FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Von Maur, Inc.
DOCKET NO.: 04-22953.001-C-3
PARCEL NO.: 04-27-103-018-0000

The parties of record before the Property Tax Appeal Board are Von Maur, Inc., the appellant, by attorneys Gregory J. Lafakis and Ellen Berkshire of Verros, Lafakis, & Berkshire, P.C. in Chicago; and the Cook County Board of Review by attorney Ralph Proietti of the Cook County State's Attorney's Office.

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:	$ 212,926
IMPR.:	$ 2,409,074
TOTAL:	$ 2,622,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of an 86,205 square foot site improved with a two-story, masonry constructed anchor department store containing 162,450 square feet of aggregate building area. The subject building was constructed in 2003 and is part of the Glen Town Center, a mixed-use retail/residential development located in Glenview, Illinois. The subject has a land to building ratio of 0.53:1.

The issue in this appeal is the determination of the correct market value of the subject property for assessment purposes as of January 1, 2004.

The appellant contends the assessment of the subject property is excessive and not reflective of the property's market value. The appellant contends the subject property had a market value of $6,900,000 as of January 1, 2004. In support of this argument the appellant submitted an appraisal of the subject property prepared by Joseph M. Ryan, president of LaSalle Appraisal Group, Inc.

Ryan was called as the appellant's witness. Ryan testified that he is a State of Illinois Certified General Real Estate Appraiser with a Member of the Appraisal Institute (MAI) designation. Ryan also testified that he has appraised over 50 anchor department stores throughout his career. After an examination of Ryan's appraisal experience, he was accepted as an expert witness by the Property Tax Appeal Board without objection from the parties.

Ryan identified the appellant's appraisal report as the appraisal of the subject property he had prepared and identified for the record as Appellant's Exhibit #1. The appraisal was described as a summary report of a complete appraisal. The witness explained that the purpose of the appraisal was to estimate the fee simple market value of the subject property as of January 1, 2004. Ryan testified that he performed an interior and exterior inspection of the subject on December 22, 2004 as well as subsequent visits to the property. Ryan testified that the highest and best use of the subject as vacant was for commercial development, and as improved for continued use as a retail department store.

Ryan described the subject as being located in the Glen Town Center, a brand-new, mixed-use development located between Willow Road and Lake Street along Patriot Drive in Glenview, Illinois. Ryan asserted that big box retail competitors are located on the higher traffic thoroughfare of Willow Road, whereas, the subject is located in the middle of the Glen Town Center development. The witness also asserted that the subject was well removed from any expressway, whereas, anchor department stores are normally located in shopping centers just off major expressways. Ryan testified that upon his inspection of the subject he had some misgivings regarding the ultimate success of this type property in this location. Ryan testified that another misgiving was that the subject basically stood alone, in that the only other anchor was a sporting goods store, whereas, the subject property is surrounded by well-established shopping malls with better locations.

The witness explained that the appellant entered into an agreement with the developer requiring Von Maur to operate the subject property as a department store for 20 years. Ryan explained that having spoken with Mr. Terrence Kilburg, Chief Financial Officer for Von Maur Department Stores; the subject parcel was deeded over at no cost to the appellant to develop the site. Ryan further explained that Von Maur's cost to construct the improvement was $11,176,000, of which a subsidy in the amount of $5 million was awarded by the developer and/or city for a net cost to Von Maur of $6,175,000. Ryan testified that discussions with Mr. Kilburg suggested that without the subsidy awarded to the appellant, the subject would never have been constructed. Ryan also testified that it is fairly typical in the industry for anchor department stores to be provided land at no charge or given a discount to encourage the development of the site.

Ryan used two of the three approaches to value; the income approach and the sales comparison approach. Ryan testified he did not use the cost approach because market participants for properties such as the subject do not give that method of valuation any weight.

The first approach to value developed by Ryan was the sales comparison approach. Under the sales comparison approach Ryan used eight sales located in Illinois, Ohio and Michigan. The witness also used one listing comparable located in Illinois. The comparables consist of anchor department stores ranging in effective age from five to thirty years old. The comparables range in parcel size from 56,192 to 755,330 square feet with land to building ratios ranging from 0.27:1 to 3.65:1. Some of the sales are located on pad sites with some located on larger sites. The improvements range in size from 94,341 to 254,720 square feet of building area. The sales occurred between January 2000 and September 2003 for prices ranging from $2,750,000 to $10,215,000 or from $22.99 to $50.07 per square foot, including land. After making adjustments, as well as comparing and contrasting the comparable properties to the subject, Ryan concluded a unit value range of between $40.00 and $45.00 per square foot. Based on these sales Ryan estimated the subject had an indicated market value of $42.50 per square foot of building area, including land, resulting in a total estimate of value of $6,900,000, rounded for the subject as of January 1, 2004.

As a check of this estimate, Ryan considered three national sales located within regional or super-regional shopping centers in Colorado and Texas. The three properties sold in 2004 for prices ranging from $3,500,000 to $7,000,000 or from $33.52 to $34.82 per square foot of building area, including land. The witness explained that although his value estimate of $42.50 per square foot is above this range, the estimate appears reasonable in that the subject is a brand new, one-year-old property.

The next approach to value developed by Ryan was the income approach. The witness explained that the initial step under the income approach was to estimate the subject's potential gross income using market rent. To estimate the subject's market rent Ryan used eight rental properties, all anchor department stores, located in Illinois, Indiana or Michigan. They range in building size from 79,247 to 297,000 square feet with lease dates ranging from 1997 to 2003. The rental properties represent a unit rental range between $3.25 and $7.25 per square foot of building area, or 1% of gross sales. They were all on a net basis with the tenant paying all operating expenses. Ryan reconciled his figure for the subject at a $5.00 per square foot annual rental rate.

Ryan verified his market data with the publication <u>The Dollars & Cents of Shopping Centers</u>, the 2004 edition, published by the Urban Land Institute. It revealed that department stores in super-regional malls in the Midwest had sales that ranged from $146.00 to $153.00 per square foot and department stores in regional malls had sales that ranged from $126.00 to $136.00 per square foot. The subject's sales per square foot from October 2003 to October 2004 were $87.50 and projected to increase to

$98.50 by year end. Since the subject was a brand-new property, Ryan stabilized the subject's sales at $145.00 per square foot. Dollars and Cents disclosed that regional shopping centers would lease at 1-3% of gross sales. Since the subject property is a high end department store, Ryan estimated a percentage rent of 3%. The subject's market rent based on retail sales per square foot of building area is (3% x $145.00/SF) $4.35 per square foot. Based upon this information, the witness testified he was comfortable using a figure of $5.00 per square foot on a net basis. Thus, the subject's potential gross income was estimated to be $812,250.

Ryan estimated the subject property would have a vacancy and collection loss of 7% or $56,858. Deducting 7% for the vacancy and collection loss resulted in an effective gross income of $755,392. Ryan estimated operating expenses of $0.30 per square foot or $48,735 should be deducted. Ryan based this figure upon a report published by The Institute of Real Estate Management (IREM). After deducting for vacancy and collection losses as well as operating expenses, the witness determined the subject's net operating income to be $706,657.

Ryan next estimated the capitalization rate using data from the direct capitalization approach as well as the band of investment technique. Ryan consulted with the Korpacz Real Estate Investor Survey, First Quarter 2003, wherein overall rates ranged from 7.25% to 10.00% for regional malls. The witness determined that anchor department stores have greater risk because of their size and limited number of potential users, and therefore, Ryan relied on a capitalization figure of 10%. Ryan then applied a tax load of 0.45% to this figure. Using a capitalization figure of 10.45% when applied to the subject's net operating income, the witness opined a value, via the income approach of $6,775,000, rounded for the subject as of January 1, 2004.

In reconciling the two approaches to value, Ryan placed the most weight on the sales comparison approach with significant weight on the income approach. Ryan was of the opinion the subject property had a market value of $6,900,000 as of January 1, 2004.

Under cross-examination by the board of review, Ryan testified that in order to make comparisons to the subject he made qualitative adjustments to the sales comparables. Ryan also testified he verified the terms and conditions of each comparable sold with either the seller or buyer to the transaction. Ryan further testified he inspected all of the comparable sales as well as the comparable rentals used in the report.

The witness testified he considered the Old Orchard Mall, the Northbrook Court Mall and the Woodfield Mall to have superior locational attributes as compared to the subject. In addition, the witness testified he considered the subject property to be a destination location, whereas, Old Orchard, Northbrook Court and Woodfield Mall have a higher developed retail presence with more anchor store choices. The witness considered the Glen Town Center more of a lifestyle center rather than a regional mall.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final total assessment of the subject for $4,459,223 was disclosed. The subject's assessment reflects a market value of approximately $11,734,797 using the Cook County Real Property Classification Ordinance of 38% for 5A commercial property, such as the subject. The board of review also submitted what is termed "A Retrospective Appraisal of a Single Tenant Department Store Building Located at 1960 Tower Drive, Glenview, Illinois". The appraisal report was identified for the record as Board of Review Exhibit #1. The report was dated November 23, 2005 with an effective date of valuation of January 1, 2004. The author of the report is Jeffrey M. Hortsch, an Illinois State Certified General Real Estate Appraiser. Mr. Hortsch's report included two of the three approaches to value, the sales comparison approach and the income approach. The sales comparison approach was estimated at $12,185,000 and the income approach was estimated at $12,415,000. The appraiser reconciled his final opinion of value at $12,200,000. The appraiser was not tendered to the Property Tax Appeal Board as a witness. The board of review did not provide any other party as a witness to support its findings.

After hearing the testimony and reviewing the record, 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 issue before the Property Tax Appeal Board is the determination of the market value of the subject property as of January 1, 2004 for assessment purposes.

According to the Cook County Real Property Classification Ordinance 5A commercial property, such as the subject, is to be assessed at 38% of fair cash value. Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). After considering the evidence and testimony provided by the parties, the Board finds a reduction in the subject's assessment is warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. The appellant argued that the subject property had a market value of $6,900,000 as of the assessment date based on the appraisal and testimony provided by Ryan. The subject property had a final assessment, as established by the board of review, of $4,459,223, which reflects a market value of approximately $11,734,797 using the Cook County Real Property Classification Ordinance for 5A commercial property at 38% of the subject's market value.

First, the Board finds the parties were in general agreement that the subject property was part of the Glen Town Center, a mixed-use retail/residential development located in Glenview, Illinois. The Board further finds Ryan considered the Glen Town Center more of a lifestyle center rather than a regional mall.

Both parties developed an income approach to value. The board of review developed an income approach to value and arrived at a value estimate of $12,415,000. However, the board of review did not present any witnesses to be examined and cross-examined as to the credibility and the reliability of the appraisal report. As a result, the Board gives the board of review's analysis no weight. Ryan developed an income approach to value as a check on his sales comparison approach, which received the most consideration.

Ryan utilized eight rentals of department store properties to establish market rent. The eight comparables are located in the Midwest region. Lease dates ranged from 1997 to 2003 and the range of the comparable rentals was from $3.25 to $7.25 per square foot on a net basis. Ryan reconciled his figure for the subject at $5.00 per square foot.

Ryan verified his market data with the publication <u>The Dollars & Cents of Shopping Centers</u>, the 2004 edition, published by the Urban Land Institute. It revealed that department stores in super-regional malls in the Midwest had sales that ranged from $146.00 to $153.00 per square foot and department stores in regional malls had sales that ranged from $126.00 to $136.00 per square foot. Since the subject was a brand-new property, Ryan stabilized the subject's sales at $145.00 per square foot. <u>Dollars and Cents</u> disclosed that regional shopping centers would lease at 1-3% of gross sales. Since the subject property is a high end department store, Ryan estimated a percentage rent of 3%. The subject's market rent based on retail sales per square foot of building area is (3% x $145.00/SF) $4.35 per square foot. Based upon this information, the witness testified he was comfortable using a figure of $5.00 per square foot on a net basis.

Moreover, the Board finds Ryan's figure of 7% for vacancy and collection loss is closely reflective of the market. Ryan also relied on industry figures published by The Institute of Real Estate Management to determine operating expenses of $0.30 per square foot. Due to the subject's size as well as the risk associated with anchor department stores, Ryan selected a figure of 10.45% for a capitalization rate. This, too, is a reasonable estimate considering the subject's risk factor. Therefore, the Board finds Ryan's conclusion of value of $6,775,000 to be the best indicator of the subject's market value by the income capitalization approach.

The appellant and the board of review also developed a sales comparison approach to value. The board of review concluded a value of $12,185,000 by the sales comparison approach. However, again, the board of review did not tender a witness at the hearing to either explain or substantiate the board's findings. Without a witness subject to examination and cross-examination, wherein the Board can observe the credibility of the witness, the Property Tax Appeal Board cannot give the board of review's report any weight.

In keeping with the Chrysler Corporation v. Property Tax Appeal Board 69 Ill.App.3d 207, 387 N.E.2d 351 (1979), Ryan placed the most weight on the sales comparison approach to value. Ryan used eight comparable sales located in the greater Midwest region. Ryan also considered one listing comparable. The sales all occurred within four years of the assessment date at issue. Sales prices ranged from $22.99 to $50.07 per square foot of building area, including land. Ryan testified that the subject is newer than the comparable sales but is not located in a traditional department store location. Ryan also testified that the subject is an upscale fashion department store that typically would be located in either an upscale mall or a traditional-mix mall. Therefore, based upon the subject's superiority in terms of age and considering the subject's atypical location, Ryan arrived at a unit value for the subject of $42.50 per square foot of building area, including land. The Property Tax Appeal Board finds this is a reasonable unit value for the subject property. The Board further finds that Ryan's testimony and conclusions of value are both credible and reasonable.

The Property Tax Appeal Board finds that the best evidence of the subject's market value is the Ryan appraisal report. The board of review's evidence was given little weight due to the lack of any witnesses on their behalf whose demeanor could be observed and be subject to examination and cross-examination.

In conclusion, the Property Tax Appeal Board finds the subject had a market value of $6,900,000 as of January 1, 2004. Since market value has been determined, the correct assessment for the subject, a class 5A property, as mandated by the Cook County Real Property Classification Ordinance of 38% of market value shall apply. 38% of the subject's correct market value of $6,900,000 is $2,622,000. Since the subject's current assessment is $4,459,223, a reduction is warranted.

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

Acting 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: January 20, 2012

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.