FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Sears #1840 Chicago Ridge
DOCKET NO.: 04-20359.001-C-3
PARCEL NO.: 24-07-216-026-0000

The parties of record before the Property Tax Appeal Board are Sears #1840 Chicago Ridge, the appellant, by attorneys Gregory J. Lafakis and Ellen Berkshire of Verros, Lafakis & Berkshire, P.C. of Chicago; and the Cook County Board of Review by Assistant State's Attorneys John Coyne and William Bluth.

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

LAND:	$1,266,600
IMPR.:	$2,001,400
TOTAL:	$3,268,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 666,632 square foot parcel improved with a two-story masonry constructed anchor department store building constructed in 1981. The subject improvement contains 211,311 square feet of building area, of which 21,986 square feet is an auto center area. The subject has a 3.15:1 land to building ratio. The improvement's exterior walls are masonry finished with face brick and limestone panels around the entrances. The windows are double glazed and set in aluminum sash. The interior is finished with paneled or wallpapered gypsum board walls, tiled or carpeted floors, and acoustic tile ceilings with fluorescent light fixtures. The subject improvement is centrally air conditioned, has an overhead wet sprinkler system, a set of escalators, a passenger elevator and a freight elevator.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant submitted a complete summary appraisal report with an effective date of January 1, 2004 (Appellant's Exhibit 1) and presented the testimony of the appraisal's author, Joseph M. Ryan of LaSalle Appraisal Group, Inc., Chicago. Ryan testified he is a State of Illinois certified appraiser; holds the designation of Member of the Appraisal Institute (MAI); is a Certified Illinois Assessing Official (CIAO); is also a licensed appraiser in Michigan and Indiana; has been employed as an appraiser since 1980; and has appraised in excess of 25 anchor department stores associated with regional malls. Mr. Ryan was tendered and accepted as an expert witness in the valuation of department store properties.

The witness testified he made a personal inspection of the property on January 13, 2005. Ryan also testified he appraised the subject again as of January 1, 2005 and did another personal inspection. Ryan testified the subject was appraised as fee simple for *ad valorem* tax purposes. The subject’s remaining economic life was estimated to be 20 years based on an economic life of 40 years.

Ryan described the subject property and its environs. The witness testified that the subject’s highest and best use as vacant would be for commercial use and that continuation of its use as a department store building is its highest and best use as improved.

To estimate a total market value for the subject of $8,600,000 as of January 1, 2004, Ryan employed two of the three approaches to value; the income capitalization approach and the sales comparison approach to value. The witness testified that the cost approach was not applicable to the subject for several reasons; most importantly, his discussions with major retailers established that owners do not consider the cost approach in their investment decisions.

Ryan testified that his analysis of the market as of the date at issue indicated that the trend is away from anchor and mall department type stores toward power centers, life style centers, and freestanding single tenant buildings also known as big box stores. Typically, the witness explained, power centers are anchored by a big box store with a couple of smaller stores; and lifestyle centers have the same type of configuration with the addition of more restaurants with a downtown feel to them. The witness related that conversations with various sources in the department story industry indicated that they were losing business to big box stores and stores that focus on one segment of the market.

In the income approach, Ryan testified he analyzed eight comparables located in Illinois, Indiana, and Michigan. These spaces were being offered to the market on a gross rent basis. The rent comparables range in size from 79,247 to 297,000 square feet. The commencement dates on the leases range from 1997 to 2003, with lease terms ranging from five to twenty years. The rents range from $3.25 to $7.25 per square foot, triple net. Ryan testified after consideration of the data and adjustments for age, condition, utility and location, the witness estimated that rent of $5.00 net per square foot, or $1,056,555 would best represent the potential gross income (PGI) for the subject as of January 1, 2004. Vacancy and collection loss (V&C) of 7.0%, or $73,959, was estimated by surveying market data in the subject's market area. The deduction of the V&C resulted in an effective gross income (EGI) of $982,596 for the subject. The Real Estate Management survey along with discussions with property owners were some of the sources utilized to estimate expenses applicable to the subject. Excluding real estate taxes, the appraiser estimated that $0.30 per square foot of building area, or $63,393, was applicable for the subject. The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $919,203 for the subject through the income approach to value.

To estimate the capitalization rate, Ryan testified that he utilized both the market extraction method and the band of investment method to estimate a capitalization rate of 10%. The appraiser calculated an effective tax rate of .56%, which was added to establish a total capitalization rate of 10.56%. Dividing the NOI by the appraiser's total capitalization rate resulted in an indicated value for the subject of $8,700.000, rounded.

To estimate a value for the subject through the sales comparison approach, Ryan testified he analyzed the sales of nine similar properties located in the Midwest area. The properties are located in Illinois, Michigan and Ohio. The properties consist of department story buildings in regional malls. The comparables range in building size from 94,341 to 254,720 square feet of building area and in land size from 56,192 to 755,330 square feet. The comparables have land to building ratios ranging from 0.50:1 to 3.65:1 and range in age from five to thirty years old. The comparables sold from January 2000 to September 2003 for prices ranging from $2,750,000 to $10,215,000, or from $25.45 to $50.07 per square foot of building area. Comparable number nine is being offered for sale at the price of $22.99 per square foot of building area. The witness testified that each sale was adjusted for date of sale, building size, age, land to building ratios, location, building type, market conditions, and other relevant items. After his analysis, Ryan selected $40.00 per

square foot of building area as a unit value for the subject, resulting in an estimated market value of $8,450,000.

The witness testified that he found adequate actual market data for properties similar to the subject to apply the sales comparison approach to value with a high degree of confidence in the estimate of value it produced. Ryan further testified that he was able to perform qualitative adjustments to the sales comparables to find a comfortable range where he believed the subject's value would fall. Ryan also testified that he verified the terms and conditions of each sale.

When reconciling the two approaches to value, Ryan testified he accorded primary weight on the sales comparison approach to value as the subject is owner occupied and has no rental history. The appraiser testified he gave some weight to the income capitalization approach to value. The appraiser's final estimate of value for the subject was $8,600,000 as of January 1, 2004.

In conclusion the appraiser testified that he performed his appraisal in conformity with the Uniform Standards of Professional Appraisal Practice; has no personal interest in the subject; and his fee was not contingent on arriving at either a direction or predetermined value.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's 2004 final total assessment of $4,416,394 was disclosed. This assessment reflects a fair market value of $11,622,089 or $55.00 per square foot of building area land included, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A commercial property is applied. In support of the 2004 assessment, the board of review submitted a retrospective appraisal authored by Jeffrey M. Hortsch (Board of Review Exhibit 1). Hortsch did not appear at the hearing. The report disclosed Hortsch was a State of Illinois certified general real estate appraiser. The writer indicated he made a personal inspection on July 28, 2004. Hortsch's inspection of the subject was a complete exterior but limited interior inspection claiming "we were unable to gain access to the subject." Further, the document revealed that physical characteristics of the subject were based on personal observation and information contained in the LaSalle Appraisal Group document dated January 1, 2004 (Appellant's Exhibit 1).

Although the descriptive data contained in the Hortsch report is consistent with that contained in the Ryan report, Hortsch concluded an effective age of 10 years and a remaining economic life of 40 years based on a 50 year economic life. The Hortsch report indicated that the highest and best use of the subject as vacant is to improve consistent with the zoning and the neighborhood and as improved its continued use as a commercial department store building.

The appraiser did not prepare a cost approach to value.

Hortsch's report addressed the income capitalization approach to value utilizing four rent comparables in retail buildings and four rent comparables in industrial shop properties. The appraisal indicated survey dates for these comparables of from July 2005 to August 2005. The retail rental units range in size from 40,000 to 130,000 square feet. The quoted rents were from $4.62 to $10.00 per square foot triple net. The report indicated that after an analysis of retail rental properties, the appraiser concluded the subject's 188,887 square feet of retail area would command an estimated $6.25 per square foot triple net for a PGI of $1,180,544. Further this report indicated that after an analysis of the shop/industrial rental properties, the appraiser concluded the subject's 21,986 square feet of auto center area would command an estimated $4.00 per square foot triple net for a PGI of $87,944. The total estimated PGI for the subject is $1,268,488. The appraiser deducted 10.0%, or $126,849, from the PGI as V&C loss. This calculation resulted in an EGI of $1,141,639. A management fee of 3.0% of the EGI, or $34,249, was then calculated. The report also reflected that $73,806 or 58.2% of the PGI was also deducted for reserves for replacement from the EGI resulting in $1,033,584 as the subject's NOI.

Placing emphasis on a debt coverage ratio model, the report indicated that Hortsch determined that 8.75% was an appropriate capitalization rate for the subject. Application of the capitalization rate to the NOI resulted in an estimated value for the subject of $11,810,000, rounded.

The Hortsch appraisal next outlined the sales comparison approach to value describing the sales of four properties located within Cook County. The comparables are one-story single tenant warehouse or retail buildings ranging in size from 109,441 to 193,000 square feet of building area. The comparables were constructed from 1977 to 1994. The sales occurred from August 2003 to October 2004 for prices ranging from $5,750,000 to $10,500,000, or from $48.94 to $94.95 per square foot of building area, including land. The report indicated that adjustments were made to the comparables for size and land to building ratios. Based on the analysis, the report indicated that Hortsch estimated a unit value of $56.00 per square of building area, or $11,835,000, rounded.

In reconciliation, Hortsch's report indicated that the sales comparison approach to value was accorded the primary emphasis with substantial support from the income approach to value. The appraiser's final estimate of value for the subject was $11,835,000, as of January 1, 2004.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the

parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value for ad valorem tax purposes.

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

The Property Tax Appeal Board places diminished weight on the board of review's submission of the Hortsch appraisal. The Board finds that the appraiser did not appear at the hearing to undergo cross-examination regarding his credentials and the methodologies applied in the appraisal. The Board finds that the appraiser's claim in the appraisal that "we were unable to gain access to the subject" was not supported by any testimony explaining the nature of the requests for inspection and the reasons for refusal. The appraiser failed to provide evidence that there was any attempt view the public areas of the interior or to contact ownership to arrange access to the private areas.

Next, the Board finds that the properties utilized by Hortsch in the sales comparison approach are dissimilar to the subject. The Board finds that one of the properties is a warehouse and the remaining four, while retail in nature, are stand alone buildings without connection to or association with a mall. These retail comparables differ from an anchor department store attached to a regional mall like the subject property. In addition, the Board finds that despite differences between the comparables and the subject, the appraiser only adjusted for size and land to building ratios. Therefore, the Board places very little weight on Hortsch's sales comparison approach.

The Board also accords the income approach contained in the Hortsch report very little weight. The Board finds that the appraisal's data was vague and fails to indicate what if any adjustments were made to the rent comparables. The Board also finds that Hortsch's deduction for the reserves for replacement of 58.2% of the PGI unsupported by any reliable source or data. Further, the Board finds that the deduction of 3.0% of the EGI for a management fee inconsistent and unsupported by any reliable source or data. In addition, the report fails to indicate what if any reliable sources or surveys were employed to estimate a capitalization rate applicable to the subject property.

The Board finds the best evidence of market blue in the record is the Ryan appraisal of the subject property and the supporting testimony of the appraiser presented on behalf of the appellant. The Board places primary weight on the Joseph Ryan's sales

comparison approach to value. Ryan developed a sales comparison approach using nine improved comparables with similar attributes as the subject property. The Board finds that Ryan's use of the comparables sales approach composed of single occupant department story buildings in regional malls an appropriate selection of comparable properties. The sales comparison approach is the preferred method when assessing real property for taxation purposes and should be used when market data are available. Cook County Board of Review v. Illinois Property Tax Appeal Board, 384 Ill.App.3d 472, 480, 894 N.E.2d 400, 323 Ill.Dec. 633 (1st Dist. 2008) The Board finds that Ryan’s selection and examination of sales that occurred were near the assessment date at issue and were very similar: in use; in size; and in age to the subject. The Board finds that Ryan’s adjustments to the comparables were reasonable and credible. The comparables sold for prices ranging from $25.45 to $50.07 per square foot of building area. The Board finds that Ryan's estimated value of $40.00 per square foot of building area, or $8,450,000, land included, is within in the range of the comparables and supported by the adjustments Ryan applied to the comparables.

The Board finds that appellant's appraiser's income approach to value was thorough with specific adjustments made to each of the rent comparables. The Board finds that the data utilized throughout the appellant's appraisal was supported by reliable nationally known surveys. Therefore, the Board accords the Ryan's income approach to value supporting weight. Next, the Board finds that the appellant's appraiser's reconciliation followed the reasoning set forth in his testimony and appraisal.

In conclusion, the Board finds the appellant's appraiser presented the most credible testimony and most persuasive evidence of the subject's market value as of January 1, 2004. Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of $8,600,000, as of January 1, 2004. Since the fair market value of the subject has been established, the Board finds that the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A properties shall apply and a reduction is accordingly warranted. (86 Ill.Adm.Code 1910.50(c)(3).

Lbs/09

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: February 23, 2010

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.