

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Thomas Carey Heirs/Hawthorne National L.L.C.
DOCKET NO.: 02-25216.001-C-3 and 02-25216.002-C-3
03-23509.001-C-3 and 03-23509.002-C-3
PARCEL NO.: 16-33-400-001 and 16-33-400-005

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are Thomas Carey Heirs/Hawthorne National L.L.C., the appellant, by Attorney Edmund P. Boland with the law firm of Carey, Filter, White & Boland in Chicago and the Cook County Board of Review by Cook County Assistant State's Attorney Randolph Kemmer.

The subject property consists of an irregularly-shaped land tract containing 119.4 acres of total area developed with a horse racetrack facility consisting of a 401,042 square foot, 29-year old clubhouse/grandstand complex, 435,386 aggregate square feet of permanent stables, and several ancillary buildings, along with related site improvements. The appellant argued that the fair market value of the subject is not accurately reflected in its assessed value. For hearing purposes, the appeals for tax years 2002, 2003, and 2004 were consolidated. However, a separate decision will be issued for the 2004 assessment year.

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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:

<u>DOCKET #</u>	<u>PIN</u>	<u>LAND</u>	<u>IMPROVEMENT</u>	<u>TOTAL</u>
02-25216.001-C-3	16-33-400-001	\$4,081,976	\$429,952	\$4,511,928
02-25216.002-C-3	16-33-400-005	\$ 2,472	\$ 0	\$ 2,472
03-23509.001-C-3	16-33-400-001	\$4,081,976	\$429,952	\$4,511,928
03-23509.002-C-3	16-33-400-005	\$ 2,472	\$ 0	\$ 2,472

Subject only to the State multiplier as applicable.

PTAB/JBV

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In support of this market value argument, the appellant submitted a complete, self-contained appraisal of the subject with an effective date of January 1, 2002 and an estimated market value of \$6,500,000.

At hearing, the appellant's first witness was the appraiser, Richard Buchaniec. Mr. Buchaniec testified that he is a state-certified appraiser in Illinois and has been performing as a real estate appraiser since 1975. He was awarded the MAI designation in 1982, belongs to the Illinois Property Assessment Institute and is a Certified Illinois Assessing Officer and a Certified Assessment Evaluator. He testified he specializes in large commercial and industrial properties and special-purpose properties. Buchaniec worked at the Cook County Assessor's Office for four years, two as Director of Appeals and two as Director of Research and Standards. The Board of Review had no questions for the witness in regards to his qualifications. Buchaniec was admitted as an expert in the field of property valuation over the objection of the board of review. The board of review provided no explanation for the objection.

The appellant's appraisal gave an estimate of market value as of the effective date of January 1, 2002 of \$6,500,000. Buchaniec stated he appraised the property using the income capitalization approach and the cost approach to value. He testified that he was unable to find sales of any properties similar to the subject to be used in the sales comparison approach, and therefore, did not use this approach.

The appraisal describes the property as an irregularly-shaped 119.4 acre tract of land. The infield contains approximately 50 acres of area and includes a 10-acre lake which serves as a water retention device. The appraisal opined that the infield land is considered unbuildable in its present use because it would inhibit spectator view. Most of the backstretch area south of the track comprises filled land. The appraisal opined that Stable Nos. 5 through 12 are affected by abnormal soil settlement generally associated with inadequate subsoil support. Also, a section along the south wall of Stable K-2 has collapsed due to inadequate soil support and is currently being reconstructed. The remaining 35 acres of the site, according to the appraisal, consist of undisturbed, buildable soil. This area contains the clubhouse/grandstand complex and parking areas.

The improvements include a clubhouse/grandstand complex, 17 permanently constructed stables, some of which contain second level sleeping rooms, a field kitchen, a maintenance and equipment garage, and various ancillary support buildings. The appraisal describes the infield as surrounded by a seven furlong turf track and a one mile sand track over a limestone base. The

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clubhouse and grandstand complex provides an unobstructed view of racing events through a glass wall. These buildings were constructed of steel, masonry and reinforced concrete in 1979 and 1980. The appraisal opines an effective age of 25 years for these buildings.

The appraisal indicated that the highest and best use of the subject, as vacant, was for industrial development, and that as improved, its highest and best use would be its current use.

The appellant's appraiser developed the two traditional approaches to value in estimating the subject's market value. The cost approach indicated a value of \$7,187,000, rounded, while the income approach indicated a value of \$6,317,000, rounded. The appraiser concluded a market value of \$6,500,000 for the subject property as of January 1, 2002.

The initial step under the cost approach was to estimate the value of the site at \$6,055,968, or \$50,720.00 per acre. In doing so, the appraisal considered five land sales that sold from May 1999 to July 2002 that ranged in size from 6.662 to 60 acres and in sale prices from \$76,142 to \$110,847 per acre. Adjustments were made in the appraisal for differences between the comparables and the subject. The appraisal notes that "all other factors held equal, unit prices or values tend to vary inversely with size." However, the appraisal shows the largest tract of land sold for the highest price per acre and the smallest tract of land sold for one of the lowest prices per acre.

The appraisal separated the subject into different component sections based on the condition of the soil or subsoil with respect to development potential. They are separated as follows: the 35.4 buildable acres underlying the clubhouse/grandstand and most of the west, north and east parking area; 40 acres of unbuildable land in the infield; a 10 acre infield lake; and 34 acres of filled land in the backstretch area with evidence of subsoil support problems. The 35.4 acre buildable component was estimated to have a value of \$90,000 per acre. The appraisal then estimated a value for the other component sections, discounting the value 25% to 55%, for an averaged value of \$50,720 per acre.

The appraisal utilized the Marshall Valuation Service to estimate a replacement cost new for the improvements. The appraisal separates out the cost into two categories, one for the clubhouse/grandstand using pricing for a concrete garage/industrial building and one for the stables using pricing for a low cost masonry industrial building. Depreciation was applied separately to each category. The clubhouse/grandstand was estimated to have a replacement cost new of \$15,319,804. Based on an effective age of 25 years and an estimated physical life of 55

years, the appraisal used the age-life method to estimate physical deterioration for the clubhouse/grandstand at 47%; the stables were estimated to have an effective age of 32 years and a physical life of 65 years for a depreciation of 49%. The appraisal then takes an additional percentage of depreciation for external obsolescence of 50% on each building. The appraisal indicated this depreciation was due to the fact that the subject property is only utilized for several months out of the year.

The appraisal then estimates the depreciated value of the other buildings/site improvements at \$564,360. Adding the land value resulted in a final value estimate, under the cost approach, of \$7,187,000, rounded.

Under the income approach, the appraisal indicates that the horseracing industry is intensely regulated by the Illinois Racing Board and that the gross revenue generated by racing is called the handle. This handle is generated from on-track, off-track, and inter-track pari-mutuel wagering. The gross handle from all sources is reduced by horsemen's purses and operating expenses. Buchaniec testified he utilized the "royalty approach" in that he valued the property as if there were an absentee landlord and what the market rent would be. The appraisal adjusts the gross handle to reflect on-site wagering only because, in the appraiser's opinion, a potential operator/lessee would not pay percentage rent based upon the aggregate handle. The appraisal analyzed the site-specific on-track handle for calendar years 1999 through 2001 and reduced it to dollars per allocated program for racing features.

The appraisal indicates the subject is encumbered by an option attached to a 1968 long-term lease requiring a unit rent of 2.25% of on-track handle. It states this lease is not an arms-length transaction as the parties are related. According to the appraisal, research shows rents range between 1.5% and 2.2% of the gross on-track handles. The rents on the lower percentage were for absolute net leases. The appraisal opined that an absentee owner would prefer a lower percentage rate on a triple net basis. The appraisal estimated the subject's rent at 2% of the on-track handle estimated at \$37,200,000 for a potential rent of \$744,000.

The appraisal notes that the land underlying the temporary stables are rented at 10% of the agreed upon land value, however, no documentation was provided to the appraiser to establish this value.

The appraisal estimated the operating expenses at 4% for management, 3.5% for insurance and structural maintenance, and 2.5% for reserves for replacement for total expenses of 10% or

\$74,400. The net income was estimated at \$669,600. Buchaniec testified that he utilized internal data; market data; appraisal information; and operating statements examined through his career from industrial properties that are net leased to arrive at these expense figures.

A capitalization rate was then estimated using the band of investment method to arrive at a rate of 10.6%. Applying this rate develops an estimate of market value under the income approach of \$6,317,000, rounded. Buchaniec testified that he was able to download information from the Appraisal Institute regarding rates and investment characteristics.

In reconciling the various approaches, the appraisal gave primary reliance to the income approach and some reliance to the cost approach. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2002 to be \$6,500,000. Buchaniec testified that there were no changes in the subject property that would cause a different opinion of value for January 1, 2003.

Under cross examination, Buchaniec testified that he arrived at the 2% of the gross handle for rent from records that he had and his experience as an appraiser. He testified that the current lease was entered into in the mid 1990s and had a term of 2.5%. Buchaniec stated that because the lease was not arm's length and based on other information he had on leases for smaller tracks around the county, he opined the royalty income should be between 2% and 4%. When asked why he chose 2% and not 4%, Buchaniec testified that no number is really correct and that in his opinion 2% was appropriate.

Buchaniec testified he established the gross handle by analyzing information from the Illinois Racing Board that lists the gross handle and number of racing days awarded to a particular race track each year. He further testified that he only analyzed the on-track handle because he was valuing the property only. Buchaniec agreed that the track would produce non-on-site handle such as inter-track wagering, off-track betting and out-of-state commingled handle.

On redirect, Buchaniec opined that the handle from off-site facilities was being taxed based on the facility the income was generated from and it would be double taxation to include this income for the subject. Buchaniec also testified that he utilized rent and the lower end of the 2% to 4% range because the information he received from tracks throughout the county indicated this range and he chose 2%. He testified that he developed the income approach with the hypothesis that the owner of the property would lease the property and this property owner,

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not being an owner of the business, would not receive any kind of income in rent from the off-track handle.

The board of review submitted "Board of Review-Notes on Appeal" that reflect the subject's total assessment of \$5,162,856 yielding a market value of \$13,586,463 or \$113,789 per acre, including improvements, when using the Cook County Real Property Classification Ordinance for Class 5A property of 38%.

In support of this market value, the notes for 2002 included CoStar Comps printouts for three suggested comparables. The suggested comparables are vacant land sales ranging in size from 6.5 to 49.42 acres, sold from July 2000 to December 2001, and have an unadjusted sales range from \$102,809 to \$126,986 per acre. No adjustments were made to these properties and the printouts indicate the "information obtained from sources deemed reliable but not guaranteed".

In the 2003 appeal, the board of review submitted, along with the three previously submitted comparables, one additional land sale. This property is 51.3 acres and sold in May 2002 for \$111,589 per acre. For 2004, the board of review presented CoStar Comps printouts for five properties suggested as comparable to the subject. The sales include four vacant sales of property ranging in size from 22 to 49 acres that sold from July 2005 to June 2005 for prices ranging from \$112,245 to \$260,000 per acre. The fifth sale presented was the sale of Sportsman's Park, a racetrack, located within the subject's area. This property sold in July 2003 for \$12,768,000 or \$372,115 per acre. As a result of its analysis, the board requested confirmation of the subject's assessments. At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions.

The appellant called Mr. Richard Buchaniec as a rebuttal witness. Buchaniec testified that he has reviewed the board of review's evidence and stated that the documents are a memo and attached raw sales data. He opined that these documents do not comport to the requirements on the Uniform Standard of Professional Appraisal Practice for appraisals. The testified that no adjustments were made to the sales data based on the difference between them and the subject property.

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

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. *Property Tax Appeal Board Rule 1910.63(e)*. Proof of

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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. *Property Tax Appeal Board Rule 1910.65(c)*.

Having considered the evidence presented, the PTAB concludes that the subject property's assessment is not supported by the market data in the record and that a reduction is warranted.

In determining the fair market value of the subject property, the PTAB closely examined the appellant's appraisal and the board of review's sales information. In reviewing these documents, the PTAB finds that both parties' submissions place a significant portion of the value of the subject in the land; the PTAB also finds that most of the value of the subject property is in the land.

In looking at the value of the land, the parties have presented eight comparable properties that range in size from 6.5 to 60 acres. These properties sold between May 1999 and June 2002 for prices ranging from \$76,142 to \$126,986 per acre. Adjustments were made to the appraisal's land sales and the PTAB finds the appraiser's estimate of market value for the land at \$90,000 to be supported by all the comparables. However, the PTAB finds that appraisal did not include any market data to support the discounting of various sections of the subject property based on the soil/subsoil conditions and is not persuaded by this argument. Moreover, the appraisal indicates "there are no geological studies made to detect the bearing capacity of the land."

As to the value of the improvements, the PTAB finds the board of review did not submit any evidence as to the value of the subject's improvements. The appellant's appraisal is the only evidence addressing the value of the improvements. The appraisal finds a value for the improvements at \$1,131,453.

The PTAB gives less weight to income approach included in the appellant's appraisal. The PTAB finds the appraiser looked to the subject's actual income and not the market to arrive at the on-site handle. The testimony focused mainly on the subject's on-site handle versus the off-site handle in establishing income, there is little testimony of market data in arriving at the income for the subject.

In addition, the appraiser testified that there were no comparable sales within the subject's market to conduct a sales comparison approach to value. The PTAB finds this is supported by the fact that the board of review submitted only vacant land sales.

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Based upon this evidence, the PTAB finds the fair market value of the subject property as of January 1, 2002 and January 1, 2003 was \$11,880,000, rounded. Since the market value of the subject has been established, the Cook County Real Property Classification Ordinance level of assessments for Cook County Class 5A property of 38% will apply. In applying this level of assessment to the subject, the total assessed value is \$4,514,400 while the subject's current total assessed value is above this amount. Therefore, the PTAB finds that a reduction is warranted.

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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.



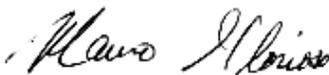
Chairman



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: July 28, 2009



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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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.