PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Straus & Company
DOCKET NO.: 05-00975.001-C-1, 05-00976.001-C-2 and 05-00977.001-C-1
PARCEL NO.: SEE BELOW

The parties of record before the Property Tax Appeal Board are Straus & Company, the appellant; by attorney Denise K. Bates of Thomas, Mamer & Haughey, LLP, Champaign, Illinois; the Madison County Board of Review; and the intervenors, Collinsville Community Unit School District Number 10, by attorney Michael D. Hodge of Doster, Mickes, James, Ullom, Benson & Guest, LLC, Collinsville, Illinois; and Southwestern Illinois College, by attorney Van-Lear P. Eckert of Becker, Paulson, Hoerner & Thompson, P.C., Bellville, Illinois.

The subject property consists of a three story, 64 unit limited service hotel containing 31,041 square feet of building area that was constructed in 1994. The building is situated on a 4.22 acre site that encompasses three tax parcels. Features include sprinkler fire protection, an elevator, an indoor pool, dining area, and public restrooms. The subject property is commonly known as the Fairfield Inn.

By letter dated August 2, 2007, the Property Tax Appeal Board sent notice to the appellant, board of review and the intervenors setting the matter for hearing at 9:00 a.m., Tuesday, September 11, 2007. The taxpayer, appellant's counsel and the appellant's appraiser failed to appear before the Property Tax Appeal Board at the scheduled date and time.

Section 1910.69 (b) of the Official Rules of the Property Tax Appeal Board provides:

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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 **Madison** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO.	PARCEL NO.	LAND	IMPRV.	TOTAL
05-00975.001-C-1	13-2-21-29-06-101-006	$ 9,240	$ 0	$ 9,240
05-00976.001-C-2	13-2-21-29-00-000-022	$69,340	$808,423	$877,763
05-00977.001-C-1	13-2-21-29-00-000-023	$86,400	$ 0	$ 86,400

Subject only to the State multiplier as applicable.

PTAB/NOV.07/BUL-6556

> When a hearing is ordered by the Property Tax Appeal Board, **all parties shall appear for the hearing on the appeal on the date and at the time** set by the Property Tax Appeal Board. Failure to appear on the date and at the time set by the Property Tax Appeal Board shall be sufficient cause to default that party. (86 Ill. Adm. Code §1910.69(b)).

The board of review and the intervenors appeared before the Property Tax Appeal Board at the scheduled hearing date and time. At the hearing, the board of review presented the Property Tax Appeal Board's Hearing Officer with a facsimile transmitted on September 11, 2007, at 8:55 a.m. from the appellant's counsel. This same facsimile was transmitted to the Property Tax Appeal Board at 8:54 a.m., September 11, 2007. The facsimile was addressed to Walter R. Gorski, Member of the Property Tax Appeal Board and Kerry Miller, Chairman of the Madison County Board of Review.

The facsimile states: "Due to extenuating circumstances, we are unable to attend the hearing this morning at 9:00 a.m. at the Madison County Board of Review, Administration Building. We believe that we have good cause to request a continuance of this hearing. We believed that we had settled this matter as of 5:00 p.m. yesterday, September 10, 2007. However, I received a telephone call from Mike Hodge on behalf of the Collinsville Community Unit School District No. 10 at 10:15 p.m. last night, September 10, 2007, that we had not settled the case. At this point, it was too late for my client to get to the hearing this morning at 9:00 a.m. We apologize for this inconvenience, but we truly believed that we had this matter settled. We request that you not penalize our client, the taxpayer, for this situation. Please let us know as soon as possible how to proceed from here. We are again requesting a continuance of this hearing based on good cause."

The Property Tax Appeal Board hereby denies the taxpayer's request for a continuance. The Board finds the appellant's counsel failed to appear at the scheduled hearing date and time without being granted a continuance as allowed by section 1910.67(i) of the Official Rules of the Property Tax Appeal Board. (86 Ill. Adm. Code §1910.67(i)). The appellant's counsel's believed that the subject matter of this appeal had been settled at 5:00 p.m. the previous day, but was informed by telephone that evening from only one of the intervenor's counsel that the matter had not been settled. Thus, counsel claimed it was too late for her client to get to the hearing. The Property Tax Appeal Board finds this argument to be without merit.

Regardless of whether this appeal was settled or not, the taxpayer, appellant's counsel, and any potential witnesses should have been fully prepared for the hearing based on the merits of the appeal on September 11, 2007, 9:00 a.m. at the Madison County Administration Building, as were all other parties. Therefore, the Property Tax Appeal Board finds the appellant's counsel did not provide good cause for a continuance. Under these circumstances, the Property Tax Appeal Board finds the appellant to be in default pursuant to section 1910.69(b) of the Board's rules (86 Ill. Adm. Code §1910.69(b)). The Board subsequently continued with the hearing on the prescribed date and issues this decision in accordance with the evidence submitted by the parties and testimony elicited at the hearing.

The appellant submitted evidence before the Property Tax Appeal Board through counsel claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted an appraisal of the subject property using the three traditional approaches to value. The appraiser estimated the subject's fair market value to be $2,300,000 for the real estate only as of April 25, 2006. Inclusive of the real estate and on-going business concern value, the appraiser estimated the subject's fair market value to be $3,500,000 as of April 25, 2006. The appraisal report valued only one parcel (13-2-21-29-00-000-022), which contained 1.61 acres and the hotel, although the appellant filed assessment complaints on two additional parcels. The two additional parcels (13-2-21-29-00-000-023 and 13-2-21-29-06-101-006), are also owned by the taxpayer/appellant. They are contiguous with the improved parcel. Based on the appraisal, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment for all three parcels totaling $1,042,180 was disclosed. The subject's assessments reflect estimated market values of $3,123,105 using Madison County's 2005 three-year median level of assessments of 33.37%. The intervernors adopted the evidence submitted by the board of review.

In support of the subject's assessment, the board of review submitted an appraisal of the subject property prepared by Barry T. Loman. Loman was present at the hearing and is a state licensed appraiser who holds several professional designations in the field of real estate valuation. Loman estimated the subject's fair market value to be $2,917,000 as of January 1, 2005, using the three traditional approaches to value. Under the cost approach, the appraiser estimated the subject's fair market value to be $2,846,000. Under the sales comparison approach, the appraiser estimated the subject's market value to be $2,928,000.

Under the income approach, the appraiser estimated the subject's market value to be $2,906,000. In reconciliation, the appraiser placed most emphasis on the sales comparison and income approaches in concluding the subject property's fair market value of $2,917,000 as of January 1, 2005.

Loman provided direct testimony and was examined by the intervenors regarding the appraisal process, methodology and final value conclusion. Based on this evidence, the board of review and the intenvenors requested confirmation of the subject's assessment.

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. The Board further finds a reduction in the subject's assessed valuation is warranted.

The appellant submitted an appraisal claiming the subject's assessment was not reflective of its fair market value. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the preponderance of the evidence demonstrates the subject property is overvalued. Therefore, a reduction is warranted.

The Board gave no weight to the appraisal submitted by the appellant. The Board finds the appellant's appraiser and counsel failed to appear before the Property Tax Appeal Board at the designated place and time to present its case in chief, provide direct testimony and be cross-examined regarding the appraisal methodology and final value conclusion.

The Property Tax Appeal Board finds the board of review submitted an appraisal of the subject property prepared by Barry T. Loman. Loman estimated the subject's fair market value to be $2,917,000 as of January 1, 2005, using the three traditional approaches to value. Loman was present at the hearing and provided direct testimony and was examined by the intervenors regarding the appraisal process, methodology and final value conclusion. The Property Tax Appeal Board finds the board of review submitted the best evidence of the subject's fair market value. However, the Board finds the subject's total assessment for all three parcels reflects an estimated market value of $3,123,105, which is higher than the appraisal submitted by the board of review. Therefore, the Board finds a reduction in the subject's assessed valuation is warranted.

In summary, the Board finds the evidence submitted by the board of review demonstrates the subject property is overvalued by a preponderance of the evidence. Since fair market value has been established, the 2005 three-year median level of assessments for Madison County of 33.37% shall apply.

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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: December 7, 2007

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.