenors' second witness was Brian F. Aronson who holds the designations of MAI and State of Illinois General Certified Real Estate Appraiser. Aronson testified that he began his appraisal career in 1991 and has prepared between 800 and 1,000 appraisals on a variety of properties located in the Chicago Metropolitan area as well as in Indiana and Wisconsin. He also indicated that he has conducted from 15 to 30 appraisal reviews. When examined as to his prior experience conducting a review of a hotel appraisal, Aronson could specifically name four hotel properties. A statement of Aronson's qualifications was marked as Intervenor's Exhibit #8. Mr. Aronson was called as a review appraiser in this case and after lengthy voir dire he was tendered as a review appraisal expert without objection from the remaining parties.

Aronson stated that the scope of his assignment was to review the Ryan appraisal and its compliance with USPAP. In regards to the competency provision, Aronson stated that he believed Ryan had deviated therein by contradictory statements regarding quantifying a going concern value and goodwill generated by the chain affiliation and name. Aronson also stated that there were deviations of the departure provision, such as: wherein the appellant's appraisers indicated that the client had requested that only one approach to value be undertaken, while USPAP requires the appraiser to make the determination of the appropriate scope of work to provide an opinion of value; failure to explain why a cost and sales approach was not undertaken; submission of a January 1, 1999 appraisal for a 2002 assessment date; no consideration of site improvements conducted after the effective date of the appraisal; reliance upon regional market data instead of local market data in developing an ADRR, an occupancy rate, and expenses; failure to develop a land value; inaccuracies or typographical errors regarding yearly data; inaccuracies in reporting FF&E and personal property sited on the subject; inaccurate yearly references to tax rate; and an error in calculation of a loaded tax rate reported as 18.67%, but should have been 18.79%.

Under cross examination, Aronson stated that he was unaware of Ryan's testimony and whether any deviations were addressed during that testimony. He further indicated that local data may be more pertinent than regional data in developing ADRR and occupancy rates, but that regional data is appropriate. As to a sale-leaseback transaction, Aronson testified that such a transaction would not be the greatest indication of value. As to bulk sales transactions, he stated that it was incumbent upon the appraiser to ascertain how the allocated prices were derived. In either case, Aronson believed that the details regarding such a transaction should be inclusive even within the confines of a summary report.

Intevenor's Exhibits #1 and #2 were admitted over the appellant's objection. Exhibit #3 was the intervenor's appraisal already in evidence and Exhibit #4 was withdrawn. Exhibits #5 through #7 were demonstrative exhibits not moved into evidence, while Exhibit #8 was admitted without objection.

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 evidence has demonstrated that a reduction is warranted.

In determining the fair market value of the subject property for tax year 2002, 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, and limited analysis.

That having been said, the PTAB then looks to the remaining evidence that comprises the Ryan appraisal and testimony submitted by the appellant; the Dost appraisal and testimony submitted by the two intervenors; and the testimony of the review appraiser, Aronson. The PTAB finds that there is commonality in the appraisers' application and methodology. Both appraisers had concurring opinions: that the best estimate of value for a hotel property should be developed by the income approach to value and not the cost approach; that the highest and best use of the subject was its current use; and that after the events of September 11, 2001 caused the hospitality industry to change dramatically for the worse.

The PTAB accords the intervenors' sales comparison approach little weight for the usage of inferior and questionable properties. Dost utilized a bulk sales transaction and a sale-leaseback transaction that even the intervenors' review appraiser believed to be less than reflective of the market values. Moreover, he used as a comparable a property that he had appraised at $6,500,000, while it sold at a value of $12,600,000 with the distinguishing explanation for the disparity to be less than forthcoming.

Therefore, the PTAB shall review the income approaches developed by the parties which all experts agree to be the best method of estimating a market value for a hotel property.

The appellant's income approach was estimated as of January 1, 1999, while the assessment date at issue was January 1, 2002. The disparity in years, the events of September 11, 2001, and actual renovation to the subject in late 1999 and early 2000, all lend less credence to this opinion of value. Moreover, the PTAB accorded diminished weight to Ryan's income approach, for he:

used the subject's actual occupancy rate below the rate reflected by regional market data; used the subject's actual expense data; failed to consider the subject's renovations in determining a value estimate or even an updated value estimate; admitted miscalculations in the subject's effective age and remaining economic life, net opering income, return on and return of personalty, and adjusted net operating income; used an inaccurate or misnamed multiplier; reported inaccuracies in the subject's FF&E and personal property; and erred slightly in the calculation of a loaded tax rate. The PTAB finds that these inconsistencies and/or inaccuracies lessened credibility.

In contrast, the intervenors' appraisal reflected an effective date of January 1, 2001, which is more proximate in time to the assessment date at issue in this proceeding of January 1, 2002. Moreover, the appraiser testified credibly to his adjusted estimate of market value due to additional market data that was previously unavailable reflecting the market's lack of recovery after the events of 9-11-01. Moreover, the PTAB found that Dost's income approach continually applied not only available historical data for the subject, but also regional and local market data more current to the assessment year at issue in developing an estimate of value.

On the basis of this analysis, the PTAB further finds that the subject had a fair market value of $17,100,000 as of the 2002 assessment date 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).

This is a final administrative decision of the Property Tax Appeal Board which is 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: December 7, 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.