

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Hawthorne National L.L.C.
DOCKET NO.: 04-23456.001-C-3 and 04-23456.002-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.

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, 2004 and an estimated market value of \$10,000,000.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change 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> |
|------------------|---------------|-------------|--------------------|--------------|
| 04-23456.001-C-3 | 16-33-400-001 | \$2,964,755 | \$2,195,629 | \$5,160,384 |
| 04-23456.002-C-3 | 16-33-400-005 | \$ 2,472 | \$ 0 | \$ 2,472 |

Subject only to the State multiplier as applicable.

PTAB/882JBV

At hearing, the appellant's 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 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.

Buchaniec testified with respect to the 2004 evidence and appraisal. The appraiser gave an estimate of market value for the subject property as of the effective date of January 1, 2004 of \$10,000,000. The appraiser developed the cost and income approaches to value in estimating the subject's market value. The cost approach indicated a value of \$10,135,000, rounded, while the income approach indicated a value of \$9,600,000, rounded. Buchaniec testified that he researched the market for comparable sales and could not find any similar properties; therefore, he did not undertake a sales comparison approach to value.

The appraisal determined the highest and best use to be the same as established in the 2002 appraisal: industrial use as vacant and continued use as improved.

In the cost approach, the appraisal analyzed eight land sales. These properties sold from June 2001 to July 2004 and ranged in size from 42.622 to 117.35 acres and in sale price from \$64,325 to \$112,245 per acre. As in the 2002 appraisal, adjustments were made for differences between the comparables and the subject. Again the appraisal separates the land in various sections based upon the soil and subsoil conditions to arrive at a value for the 35.4 acres of buildable land at \$95,000 per acre. The remaining sections were valued at a percentage of the buildable acres value to arrive at an average value of \$53,480 per acre.

The appraisal utilized the Marshall & Swift's 'SwiftEstimator' to estimate a replacement cost new for the improvements. Again, 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 \$19,646,416. Based on an effective age of 25 years, the appraisal used 'SwiftEstimator' to compute physical deterioration for the clubhouse/grandstand at

54%; the stables were estimated to have an effective age of 34 years for a computed depreciation of 68%. The appraisal indicates that an additional percentage of depreciation for external obsolescence will be taken because the subject property is not fully utilized for all 365 days of the year. The body of the appraisal states this percentage is 25%, but the summary of the cost approach and actual calculation are at 30%.

The appraisal then estimates the depreciated value of the other buildings/site improvements at \$346,556. Adding the land value resulted in a final value estimate, under the cost approach, of \$10,135,000, rounded.

Buchaniec testified that there are several removable stables located on the subject property that were not included in the appraisal as they were considered personal property. The appellant then presented Appellant's Exhibit C, a copy of a Complaint for Replevin in the Cook County Circuit Court. The Complaint seeks personal property owned by the appellant, which includes some of the stables located on the subject property.

Buchaniec also testified that the nearby race track, Sportsman's Park, closed and they were using the subject property which increased the number of racing dates for the subject considerably.

The appraisal indicates that the subject is encumbered by leases from January 1, 2003 to December 31, 2101 for a base rent of \$2,000,000 the first year and \$3,000,000 the remaining years. There is also a term for percentage rent at 20% of the lessees' earnings that exceed the base rent. The appraisal indicates the lease and subleases are not arm's length transactions and do not indicate the market value of the subject. Buchaniec testified that the parties to the leases were part of the ownership of the subject party.

The 2004 appraisal also notes 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 appraisal also uses the gross on-site handle to estimate income as if the owner were leasing the property to an operator. The appraisal opines that 2% of the gross on-site handle is appropriate. The appraisal analyzed the site-specific, on-track handle for calendar years 2001 through 2003 and reduces it to dollars per allocated program for racing features. The appraisal notes that the subject had 77 days of racing or programs in 2001 for \$463,460 per program, 66 programs in 2002 for \$594,804 per program, and 164 programs in 2003 for \$357,347 per program. The income was stabilized at 160 programs and \$350,000 per program for a total stabilized on-track handle of \$56,000,000. Applying the 2% rental from this handle yields an anticipated annual rent of \$1,120,000 for the subject property.

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 \$112,000. The net income was estimated at \$1,008,000.

A capitalization rate was then estimated by analyzing market rates and bond yield percentages for first quarter 2004. The appraisal opined that because of the inherent risks to the ownership and rental of the subject, an appropriate investor-driven capitalization rate requirement would be between 400 and 500 basis points over the 6.44% of the Corporate Bond (Baa) rate. The appraisal selected a capitalization rate of 10.5% which yields a total value for the subject property under the income approach of \$9,600,000, rounded.

In reconciling the various approaches, the appraisal gave primary reliance to the cost approach and secondary reliance to the income approach. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2004 to be \$10,000,000.

On cross examination, Buchaniec opined that the income approach was the most appropriate approach to value the subject in 2002 and that the cost approach was the most appropriate to value the subject in 2004 because of the new leases in place with many interrelated parties involved and that the cost approach support the 2002 value.

Buchaniec acknowledged that the handle in the income approach increased from \$35,686,420 in 2002 to \$58,604,846 in 2004. He again testified that the handle utilized in the income approach was the on-site handle. Buchaniec was questioned in regards to the on-site handle versus the total handle. Buchaniec reviewed the Illinois Racing Board information submitted as part of the addendum of the appraisal and testified that, for 2003, the total handle from all sources was approximately 10 times that of the on-site handle. He stated the income increased over 50% between the 2002 appraisal and the 2004 appraisal because Sportsman's Park closed and the subject was allocated its race days.

In response to questions, Buchaniec testified that he used the 2% royalty in the 2004 appraisal as he did in the 2002 appraisal, but that his data was starting to get out-dated for the 2004 appraisal. He opined that the quality of data for the cost approach was better for the 2004 appraisal than the data for the income approach which is why he put more reliance on the cost approach.

Buchaniec testified that the external obsolescence changed from 50% in the 2002 appraisal to 25% or 30% in the 2004 appraisal because the track usage in 2004 increased.

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 when using the Cook County Real Property Classification Ordinance for Class 5A property of 38%.

In support of this market value, 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. No adjustments were made to these properties and the printouts indicate the "information obtained from sources deemed reliable but not guaranteed". 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 2004 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 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 finds that the subject property's assessment is generally reflective of its market value and that a reduction in the assessed value is not 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 12 land sales that range in size from 22 to 117.35 acres. These properties sold between June 2001 and June 2005 for prices ranging from \$64,325 to \$260,000 per acre. Adjustments were made to the appellant's appraisal's land sales and the PTAB finds the appraiser's estimate of market value for the land at \$95,000 per acre 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 calculated a value for the improvements at \$3,749,907.

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.

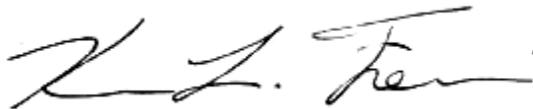
The appraiser testified that there were no comparable sales within the subject's market to conduct a sales comparison approach to value. However, the board of review submitted one improved sale, a racetrack, located adjacent to the subject property. This property sold in July 2003 for \$12,768,000 or \$372,115 per acre. A review of the documentation for this sale and the appellant's appraisal show that the seller for this property has the same name as one of business owners of the subject's racetrack. This property was sold to the Town of Cicero for a redevelopment project. As this is a change in use, the PTAB finds this sale may not be as reflective of the market for the subject.

Based upon this evidence, the PTAB finds the fair market value of the subject property as of January 1, 2004 as reflected by the assessment of \$13,586,463 or approximately \$113,789 per acre, including improvements, is supported by the market data in the record. Based on this record the PTAB finds a change in the assessment of the subject property is not 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.



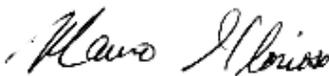
Chairman



Member



Member



Member



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

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.