PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Lord & Taylor
DOCKET NOS.: 03-22636.001-C-3 & 04-21196.001-C-3
PARCEL NOS.: 10-09-411-074-0000

The parties of record before the Property Tax Appeal Board (hereinafter PTAB or the Board) are Lord & Taylor, the appellant, by Attorneys Gregory J. Lafakis and Ellen Berkshire of the law firm of Liston & Lafakis, in Chicago; the Cook County Board of Review (hereinafter the board of review or BOR) by Cook County Assistant State's Attorneys Ralph Proietti, Ayesha Khan, and Margaret Zilligen; and the intervenor, the Niles High School District 219, by Attorney Michael J. Hernandez of the law firm of Franczek Sullivan, P.C., in Chicago.[1] The PTAB granted the parties request to consolidate both years of appeals for hearing purposes.

The subject property consists of an 8-year-old, single-tenant, owner-occupied, two-story, masonry constructed, anchor department store located in The Westfield Shoppingtown Old Orchard Shopping Center. The subject is a Lord & Taylor store. The subject is one of five anchor tenants in what is considered a super-regional mall. The subject contains 121,642 square feet of building area and sits on a land site of 72,064 square feet. The land to building ratio is 0.59:1.00. The subject is zoned B-4, Regional Shopping District. The entire mall contains approximately 1.8 million square feet of gross leaseable area.

The appellant, through its attorneys, appeared before the PTAB and argued that the market value of the subject was not

[1] The intervenor is a party in the 2003 appeal but not the 2004 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 valuation of the property is:

DOCKET NOS.	PARCEL NOS.	LAND	IMPRV.	TOTAL
03-22636.001-C-3	10-09-411-074	$410,764	$1,755,236	$2,166,000
04-21196.001-C-3	10-09-411-074	$410,764	$1,755,236	$2,166,000

Subject only to the State multiplier as applicable.

PTAB/mmg

accurately reflected in its assessed value. The appellant argues that, based upon its correct market value, the subject is over assessed.

In support of its market value arguments, the appellant submitted two appraisals in complete summary reporting format prepared by Joseph Ryan of LaSalle Appraisal Group (LaSalle). The taxpayer presented its appraiser, Joseph Ryan, to testify in support of the appraisals. Ryan is the president of LaSalle. He is a Member of the Appraisal Institute (MAI) and is also a Certified General Real Estate Appraiser for the State of Illinois. The PTAB accepted Ryan's qualifications as an expert in the field of appraisals of department store properties including the subject.

Ryan testified that he had prepared complete appraisal reports in summary format on the subject property with effective dates of January 1, 2003 and January 1, 2004. Ryan estimated the subject property had a market value of $5,700,000 as of both January 1, 2003 and January 1, 2004.

Thomas Grogan, MAI, of LaSalle, inspected the subject property on July 4, 2004. Ryan inspected the property both prior to and subsequent to that date. Ryan inspected the interior of the property while Grogan inspected the back rooms and mechanical systems. Ryan determined the highest and best use of the subject, as vacant, was for commercial use and the highest and best use, as improved, was for continued use as an anchor department store.

Ryan valued the subject property using two of the three common approaches to value, the income approach and the sales comparison approach. Ryan testified the cost approach was not used since he placed very little weight on this approach to value because market participants for such properties as the subject place very little weight on this approach.

In his income approach the witness testified he used four local rentals of retail properties for the 2003 report. In the 2004 report the witness used eight rentals of anchor department stores. The same comparables were not used for both reports. The witness compared the rentals with the subject and analyzed their leases. In the 2003 report, the witness testified that the four comparables had rents that ranged from $4.50 to $10.50 per square foot on properties that ranged in size from 105,000 to 115,000 square feet. Lease dates ranged from 1999 to 2003. The witness estimated a market rent of $6.00 per square foot for the subject for the year 2003.

In estimating market rent, the witness also considered the annual retail sales of the subject property. Retail sales in 1998, 1999 and 2000 ranged from $170 to $175 per square foot. Retail sales dropped to $155 per square foot in 2001 and to $145 per square foot in 2002. The witness concluded sales per square foot for the subject property of $145 and a rental rate of 3% of retail sales, which produces a rental figure of $4.35 per square foot. The witness reconciled these figures to $6.00 per square foot for the subject for the year 2003.

For 2004 the witness examined anchor department store leases from 1997 to 2003. The witness testified that he did not find any recent anchor department store rentals in the subject's area; therefore, he widened his search to a national area. Based upon the comparables found, the witness used properties that ranged in size from 80,000 to 300,000 square feet with rental rates that ranged from one percent of gross sales to $5.00 per square foot.

The witness also prepared a percentage lease analysis. Using retail sales of $145 per square foot the year 2004, the witness opined a value of $4.35 per square foot but concluded a market rent of $6.00 per square foot for the subject for 2004. Ryan confirmed his figures with the nationally recognized publication, Dollars & Cents of Shopping Centers. Rents for similar properties in this publication ranged from $3.50 to $6.29 per square foot. Using this information, Ryan opined a potential gross income for the subject of $729,852 for both 2003 and 2004.

Next, Ryan determined allowances for vacancy and collection losses. The witness used a figure of 9% of potential gross income for vacancy and collection losses in 2003 and a figure of 7% of potential gross income for vacancy and collection losses in 2004. Those deductions resulted in an effective gross income of $664,165 for 2003 and a figure of $678,762 for 2004.

From effective gross income the witness determined deductions for operating expenses using figures obtained from a published report by the Institute of Real Estate Management. Expenses were estimated at $0.67 per square foot or $81,500 for both 2003 and 2004. After deducting the figures for expenses, the net operating income for 2003 and 2004 were $580,000 and $600,000, respectively.

The witness estimated capitalization rates in order to reach a final conclusion of value through the income approach. For both 2003 and 2004 a capitalization rate of 10% was estimated. To this amount the witness added a partial tax load for the amount of real estate taxes that the tenant would be responsible. For the year 2003 the witness arrived at a capitalization rate of 10.6% and for 2004 a rate of 10.5%. After applying these capitalization rates to the net operating income, the appraiser's final opinions of value through the income approach were $5,500,000 for 2003 and $5,690,000 for 2004.

The witness also estimated the subject's market value through the use of the sales comparison approach. For the year 2003 three comparable sales and one listing comparable were considered by the appraiser. These properties were located in the Chicago suburban area. Three were in regional super malls and one was a "big-box" Kohl's department store. Sales prices were $4,000,000, $5,725,000 and $9,000,000 and sales dates were February 1996, January 2003 and January 2003. Sizes ranged from 79,000 square feet to 254,720 square feet of building area. Ages ranged from 10 to 30 years. The one property listed for sale as of June 2003 carried an asking price of $4,000,000 and was a 174,000 square foot building that was 20 years old.

The witness also considered three other properties which sold between September 2002 and September 2003 for prices that ranged from $4,200,000 to $10,215,000 with building sizes that ranged from 100,055 to 227,000 square feet. Locations were Springfield, Illinois; Columbus, Ohio; and Ann Arbor, Michigan. Ages ranged from five to twenty-five years. After comparing the properties to the subject and making the necessary adjustments, the witness opined a per square foot value of $47.50 for the subject. The witness concluded an opinion of market value by the sales comparison approach of $5,780,000.

For 2004 the witness used sales of eight comparables properties located in Illinois, Ohio, and Michigan. Each was an anchor department store in a regional mall. Sales dates ranged from January 2000 to September 2003 and sales prices ranged from $2,750,000 to $10,215,000. Sizes ranged from 94,341 square feet of building area to 254,720 square feet of building area. Ages ranged from 5 years to 40 years. Unit sales per square foot ranged from $22.99 to $50.00.

The witness also considered three other sales: one in Colorado which sold for $35.00 per square foot; one in Texas which sold for $33.50 per square foot; and one in Peoria, Illinois which sold for $27.00 per square foot. Each was an anchor department store in a regional mall. After making adjustments to compare these properties to the subject, the witness opined a value for the subject of $47.50 per square foot of building area. The witness' conclusion of value for the subject property through the sales comparison approach was $5,780,000 for 2004.

After reconciling the income approach and the sales approach, the witness concluded an opinion of market value for the subject for each year at issue. The witness estimated the subject had a market value of $5,700,000 as of both January 1, 2003 and January 1, 2004.

The witness was cross-examined by both the board of review and the intervenor. The witness was asked about his selection of comparable properties in both his sales comparison approach and his income approach to value. Ryan was familiar with all of the properties used in his analysis. The witness answered all of the questions posed with candor and a thorough knowledge of the subject and the methodology he employed to value the subject property. All of the witness' answers were articulate and complete. Furthermore, the witness was able to substantiate all of his findings.

The intervenor called as its witness, Eric Dost, MAI, as an expert in the field of real estate appraisal. The PTAB accepted Dost as an expert. Dost was tendered by the intervenor as a witness to review the LaSalle Group Appraisal Report with an effective date of January 1, 2003.

First, Dost testified that the Ryan report failed to include an estimate of land value, something he claims should have been accounted for before proceeding to the two approaches to value contained in the report. Also, the witness testified that some of the sales Ryan used were "dated." The witness further testified that the Ryan report use of the Fox Valley Mall in comparison to the Old Orchard Mall was not proper. The witness testified that there was a different highest and best use employed at the former Lord & Taylor store at the Fox Valley Mall.

Furthermore, Dost took issue with Ryan's use of the J.C. Penney's store at Lincoln Mall in Matteson as a comparable sale. The witness testified that Lincoln Mall has a chronic vacancy problem and is, therefore, not comparable to the subject. Dost further questioned Ryan's use of an out-of-state comparable sale. The witness testified that three of the four sales comparables used by Ryan were not good comparables. Dost also testified that the Ryan report sufficiently supply the necessary data to explain the adjustments used.

Dost further criticized Ryan's use of rental comparables. The witness testified that Ryan did not have adequate support for his estimate of a $6.00 per square foot market rental figure for the subject property. Dost testified that in light of the range of rents of the comparable properties he reviewed that Ryan should have estimated a market rent in the range from $7.20 to $8.09 per square foot.

The witness testified that the subject is an "unowned" store; or, as he put it, the store owns itself. Put another way, the subject is not owned by the owners of the Old Orchard Shopping Center. Based upon the publication <u>Dollars and Cents of Shopping Centers</u> the witness testified that the subject property, as a super-regional "unowned" store should have median sales of $200 per square foot. The witness further testified that the subject, if it is in the top 10% of such anchor department stores, nation-wide, then a figure of $300 per square foot is appropriate. The witness found the market rent information as supplied in the Ryan report to be "unconvincing."

In conclusion, the witness testified that the analysis of the comparables in the 2003 Ryan report was not supported by the evidence. Dost also testified that the market rent is not supported by the evidence in the Ryan report. The witness testified that the value estimate reached in the sales comparable approach did not reflect an accurate analysis.

On cross-examination Dost admitted that he did not verify the sales data as presented in the Ryan report for inaccuracies. The witness testified that it "was not within the scope of his assignment" to verify sales data and related information.

Dost stated his testimony was the product of information procured through the search of the internet and was not obtained by a person to person interview of the parties to the transactions. Dost also testified that when considering super regional malls he considered Ryan's analysis flawed; Dost considered the Fox Valley Mall in Aurora to be an inferior location in comparison to the Old Orchard Mall in Skokie despite the Aurora market's total retail sales of $3.7 billion while Skokie's market total retail sales were $1.2 billion.

Dost admitted on cross-examination that different appraisers might select different comparables in their analysis. The witness did not disagree with any of Ryan's information in his report but, rather, he based his review on the information provided as being accurate. While the witness disagreed with the location for some of Ryan's comparables he did not articulate a reason to determine those comparisons invalid. The witness determined that some of Ryan's comparables were merely considered not comparable based upon the population within a certain radius to the properties.

The board of review presented its "Board of Review Notes on Appeal." The board of review's assessed value for the subject property is $2,773,437 for 2003 and $3,004,556 for 2004. The BOR's market value for the subject property as reflected by the assessment is $7,298,518 and $7,906,726 for 2003 and 2004, respectively, using the Cook County Real Property Assessment Classification Ordinance assessment level of 38% for Class 5a property. The board also submitted case law, In re: Application of Rosewell v. U.S. Steel Corp., 106 Ill. 2d. 311, 478 N.E.2d 343 (1985) and In re: Application of County Treasurer v. Twin Manors West of Morton Grove Condominium Association, 175 Ill. App. 3d 564, 529 N.E.2d 1104 (1st Dist. 1988). No brief or any explanation as to each case's relevance to the present appeal was submitted.

Also, the board submitted two reports. The first report is entitled The Illinois Ratio Study for Commercial and Industrial Properties: Review and Recommendations, by Robert J. Gloudemans and Alan S. Dornfest [hereinafter, the "Dornfest report"]. The "Dornfest report" reviewed and evaluated the procedures and methodology used by the Illinois Department of Revenue in its annual sales ratio studies. The second report is entitled IAAO Technical Assistance Project-Review of the Assessment/Sales Ratio Study Program for the Illinois Department of Revenue, by Roland Ehm [hereinafter, the "IAAO report"]. The purpose of the "IAAO report" was to ascertain compliance with IAAO standards and offer recommendations for improvement.

Jeffrey M. Hortsch, State of Illinois Certified General Real Estate Appraiser, submitted a valuation report to the board of review for 2003. The report's cover letter was dated June 17, 2005. The original report was authored by James P. Connelly, C.I.A.O., for 2001 and was resubmitted by Hortsch for 2003. Neither Connelly nor Hortsch was tendered as a witness to provide testimony and be cross-examined about the report. The report provided a valuation estimate of $7,650,000.

For 2004 the board of review submitted a valuation report with an effective date of January 1, 2004. This report was authored by Jeffrey Hortsch and provided a market value estimate of $11,375,000. Hortsch was not tendered as a witness to provide testimony and be cross-examined about the 2004 report.

The 2003 board of review valuation report describes the subject property as improved with 121,642 square feet of retail space in the Old Orchard Shopping Center. The property serves as a Lord & Taylor department store and the improvement sits on a site containing 72,064 square feet of land. The subject has a land-to-building ratio of 0.59:1.00. The appraisal indicates that Connolly did not perform a personal inspection of the subject premises.

Similarly, the 2004 board of review valuation report describes the subject with the same square feet of land and improvement and the same land-to-building ratio. The zoning is described as B-4, Regional Shopping District and the subject was constructed in 1995. The report indicates that Hortsch personally inspected the subject premises and performed a complete exterior and a limited interior inspection.

Both board of review reports contained an income approach to value and a sales comparison approach to value. Neither report contained the cost approach to value.

Connolly's report contained three comparable rentals and arrived at market rent for the subject of $6.75 per square foot for a total potential gross income of $821,083. After subtracting vacancy and collection losses and operating expenses, the net operating income was calculated to be $776,143. Using a capitalization rate of 10.5% resulted in an estimate of value for the subject of $7,391,838 under the income approach.

Connolly's sales comparison approach to value contained five properties as comparable. His comparable sales sold for prices ranging from $72.92 to $104.85 per square foot. Connolly estimated a market value of $65.00 per square foot for the subject property resulting in a value of $7,905,000 as of January 1, 2003.

The Hortsch report contained four suggested rental comparables with a range of triple-net lease rates from $9.77 to $17.00 per square foot and an estimate of market rent for the subject of $9.75 per square foot. After subtracting vacancy and collection losses and expenses the report arrived at a net operating income of $992,812. Hortsch used a capitalization rate of 8.75% and arrived at an opinion of value for the subject, using the income approach, of $11,350,000.

Hortsch also developed a sales comparison approach to value. Hortsch based his analysis on four suggested sales comparables that sold for prices ranging from $52.54 to $120.07 per square foot of building area. Using this data, Hortsch estimated a market value of $93.50 per square foot of building area for the subject and arrived at a value conclusion of $11,375,000 as of January 1, 2004.

On the basis of these two reports, the board of review requested confirmation of the subject's assessments. The board of review did not present any witnesses in support of the reports or in support of the current assessments.

In closing, the taxpayer's attorney argued for a market value finding of $5.7 million based upon the evidence and testimony as provided by Ryan. The taxpayer's attorney argued that the neither the board of review nor the intervenor presented any evidence in their case-in-chief that could be subject to cross-examination and should be given no weight. Taxpayer's attorney termed the board's reports, without a witness to provide testimony as to the veracity and the credibility of the reports, as "nothing but hearsay. Rank hearsay."

The intervenor argued that, based upon Dost's testimony as a review appraiser, the Ryan report's credibility was successfully rebutted and that Ryan's report should not carry any weight. As a result, the intervenor argued, the taxpayer did not carry its burden of proof and the PTAB should issue a decision that would reflect a "no change" for the subject's assessment.

The board of review similarly argued that the appellant did not carry its burden of proof by a preponderance of the evidence. The board argued that its evidence should be given its due weight whether or not a witness was available for testimony. In fact, the board argued that the board of review's evidence should be given more weight than the Ryan report, in spite of the fact that the board of review did not tender a single witness.

The board of review's valuation reports were submitted into evidence with suggested findings of market value of $7,650,000 for year 2003 and $11,375,000 for year 2004. The BOR argued this evidence is admissible and competent. The board argued that Ryan's report did not use proper sales data and arrived at an opinion of value that is not credible or reliable. Therefore, the board of review requests that the PTAB issue a "no change" finding for the subject's assessments for years 2003 and 2004.

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 the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant argues that the subject property's market value is not accurately reflected in its assessed valuation. When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. See National City Bank of Michigan/Illinois v. Property Tax Appeal Board 331 Ill.App.3d 1038 (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 comparable properties, or recent construction costs of the subject property. *86 Ill. Admin. Code 1910.65(c)*. Having considered the evidence and testimony presented, the Board finds that the appellant has satisfied this burden and that assessment reductions are warranted for both years.

The PTAB finds that the best evidence of the subject's market value for 2003 and 2004 are the LaSalle Appraisal Group, Inc., Summary Reports of Complete Appraisals for both of the years at issue. The intervenor, for the year 2003, did not provide any independent valuation evidence or a witness of its own to estimate an alternative market value as of the assessment date at issue. Moreover, the Board finds the intervenor's only witness, Dost, did not successfully refute the testimony or value estimates of Ryan, the taxpayer's appraisal witness. Similarly, the board of review did not present any witnesses to provide testimony in support of its current assessments or the reports submitted into evidence for valuation purposes in an attempt to uphold the current assessments. The Board finds the board of review reports, without any independent testimony, of little weight.

The appellant provided the PTAB with complete appraisal reports for each year and the PTAB was also provided with the testimony of the author of these appraisals. Ryan further provided the PTAB with a complete description of the subject premises and explained he performed a thorough interior and exterior inspection of the subject. His testimony and his report provide the PTAB with a complete description and analysis of both the subject property and its market value.

Ryan performed an income approach and a sales comparison approach to value in arriving at his estimate of market value. Ryan gave most weight to the sales comparison approach. Ryan did not consider the cost approach to value based on his contention that buyers and sellers of properties such as the subject do not look to this approach. The witness testified that buyers and sellers of large anchor stores in malls deal on a national market. Their primary consideration is the stabilized retail sales of the store. All of the sales comparables used by Ryan in his 2003 and 2004 reports are anchor department stores, with the exception of the Kohl's comparable found in the 2003 report. Ryan adjusted for necessary factors in determining his market value findings. The PTAB finds Ryan explained on several occasions the method of his analysis, and, generally such adjustments are considered by definition as qualitative adjustments.

In each appraisal, Ryan estimated the subject's market value at $47.50 per square foot. The witness further testified there were no significant changes to the property between 2003 and 2004. Ryan testified that the trend among department stores such as the subject was a decline in retail sales. In fact, the data in the record indicated the subject's retail sales declined from 2003 to 2004.

Using this as his basis of value, the witness found the subject's market value of $5,700,000 for each year. The PTAB finds the Ryan reports and their accompanying testimony to be both thorough and complete.

Ryan was cross-examined by both the board of review and the intervenor. The witness was questioned on a variety of topics, including the use of retail sales as a measure of value; the use of sales per square foot; and the use of a retail sales multiplier. Ryan's use of comparable anchor department stores located in regional malls precisely mirrors the subject's description. The relationship of retail sales for a property such as the subject is the determining factor in the subject's value, the witness testified. Ryan answered all of the questions posed with confidence and clarity. All of the witness' answers were reasonable, credible and sincere. The Board finds Ryan's findings of values and conclusions were articulated in a clear and convincing manner. The witness was able to substantiate all of his findings. Based upon all of these factors, the witness' conclusions of value were considered the best evidence in the record for both 2003 and 2004.

The board of review, on the other hand, proposed an upward adjustment in the assessments of the subject from 2003 to 2004. The subject was assessed at $2,773,437 reflecting a market value of $7,298,518 for 2003. The subject's assessment was increased to $3,004,556 reflecting a market value of $7,906,726 for 2004. The board of review's report prepared by Connelly for 2003 provides an opinion of value for the subject of $7,650,000. However, the board of review report prepared by Hortsch for 2004 provides an opinion of value for the subject of $11,375,000 an increase of some $3.5 million in value when compared to the subject's current assessment by the board of review for the tax year 2004.

The board of review does not explain its reasoning for this increase as provided in the board of review's notes on appeal. Moreover, since neither of the authors of the 2003 or 2004 reports was presented to testify it is not possible to consider a rationale for the vast discrepancy in value from one year to the next. The Board finds these valuation estimates are especially suspect in an economic environment for retail anchor department stores that was apparently static, or perhaps declining, from year 2003 to 2004. As a result of this lack of evidence or testimony to support the board of review's assessment, the PTAB finds the board's evidence unpersuasive and is given little weight.

The PTAB finds the only witness the intervenor provided for 2003 was a review appraiser, Dost. The intervenor did not file a valuation report for year 2003 that supported the assessment or established an alternative market value.

Dost provided a critical review of the Ryan report for the year 2003. The Board finds Dost failed to refute the credibility of the Ryan report. Dost appeared on behalf of the intervenor to, as he explained, "review the report for the quality of data, completeness of the analysis, really to determine the reliability and credibility of the report." From the Transcript of the Proceedings, page 135, In Re the Matter of: Lord & Taylor, No. 2003-22636.001-C-3 and 2004-21196.001-C-3. The witness, in applying the relevancy of the data used by the Ryan report made the following observations: the witness disagreed with Ryan's use of several comparables based upon age, size, highest and best use, and location.

The witness testified that the conditions of the sale in one instance were not sufficiently provided. The witness also testified that one comparable was located in Springfield, Illinois which is a smaller market than the subject's market, and is, therefore, not comparable. Another sale was too old to be useful, the witness further testified. One sale was purchased for redevelopment and one was purchased through a bankruptcy sale, the witness testified.

As testified to on cross-examination, however, Dost only reviewed the Ryan report a few days before the hearing and provided no written review report to the PTAB. Moreover, Dost was unaware if the Ryan report contained any inaccuracies and he did not check for any possible inaccuracies. Dost further testified that he did not verify the information provided by Ryan since that was not part of the scope of his assignment. Again, the witness was unaware if the Ryan report contained correct information and did not verify said information.

As for one of the comparables, the witness testified that the sale was too remote in time. However, he did admit that an appraiser could adjust for such an element, as Ryan claimed he adjusted for the differences between the comparables and the subject. In another case, Dost testified that his information on a comparable in Yorktown Mall, located in the western suburban area of Chicago, was obtained from a website. Thus, Dost did not interview any of the parties to the transactions for accuracies in the reporting data provided. The PTAB finds such a review to be lacking in credibility and does not diminish the reliability of the Ryan report.

In yet another comparable sale, Dost testified that he obtained his information from CoStar Comparables. Again, he did not verify the reporting information as accurate. Additionally, the information from the comparable sale out of bankruptcy was not verified by Dost. The witness failed to identify the facts relevant to this comparable. Furthermore, this comparable was exposed to the open market for a considerable period of time and the sale was approved by the bankruptcy trustee. The mere fact that a property sells in bankruptcy does not automatically mean that it is not an arm's length transaction.

Dost also testified that the Fox Valley Mall in Aurora, Illinois was an inferior location compared to the subject's area at the Old Orchard Mall in Skokie Illinois. The Board finds this testimony is suspect since the Fox Valley Mall is considered one of the premier locations for a mall and far outpaces the subject's area in terms of gross retail sales. Therefore, the PTAB finds the intervenor's witness and testimony for the year 2003 to be unpersuasive and unable to adequately rebut the findings and conclusions of the Ryan report.

Turning to the arguments for the board of review, the PTAB finds those arguments are given little weight. The board argues that its evidence, even without a witness or supporting testimony, should be given equal weight to the evidence and the testimony provided by taxpayer's valuation witness, Ryan. The PTAB finds this argument unconvincing. To give equal weight to the board of review's evidence provided without witness testimony to the taxpayer's evidence provided with witness testimony is without merit. In order to properly evaluate and weigh the appraisal reports the preparers of the documents need to be present to provide testimony under oath and be subject to cross-examination.

It is through this process that the PTAB can adequately determine the qualifications of the appraisers; observe the demeanor of witnesses to determine their credibility; judge the reliability of the data; and decide the validity of the value conclusions. Due to the absence of any witnesses, the PTAB finds the board of review's evidence for both 2003 and 2004 is to be given little weight.

In conclusion, Ryan, on behalf of the appellant, prepared a summary report of a complete appraisal for 2003 and arrived at an opinion of market value for the subject of $5,700,000. The intervenor did not file any valuation evidence, but rather provided testimonial evidence in the form of a rebuttal witness, Eric Dost, MAI. The Board finds Dost's testimony failed to rebut the Ryan report. The board of review's evidence was a report that contained little analysis; and, no witness was presented to provide supporting testimony to the valuation conclusion contained in the board of review's report for the subject of $7,650,000. Further, no supporting testimony was provided in support of the board of review's assessment of the subject of $2,773,437 for 2003.

Similarly, for 2004, the appellant provided a limited summary report of a complete appraisal and supporting testimony estimating the subject property had a market value of $5,700,000. There was no intervenor for the year 2004. The board of review did not provide a witness and its report contained in the record with its "Notes on Appeal" contained very limited analysis to support its market value finding of $11,375,000. Furthermore, no witness or testimony was provided to support the subject's 2004 assessment of $3,004,556.

The PTAB finds the best evidence of market value in the record are the appraisals and testimony provided by Ryan. Based on this record, the PTAB finds that the market value for the subject property as of January 1, 2003 and January 1, 2004 was $5,700,000. The PTAB further finds that application of the Cook County Real Property Classification Ordinance level of assessment of 38% for 5A commercial property, such as the subject, is appropriate. Therefore, the correct assessment for the subject property is $2,166,000 for both 2003 and 2004.

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: May 30, 2008

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.