



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Harris Bank
DOCKET NO.: 04-25643.001-C-3
PARCEL NO.: 07-09-300-012-0000

The parties of record before the Property Tax Appeal Board are Harris Bank, the appellant, by attorney Patrick C. Doody of The Law Offices of Patrick C. Doody and Corey M. Novick of C. Michael Novick, LLC, Chicago; the Cook County Board of Review by Assistant State's Attorney Joel Buikema; and the Palatine Township High School District #211, and Schaumburg Community Consolidated School District #54, intervenors, by attorney Scott Metcalf of Franczek Radelet P.C., Chicago.

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: \$ 604,200
IMPR.: \$ 205,200
TOTAL: \$ 809,400

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 224,334 square foot parcel improved with a two-story owner occupied branch bank building containing 20,280 square feet of building area constructed in 1976. The improvement's exterior is steel frame, glass and concrete block. Interior finishes consist of ceramic tile, painted or vinyl covered drywall, carpet, and suspended acoustical tile ceilings. Site improvements include asphalt pavement, concrete walk ways, miscellaneous landscaping, and a canopied six lane drive through teller area. The subject is located in Schaumburg Township, Cook County.

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 summary report of a complete appraisal with an effective date of January 1, 2004 (Appellant Exhibit 1) and presented the testimony of the appraisal's author, Joseph M. Ryan of LaSalle Appraisal Group, Inc. Ryan testified he is a State of Illinois certified appraiser; is also a licensed real estate appraiser in Michigan and Indiana; holds the designation of Member of the Appraisal Institute (MAI); has been employed with the LaSalle Appraisal Group since 1991; has appraised more than 100 properties similar to the subject; and has been qualified as an expert witness before various tribunals in Illinois, Wisconsin and Michigan. Ryan was accepted as an expert witness without objection.

The witness testified he made a personal complete interior and exterior inspection of the property on May 31, 2005. Ryan testified the subject was appraised as fee simple for *ad valorem* tax purposes. Ryan then described the subject property and its environs. Using the sequential tests of highest and best use, the appraiser opined that the subject's highest and best use as vacant would be for commercial use and that continuation of its use as a branch bank building is its highest and best use as improved. The subject's remaining economic life was estimated to be 22 years based on an economic life of 50 years.

To estimate a total market value for the subject of \$2,130,000 as of January 1, 2004, Ryan employed the sales comparison approach to value. The witness testified that while he might have also done a cost approach and an income approach he would not have given them any weight. Ryan explained that he did not consider the cost approach viable as the subject improvement was 28 years old and no longer utilized as a banking headquarters as originally designed. He also explained that the income approach was not practical as the property is owner occupied and not easily converted to a multi-occupant/tenant facility.

Of the subject's total land square footage, 141,960 square feet of land was considered the primary site or economic site, while 82,374 square feet was considered surplus land. The appellant's appraiser testified he estimated a value for the subject's primary and surplus sites utilizing the sales of four parcels located in the subject's general area. Each sale was confirmed with a party to the transaction. These parcels sold from March 2002 to October 2002. The parcels range in size from 131,987 to 942,116 square feet of land area and sold for prices ranging from \$1,100,000 to \$8,000,000 or from \$7.38 to \$12.43 per square foot of land area. The appraiser adjusted the comparables location, size, configuration and other necessary items. After an analysis of the comparable land sales when compared to the subject, the appraiser estimated a unit value for the subject's primary site of \$8.00 per square foot of land area or \$1,135,000, rounded. The unit value estimated for the surplus land was \$5.50 per

square foot, or \$455,000, rounded. Thus, Ryan estimated a total value for the subject's land of \$1,590,000, rounded.

The witness testified that he found adequate actual market data for properties similar to the subject to apply the sales comparison approach to value. To estimate a value for the subject through the sales comparison approach, Ryan testified he analyzed the sales of five properties located in the same general area as the subject. The sales were confirmed through the transfer declarations and/or a party to the transaction. The properties consist of one or three story office buildings, four of which are single tenant buildings. The comparables contain from 12,000 to 120,000 square feet of building area and were constructed from 1972 to 1986. The buildings have land to building ratio ranging from 2.71:1 to 6.28:1. The comparables sold from March 2003 to November 2004 for prices ranging from \$910,000 to \$6,250,000, or from \$52.08 to \$96.60 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 \$82.50 per square foot of building area as a unit value for the subject including the primary site land, or an estimated market value of \$1,675,000. To this figure, the witness testified, the estimated value of the surplus land was added to estimate a total market value for the subject of \$2,130,000, rounded, using the sales comparison approach to value.

Ryan testified that his final estimate of value for the subject was \$2,130,000 as of January 1, 2004.

At the conclusion of his direct testimony, Ryan testified that he was fully confident that he appropriately analyzed the data and developed the best estimate of the most probable price the subject would bring between willing and able buyers and sellers in an open and free market as of January 1, 2004.

During cross-examination, Ryan testified that in his opinion despite its proximity to a large shopping mall and an interstate highway, the subject's location is not a prime location for a bank. Ryan reiterated his reasoning for not employing the cost or income approaches to value for the subject. When cross-examined about the division of the subject's parcel into primary and surplus land, the witness testified that the decision was made based on what would be required to develop the property to its highest and best use and the land to building ratios of the comparable properties.

Ryan was cross-examined regarding the selection of each of the land sale comparables, the improved sale comparables, and the adjustments made to each comparable. The witness recapped his direct testimony and elaborated on some of information contained in the appraisal. The witness indicated his confidence in the

comparability of the sales and reiterated the reasoning behind any adjustment made to the comparables. Ryan also corrected some typographical errors during his cross-examination. Throughout the extensive cross-examination of the appellant's witness by the board of review's counsel and the intervenor's counsel, he responded with alacrity and thoroughness.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's 2004 final total assessment of \$1,392,662 was disclosed. This assessment reflects a fair market value of \$3,664,900 or \$180.71 per square foot of building area land included, when the Cook County Real Property Assessment 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 February 2, 2006. 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.

Although the descriptive data contained in the Hortsch report is consistent with that contained in the Ryan report, Hortsch concluded an effective age of 15 years and a remaining economic life of 35 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 an office building.

In an account of the approaches to value in the appraisal, the author refers to an excess land value and suggests that a value for excess land will be added to the indicated values in the income capitalization and sales comparison approaches to value.

To estimate a value for the subject's excess land, Hortsch utilized the sales of five parcels located in the subject's general vicinity. The properties range in size from 121,556 to 281,663 square feet of land area; were sold from April 2002 to February 2005 for prices ranging from \$1,200,000 to \$3,379,500 or from \$9.28 to \$12.43 per square foot of land area. The report revealed that adjustments were made to the comparables for location, market conditions, size, zoning, and physical characteristics. The appraisal reflected an indicated unit value \$11.00 per square foot, or \$1,685,000, rounded, for 153,354 square feet of the subject's total 224,334 square foot parcel.

Hortsch's report addressed the income capitalization approach to value utilizing four rent comparables in office buildings. The appraisal indicated survey dates for these comparables of from April 2003 to February 2006. The rental units range in size from 4,250 to 20,392 square feet in buildings that were constructed from 1970 to 1999. The quoted rents were from \$10.50 to \$16.00 per square foot triple net. The report indicated that after an analysis of these rental properties, the appraiser concluded the subject's 20,280 square feet of building area would command an estimated \$11.00 per square foot triple net or a potential gross income (PGI) of \$223,080. The appraiser deducted 16.5% of the gross income, or \$36,808, from the PGI as vacancy and collection loss (V&C). The appraisal reported that the V&C deduction was based on CoStar Comps data. This calculation resulted in an effective gross income (EGI) of \$186,272. A management fee of 6.0% of the EGI, or \$11,176, was then calculated. The report also reflected that \$6,084 or 2.0% was also deducted for reserves for replacement from the EGI resulting in \$169,011 as the subject's net operating income (NOI). The Board's examination of the deduction for reserves for replacement indicated that 03.266% was the actual percentage deduction.

Placing emphasis on a debt coverage ratio model, the report indicated that Hortsch determined that 8.50% was an appropriate capitalization rate for the subject. Application of the capitalization rate of 8.50% to the NOI resulted in an estimated value for the subject of \$1,990,000 rounded. The appraiser then added the estimated excess land value of \$1,685,000 to conclude an estimated value for the subject of \$3,675,000 through the income capitalization approach to value.

The Hortsch appraisal next outlined the sales comparison approach to value describing the sales of four properties located in the subject's general area. The comparables are one-story single tenant office buildings ranging in size from 16,580 to 30,020 square feet of building area and in land area from 74,923 to 128,066 square feet. The comparables were constructed from 1977 to 1986. The sales occurred from November 2002 to November 2004 for prices ranging from \$1,400,000 to \$2,900,000, or from \$84.44 to \$96.60 per square foot of building including land. The report indicated that adjustments were made to the comparables for location, market conditions, age, condition, size, and land to building ratios. Based on the analysis, the report indicated that Hortsch estimated a unit value of \$98.00 per square of building area, or \$1,985,000, rounded. The record revealed that two of these sales were also submitted by the appellant's appraiser. The addition of the estimated excess land value resulted in an estimate a value for the subject of \$3,670,000 through the sales comparison approach to value.

In reconciliation, Hortsch's report indicated that the sales comparison approach to value was accorded the primary emphasis with support from the income approach to value. The appraiser's

final estimate of value for the subject was \$3,670,000, as of January 1, 2004.

The intervenors, Palatine Township High School District #211 and Schaumburg Community Consolidated School District #54, through counsel, appeared before the Property Tax Appeal Board arguing that the subject's 2004 assessment should be maintained. In support of this argument, the intervenors submitted a brief and copies of *CoStar Comps* sale summary reporting sheets for four sales (Intervenor Exhibit 1). The comparable properties are branch bank/office buildings built from 1954 to 1993. The comparables range in size from 4,992 to 22,862 square feet of building area and in land size from 22,900 to 150,065 square feet. These sales occurred from April 2000 to February 2002 for prices ranging from \$1,200,000 to \$3,575,000, or from \$156.37 to \$560.000 per square foot of building area. The sale summary sheets disclosed that no brokerage firms were employed for three of the sales; the same broker represented the buyer and seller for sale number two; sale number three was purchased by the tenant; and sale number four was between related parties. Further, the summary sheets revealed that the information reported was deemed reliable but not guaranteed.

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 finds the testimony and appraisal of Joseph Ryan to be the most credible evidence in the record of the subject's fair market value. Ryan prepared an appraisal consisting of the sales comparison approach to value

The Property Tax Appeal Board places diminished weight on the intervenor's evidence. The intervenor presented a brief and raw data from the sales of some properties. The Board finds that the intervenor failed to present any credible analysis or expert testimony concerning the suggested comparables' similarity or dissimilarity to the subject. Further, there are no adjustments to the sales for time of sale, conditions of sale, condition of the buildings, location, size, or any other factor used in a conventional comparative analysis. The intervenor also failed to

provide and credible evidence or expert testimony that these sales were arm's length in nature. Additionally, the intervenor failed to provide any independent documentation or testimony verifying the correctness of the *CoStar Comps* information. The Property Tax Appeal finds that the intervenor's submission of the unrefined sales data is to be given diminished weight.

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 to view the public areas of the interior or to contact ownership to arrange access to the private areas. Nor did the appraisal state the failure to inspect the property undermined his ability to arrive at an estimate of market value.

The Board finds both appraisers agreed the subject had excess land. However, when establishing a land value the Board finds the Hortsch appraisal lacks a clear explanation of the methodology utilized to establish the excess land square footage. The Board finds the Hortsch report also fails to establish a land value for the remaining or primary parcel or a total value for the subject's entire parcel. In contrast, the appellant's appraiser testified to the methodology utilized to establish both the square footage of the subject's primary and surplus land. In addition, Ryan testified about the methodologies utilized to select the land comparables; the adjustments for the typical considerations; and reasoning employed to estimate a total land value for the subject. Therefore, the Property Tax Appeal Board accords the appellant's appraiser's estimate of the subject's land value substantial weight and finds that the subject has a total land value of \$1,590,000 as of January 1, 2004, with the surplus land have a value of \$455,000.

The Board 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 is for 03.266% not the 2.0% reflected in the report. In addition, the report fails to indicate what if any reliable sources or surveys were employed to conclude a capitalization rate.

Next, Board places primary and substantial weight on the Joseph Ryan's sales comparison approach to value. Ryan developed a sales comparison approach using five improved comparables with similar attributes as the subject property. The Board finds that

Ryan's use of the comparables sales approach composed of single tenant office buildings 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 of \$52.08 to \$96.60 per square foot of building area. The Board finds that the Ryan's estimated value of \$82.50 per square foot of building area is within in the range of the comparables and supported by the adjustments Ryan applied to the comparables. Conversely, the board of review appraiser employed two of the same comparables but estimated a per square foot value for the subject above the range of the comparables.

The Board also finds that Ryan's addition of \$455,000 for excess land to the value estimated in the sales comparison appropriately increased the subject's estimated market value on the assessment date at issue.

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 the assessment date at issue. Based on the foregoing analysis, the Property Tax Appeal Board finds the subject property had a market value of \$2,130,000, 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.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: November 25, 2009

Allen Castrovillari

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.