FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Sears #1840 Chicago Ridge
DOCKET NO.: 05-23585.001-C-3 & 06-29317.001-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 Lafakis & Ellen Berkshire of Verros, Lafakis & Berkshire, PC, Chicago; the Cook County Board of Review by Cook County Assistant State's Attorneys John Coyne & William Blyth; Ridgeland School Dist. No. 122, intervenor, by attorney Ares Dalianis of Franczek Radelet, Chicago; and South Cook County Mosquito Abatement District, intervenor, by Elizabeth Shine Hermes of Odelson & Sterk, Ltd., Evergreen Park. [1]

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***reductions*** in the assessments of the property as established by the **Cook** County Board of Review for 2005 and 2006 are warranted. The correct assessed valuation of the property is:

LAND:	$1,393,260
IMPR.:	$2,558,740
TOTAL:	$3,952,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 666,632 square foot site improved with a two-story masonry constructed anchor department store containing 211,311 square feet of building area. Included within the building area is a 22,424 square foot auto center. The building was constructed in 1981. The property is classified as a class 5-31 shopping center under the Cook County Real Property Assessment Classification Ordinance. The subject is part of the Chicago Ridge Shopping Center and is located in Chicago Ridge, Worth Township, Cook County.

[1] South Cook County Mosquito Abatement District only intervened in the 2006 appeal and adopted the evidence of the Cook County Board of Review and Ridgeland School Dist. No. 122.

A consolidated hearing was held for the 2005 and 2006 assessment appeals.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeals. In support of this argument, the appellant submitted an appraisal prepared by Joseph M. Ryan of LaSalle Appraisal Group, Inc. Ryan was called as a witness on behalf of the appellant. Ryan has the Member of the Appraisal Institute (MAI) designation from the Appraisal Institute and is an Illinois State Certified General Appraiser in Illinois and Michigan. He has appraised in excess of 25 anchor department stores in regional or super-regional malls. He identified Appellant's Exhibit #1 as the appraisal of the subject property he had prepared. Ryan was accepted by the Property Tax Appeal Board as an expert in the valuation of department store properties and allowed to give opinion testimony.

The purpose of the appraisal was to find the fee simple market value of the subject property as of January 1, 2005. The witness explained the subject property is an anchor department store located in Chicago Ridge, a suburb located a few miles west of the City of Chicago.

Ryan inspected the subject property on several occasions including in connection with a January 1, 2004 appraisal and a January 1, 2008 appraisal. For the 2005 appraisal Ryan conducted an interior and exterior inspection of the property on December 1, 2005.

Ryan described the subject as a two-story masonry constructed, owner occupied department store located at the north end of the Chicago Ridge Mall. The structure has approximately 211,000 square feet of building area with 22,400 square feet being an unfinished auto center. The size was determined from a survey from his client and spot measurements. The building was constructed in 1981 and he estimated the effective age to be 20 years old and the economic life was 40 years resulting in a remaining economic life of 20 years. Given the age and utility of the improvements, Ryan thought they were in good condition. Ryan also testified the subject had 666,000 square feet of land area based on a survey and checking with the assessor's land area data.

The witness explained the mall has a total building area of over 800,000 square feet, which meets the industry standard of being a super-regional mall. He was of the opinion the configuration was different or unusual for a super-regional shopping center with anchor stores at either end and a straight line of inline stores between the two anchors. He was of the opinion this was not an efficient layout.

Ryan explained the subject store is basically open and not partitioned with the larger portion on the second floor. He also explained the subject mall has had increased vacancies as the economy changed. Ryan testified that he performed a 2005 retail market overview for the Chicago market and determined that the mall concept was becoming obsolete and being replaced by freestanding, big-box retail stores.

Ryan determined the highest and best use of the subject site as vacant is for commercial use. He also determined the highest and best use of the subject property as improved was for continued use as an anchor department store building and auto center. He testified and indicated in the report the most probable buyer would be an owner/user.

In estimating the market value of the subject property Ryan developed the sales comparison approach and the income approach to value. The cost approach was not considered because he found no sales of anchor store sites and the property was 20 years old, which he opined was at the beginning of its declining life cycle making it difficult to discern depreciation. He further testified that based on conversations with others in the shopping center business and developers, they don't consider the cost approach in their investment decisions.

In developing the income approach Ryan first estimated the potential gross income using eight department store rental comparables located in Alton, Illinois; Anderson, Indiana; Normal, Illinois; Lansing, Michigan; Harper Woods, Michigan; and Southfield, Michigan. These comparables ranged in size from 79,247 to 297,000 square feet. Rental comparables #1 through #5 had lease terms that commenced from 1997 to 2003 for terms ranging from 15 to 20 years. The rental rates ranged from $3.25 to $7.25 per square foot, net. Rental #6 had a lease that commenced in 2003 for 2.5% of the gross retail sales over the breakpoint of $25,000,000, or $155 per square foot on a net lease basis. Rental #7 was the same property as comparable sale #1. It was leased for a 35 year term, with several 5 year options. After the sale, the lease was renegotiated for a rental rate of 1% of gross sales on a net lease basis. Rental #8 was an asking lease for a rental of $5.00 per square foot, with no offers on the property. This property had an auto center and has been on the market for two years. After making adjustments for lease date, size, location, age/condition and auto center, the appraiser estimated the subject would have a rental of $5.00 per square foot, net.

Ryan testified with respect to comparable #6, the property had not achieved $155 per square foot in sales so they had no rent. He further testified that the rent for comparable #7 was $2.00 per square foot based on 1% of retail sales of $200 per square foot. Ryan testified the rental comparables were located in regional malls.

Ryan tested the value estimate of market rent by consulting <u>Dollars and Cents of Shopping Centers: 2004</u>, a publication which is the industry standard for the study and analysis of retail shopping centers. In the report the appellant's appraiser explained that rents can be based on a percentage of retail sales. According to the appraiser from 1999 through 2004 the subject property had retail sales that declined from $214.83 per square foot in 1999 to $174.37 per square foot in 2004. He testified the subject's sales in 2004 of approximately $174 per square foot were above the average for the Midwest and in the United States but not in the top 10% of sales for super-regional malls. He stabilized the subject's sales at $185.00 per square foot, which was greater than the median sales for national department stores in the Midwest and on a national basis based on information from the Dollars and Cents of Shopping Centers: 2004. Based on additional information from the Dollars and Cents of Shopping Centers: 2004, Ryan estimated the subject would have a percentage rent of 2% to 3% of retail sales or from $3.70 to $5.55 per square foot, net. This estimate is greater than the $2.85 to $4.00 per square foot median rent for national department stores. Based on this analysis Ryan estimated the subject had a market rent of $5.00 per square foot on a net lease basis resulting in a potential gross income (PGI) of $1,056,555 using 211,311 square feet of building area, inclusive of the auto center.

Ryan next estimated the subject would suffer from a 7% vacancy and collection loss based on a marketing time of six months to a year and lease terms of 10, 15 and 20 years. The lease terms were estimated based on his rental comparables on page 60 of the report. Deducting 7% from the PGI resulted in an effective gross income (EGI) of $982,596. Ryan stated in his appraisal that under a net lease basis, the tenant pays all operating expenses and the landlord is liable for insurance, administration and management expenses. Using Dollars and Cents of Shopping Centers, the average per square foot expenses for these items was $.95 per square foot or 19% of PGI. He testified that industry sources indicate that 5% of gross potential income is closer to the norm. Ryan estimated expenses to be $.30 per square foot or $63,393. Deducting the expenses from the EGI resulted in a net operating income estimate of $919,203.

The next step under the income approach was to estimate the capitalization rate for the subject. In arriving at a capitalization rate he surveyed Korpacz Real Estate Investor Survey. He testified that anchor department stores have a higher degree of risk because of long term vacancy and because the market is limited to owner-user type department stores. He estimated a capitalization rate of 10%. In his report Ryan also developed the band of investment technique to arrive at a capitalization rate of 10.25%. On page 26 of his appraisal Ryan had estimated the subject had a tax burden of 8.32%. He explained that the owner would be responsible for the taxes while the property was vacant. He calculated a tax load for the subject to be .58% (.07 x .0832) which he added to the capitalization rate of 10% to arrive at an overall rate of 10.58%. Capitalizing the net income of $919,203 by the capitalization rate of 10.58% resulted in an estimated value under the income approach of $8,700,000, rounded.

The next approach to value developed by Ryan was the sales comparison approach. The appraiser used eight sales and one listing. The comparables were located in Lansing, Dearborn, Ann Arbor, and Livonia, Michigan; Columbus and Dublin, Ohio; and Lombard, Springfield and Matteson, Illinois. These comparables ranged in size from 94,341 to 254,720 square feet of building area. The comparables were constructed from 1951 to 1997 and Ryan estimated these buildings had effective ages ranging from 5 to 30 years old. The comparables had land areas ranging in size from 56,192 to 755,330 square feet with land to building ratios ranging from .27:1 to 3.65:1. The eight sales occurred 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. The property that was listed on the open market was located in Matteson, Illinois, with a listing date of June 2003 and a price of $4,000,000 or $22.99 per square foot of building area. The report described 8 of the comparables as being anchor department stores located in either a super regional mall or a regional power center. One comparable was composed of two concrete block buildings in a regional shopping center.

Ryan testified that power centers are anchored by a large, big box-type tenant and then populated by smaller big box type stores. Comparable #1 was located in a power center and used because it was an older property a little further along in the declining life cycle of department store type properties. Ryan testified comparable #2 was purchased by the mall owner, which is typically done to control the tenancy of the anchor department store. Ryan explained that Von Maur purchased comparables sales #3 and #4 through bankruptcy. He explained the sale was widely advertised throughout the department store industry and was by sealed bid supervised by the bankruptcy judge. With respect to sale #5 located in the Yorktown Shopping Center, Lombard, Illinois, the witness explained the buildings on this property were eventually torn down and replaced by more "category killer type stores." Ryan adjusted the price for comparable #6 to $6,395,000 because the property was on a long-term lease. Sale #6 and sale #7 were both purchased by the May Company from Marshall Field's/Target in March 2003. Ryan explained these properties were part of the same package but negotiated separately. Ryan explained that sale #8, located in White Oaks Mall, Springfield, Illinois, was purchased by the mall owner from the May Company. Ryan testified the listing was a JC Penney's store located in the Lincoln Mall, Matteson, Illinois. Ryan testified this property sold to Realty America, the owner of Lincoln Mall, for a price of $3,500,000 in 2005. The building was eventually razed.

Ryan made adjustments to these sales to account for condition of the sales, market conditions, location, size, presence of an auto center, age and land to building ratio. After making adjustments to the comparable sales Ryan was of the opinion the subject had a market value of $40.00 per square foot of building area, or $8,450,000, rounded.

As a check for the reasonableness of this conclusion, Ryan also included three sales of anchor department stores located in Denver, Colorado; El Paso, Texas; and Houston, Texas. These comparables ranged in size from 104,414 to 201,000 square feet of building area and in age from 8 to 15 years old. These properties had sites that ranged in size from 247,856 to 478,279 square feet with land to building ratios ranging from 2.37:1 to 3.00:1. The sales occurred from January to December 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. Sale #1 was purchased by the mall owner and the store was eventually razed. Sale #3 was sold to the mall owner and Ryan thought that store was still vacant. Ryan put these three national sales in the report to show there is a fairly defined market for department stores. He testified that department stores can only do so much in sales per square foot, so department store operators will only pay so much to occupy them.

Ryan testified he did not use big box stores located in the subject's market because they are not comparable to department store properties.

Ryan testified that if a property didn't have an auto center integrated into it, the property was considered superior to the subject because auto centers have lower sales per square foot and it precludes the sale to a party that isn't in the auto business. Sales #1, #5 and #8 plus the listing had auto centers. Ryan testified that he verified each of the sales and the listing.

In reconciling the two approaches, Ryan gave most weight to the sales comparison approach and estimated the subject property had a market value of $8,600,000 as of January 1, 2005. He further testified he was not aware of any significant changes in the subject property from January 1, 2005 to January 1, 2006 or from January 1, 2006 to January 1, 2007.

Under cross-examination the appraiser agreed the subject site has in excess of 700 feet of frontage along 95th Street. Ryan testified sale #1 was a leased fee sale and was 30 years older than the subject building. Ryan testified that sale #2 had only a 63,000 square foot site. Ryan testified sale #4 had a 75,000 square foot site. Ryan stated that his sale #5 was the only Chicago area sale, the building was subsequently torn down and the property redeveloped. Ryan agreed sale #6 had a pad site of 56,192 square feet. In the appraisal Ryan arrived at an adjusted sales price for comparable #6 of $6,395,000 or $31.81 per square foot of building area. Ryan was shown a page from another appraisal report he had prepared, Intervenor's Exhibit No. 3, using this comparable wherein he arrived at an adjusted sales price of $8,551,000 or $42.53 per square foot of building area.

With respect to the leases, Ryan agreed the lease date for rental #1 was 1997, approximately 8 years prior to the appraisal date. This rental was located in Alton, a smaller downstate community.

Ryan agreed the lease date for rental #2 was 1998, approximately 7 years prior to the appraisal date. This comparable was located in Anderson, Indiana, just outside Indianapolis. Ryan did not know whether the College Hills Mall associated with rental #4 was demolished subsequent to the 1998 lease date.

Ryan agreed that he left the 2004 Korpacz Investor Survey data in the report as a data source for developing a capitalization rate. When shown the 2005 Korpacz Investor Survey, Intervenor's Exhibit No. 2, he identified the overall capitalization rate for this type of property in the first quarter of 2005 as being 7.33%. The low end of the range was 5.5%.

Under further cross-examination, Ryan testified that a competent appraiser could not adjust a big box store sale to the value of an anchor store. He recalled preparing an appraisal for the Sears store located at 600 Lincoln Mall Drive, Matteson, Illinois as of January 1, 2005. He was questioned about a statement in that report that due to the lack of anchor sales we expanded our search to include local big box sales and adjusted accordingly. He remarked that if it is in the report, he made the statement.

Under redirect examination Ryan testified that Chicago Ridge has a population of 14,000 people while Alton and Springfield have populations of 45,000 and 100,000, respectively. Ryan also explain the differences in the adjusted prices for his comparable #6 in the two appraisals was based on the use of the ground lease in one report and the use of sales in another report. He also testified that changes in use of anchor stores or the demolition of anchor stores indicates they are no longer desirable.

He explained examples of big box stores are Wal-Mart, Target and Costco, which are usually single story 100,000 to 175,000 square feet structures located on a large site. He testified a good average dollar per square foot retail sales volume in an anchor store is $155 per square foot. He testified a good average dollar per square foot retail sales volume in a big box store is in excess of $300 per square foot.

Based on this evidence the appellant requested the subject's assessment reflect the appraised value of $8,600,000 for each of the years under appeal.

The board of review submitted its "Board of Review Notes on Appeal" for each appeal wherein the subject's total assessment of $6,085,755 for each of the years was disclosed. The subject's assessment reflects a market value of approximately $16,015,145 using the 38% level of assessment for a class 5-31 shopping center under the Cook County Real Property Assessment Classification Ordinance.

At the hearing, Cook County Assistant State's Attorney John Coyne introduced the board of review's evidence into the record which included the "Board of Review Notes on Appeal" (Form PTAB-6) and a retrospective appraisal of the subject property purportedly prepared by Jeffrey M. Hortsch, a State Certified General Real Estate Appraiser. The report, marked as BOR Exhibit #1, had an effective date of January 1, 2004, and contained an estimate of value for the subject property of $11,835,000. Coyne called no witnesses on behalf of the Cook County Board of Review.

The appellant objected to the appraisal contending there is no testimony from Mr. Hortsch giving the appellant an opportunity to test his experience, training and expertise or to question him with respect to the data he selected. The appellant argued that a written report without testimony is hearsay. At the hearing the Property Tax Appeal Board hearing officer allowed the report to remain in the record.

Ridgeland School Dist. No. 122 called as its witness real estate appraiser James A. Gibbons. Gibbons identified Intervenor's Exhibit #4 as containing the list of his qualifications as a real estate appraiser. Gibbons was accepted as an expert in the appraisal of commercial and retail real estate and allowed to provide opinion testimony. Gibbons prepared a narrative appraisal of the subject property which he identified as Intervenor's Exhibit #1. He testified the appraisal is a summary report format issued June 6, 2007 of the subject property. The appraisal was submitted by the intervenor for both the 2005 and 2006 appeals. The purpose of the report was to estimate the market value of the property as of January 1, 2005 and it was to be used in connection with the pending appeals before the Property Tax Appeal Board.

Gibbons testified he inspected the subject on numerous occasions including the spring of 2007 with the last inspection the weekend before the scheduled hearing. He viewed the exterior of the property, walked through the public areas and viewed the mall as well as the surrounding areas. He testified he was also familiar with the property due to his residing in the area and shopping at the mall. The property rights appraised were the fee simple interest, free and clear of all encumbrances.

Gibbons testified the subject property is located on West 95th Street, also known as U.S. Highway 12/20, two miles from interchange with Harlem Avenue and Interstate 294. He described 95th Street as a major commercial east-west arterial road. The witness further explained the subject has the prime location in the Chicago Ridge Mall due to its 722 feet of frontage along west 95th Street and direct access with a traffic light at the center of the property. He further testified that there is additional access at a four-way traffic light along the west ring road and the property has commercial exposure with the intersection of Ridgeland Avenue and 95th Street. He also described Chicago Ridge Mall as a super-regional mall with approximately 833,000 square feet.

Gibbons described the subject property as a one and part two-story department store building that includes an integral auto service center. The building is of concrete block construction with masonry face brick. The building has 211,311 square feet of building area with approximately 25,000 square feet as an auto center. The witness testified the building was constructed in 1981 and is in average to good condition.

Gibbons was of the opinion the highest and best use of the subject as vacant would be for commercial development. His opinion of the highest and best use as improved is for the continued use of the current improvements.

Gibbons developed all three approaches in estimating the market value of the subject property. The first approach developed by Gibbons was the cost approach with the initial step being to estimate the value of the land. He used four land sales located in Oak Lawn that ranged in size from 125,017 to 216,369 square feet of land area. Each land sale was zoned commercial. The sales occurred from September 2002 to May 2005 for prices ranging from $2,175,000 to $8,314,000 or from $17.40 to $40.21 per square foot of land area. Gibbons testified land sale #1 was improved with a Holiday Inn Hotel which was demolished and replaced with a Target department store. He testified this area had an inferior traffic count of 38,000 vehicles compared to the subject's 50,000 vehicles. Land sale #2 is located across the street from the subject. Land sale #3 is located three blocks west of the subject. The witness testified the buyer of land sale #4 had to demolish an existing building in order to construct an automobile dealership. He was of the opinion this site was inferior to the subject in location. Based on these land sales the appraiser was of the opinion the subject's site had a value of $15.00 per square foot of land area or $10,000,000, rounded.

In estimating the replacement cost new of the improvements the appraiser used the Marshall Valuation Service cost manual. The appraiser used a blended square footage cost due to the distinct auto center and department store components. The appraiser estimated the subject building had a replacement cost new of $97.15 per square foot of building area or $20,528,864. To this the appraiser added $1,000,000 for the site improvements to arrive at a replacement cost new of $21,528,864. The appraiser estimated depreciation using the age-life method. He was of the opinion the subject had an effective age of 20 to 25 years old and an economic life of 40 to 45 years resulting in depreciation from all causes of 55% or $11,840,875. Deducting depreciation resulted in a depreciated improvement value of $9,687,989 to which he added the land value of $10,000,000 to arrive at an estimate of value under the cost approach of $19,690,000.

The next approach developed by Gibbons was the income capitalization approach. Gibbons first estimated the market rent of the subject using five comparable rentals located in Chicago, Orland Park, and Schaumburg, Illinois. Rental comparables #1, #4 and #5 are described as department stores while rental comparables #2 and #3 are described as big box buildings. The buildings ranged in size from 109,195 square feet to 166,000 square feet. The report indicated comparables #1 and #2 were built or retrofitted in 1960 and 1985, respectively. The ages of the other comparables was not disclosed. The report indicated that comparables #1, #3, #4 and #5 had lease terms beginning in 1989, 2003, 1998 and 2000, respectively. The comparables had rentals ranging from $4.41 to $8.20 per square foot. Rental #1 was an anchor department store at the Ford Center Shopping Center. Rentals #2 and #4 were rentals at the Orland Square Mall; however, rental #2 was located on a mall out lot, not attached to the mall. The appraiser indicated in his report that he was aware of the rent of Carson Pirie Scott at the Chicago Ridge Mall with a lease that commenced in late 1989 for a rate of $5.03 per square foot, net. He was of the opinion this property had an inferior location compared to the subject property. He further noted that the now defunct Montgomery Ward at the Chicago Ridge Mall had a 15 year lease that commenced in February 2003 for a base rent of $6.00 per square foot, net. Based on this data the appraiser estimated the subject would have a market rent of $5.50 per square foot, net, or $1,162,211.

The appraiser next estimated the subject would have a vacancy and collection loss of 5%. His report quoted vacancy rates from CB Richard Ellis indicating the southwest suburban submarket of the Chicago Retail market, where the subject is located, had a vacancy rate of 8.6% as of the first quarter of 2005. By the fourth quarter of 2005 the vacancy rate was reported to be 6.0%. Deducting 5% or $58,111 from the gross annual income resulted in an effective gross income (EGI) of $1,104,100. The appraiser next deducted 3% of EGI for management and re-leasing expenses and $.15 per square foot for reserves to arrive at a stabilized net operating income (NOI) of $1,039,280.

In estimating the capitalization rate the appraiser used the 2005 Korpacz Real Estate Investor Survey, first quarter, which indicated an average overall rate of 7.33%. Gibbons also used the band of investment technique to arrive at an overall rate of 8.45%. The appraiser also asserted he considered market derived data including comparable sale #2 within his report and referenced pages 58 and 59 of his report. He discussed the 2005 sale of the Chicago Ridge Mall, excluding the Sears store, for a price of $108,000,000, indicating a capitalization rate of 8%. Based on this data the appraiser was of the opinion the subject would have a capitalization rate of 7.5%. Capitalizing the subject's net income of $1,039,280 with a capitalization rate of 7.5% resulted in an estimate of value under the income capitalization approach of $13,860,000, rounded.

The final approach developed by Gibbons was the sales comparison approach in which he listed three comparable sales located in Broadview, Bloomingdale and Orland Park, Illinois. Comparables #1 and #3 were described as department/big box stores while comparable #2 was described as an anchor department store. The comparables ranged in size from 144,731 to 193,000 and were built from 1981 to 1994. The sales occurred from April 2004 to April 2006 for prices ranging from $6,700,000 to $9,700,000 or from $46.29 to $55.42 per square foot of building area. Gibbons testified sale #1 was located in the Broadview Village Square shopping center and was converted to a Super-Target. Gibbons indicated comparable sale #2 is a two-story anchor department store attached to a mall at the Stratford Square shopping center in Bloomingdale. The appraiser testified this building had sales of $138 per square foot and was being leased at $3.82 per square foot. This property sold for $46.29 per square foot. Sale #3 was described as a single story furniture store with 166,000 square feet constructed in 1985 and located on an outlot at the Orland Square Mall.

Gibbons also had three additional sales summarized on pages 58 and 59 of his appraisal. In July 2004 there were transfers of owner occupied Marshall Field Stores to May Department Stores located in the Oak Brook Center, Stratford Square Mall and Fox Valley Shopping Center for prices of $69.29, $38.97 and $50.04 per square foot of building area, respectively. The witness explained this included not only the buildings but the business and operation of Marshall Fields. He gave this information limited or less weight.

Gibbons also testified there was a bulk sale of six anchor department stores leased to Carson Pirie Scott, which included a store located in the Orland Square Mall that sold for $91.45 per square foot of building area. The report indicated the bulk transaction occurred in 1998 and the store had 163,000 square feet of building area.

The appraiser was also aware of the sale of the Chicago Ridge Mall in January 2005 for a price of $108,000,000 or $129.58 per square foot of building area.

At pages 59 and 60 of the intervenor's appraisal Gibbons discussed the adjustments he made to comparables sales #1 through #3. Using this data, the appraiser estimated the subject property had an indicated value under the sales comparison approach of $65.00 per square foot of building area, including land, or $13,740,000. The appraiser stated he corroborated this price by comparing the sale of the JC Penney store, comparable sale #2, with retail sales of $138.00 per square foot to the subject with retail sales of $185.00 per square foot, or 34% greater. Comparable sale #2 sold for approximately $46.00 per square foot of building area and adjusting that up by 34% resulted in a value of approximately $62.00 per square foot of building area.

In reconciling the three approaches to value, Gibbons gave some weight to the cost approach and primary consideration to the income and sales comparison approaches. Based on this analysis the appraiser estimated the subject property had a market value of $14,000,000 as of January 1, 2005. Gibbons testified his opinion of value would not be dramatically different as of January 1, 2006.

Under cross-examination Gibbons stated the assessed value of the subject property would indicate that the assessor's opinion of market value was higher than his opinion of market value. Gibbons agreed that all of his land sales were smaller than the subject parcel. He further agreed that there was financial assistance from the Village of Oak Lawn with the purchase of land comparable #1. One land sale was developed as a free-standing department store and three were developed as car dealerships.

With respect to estimating market rent, the appraiser acknowledged his comparable sale #2 had a rental of $3.82 per square foot prior to November 1, 2006 and $4.41 per square foot after November 1, 2006. He stated he gave those some consideration but less consideration than the actual leases within Chicago Ridge Mall. The appraiser acknowledged there was no page summarizing the adjustments to the rental comparables located in the Chicago Ridge Mall and comparable sale #2.

Gibbons agreed his rental comparable #2 is on a mall outlot. The appraiser stated he had a typographical error with respect to comparable rental #3 by referencing comparable sale four in the rental data section as there was no comparable sale four in the appraisal. The appraiser also agreed his market extracted capitalization rates ranged from 8% to 8.21%, prior to taking off allowances. With respect to comparable sale #2, one of the properties used to develop the market extracted rate, if one applied the rent of $4.41 per square foot that started on November 1, 2006, the capitalization rate would be 8.5%.

With respect to the Marshall Field sales on page 58, paragraph 2, Gibbons did not discuss with anyone the basis of the allocations of the sales prices. Gibbons agreed that his comparable sale #1 is a stand-alone, freestanding retail store. Gibbons also agreed that his sale #3 is a big box, freestanding store.

Gibbons testified that he adjusted each of his comparables upward for lack of an auto center, meaning the auto center has a positive influence. He further testified that the information about the per square foot retail sales at the JC Penney store, comparable sale #2, were not in contents of the appraisal report. Although, he testified he verified the JC Penney retail sales information from SEC documents filed by Feldman Mall Properties.

The next witness called on behalf of Ridgeland School Dist. No. 122 was Eric W. Dost. Dost has the MAI designation and is an Illinois Certified Appraiser. Dost prepared an appraisal review of the report prepared by the LaSalle Appraisal Group written by Ryan and submitted by the appellant. The Dost review appraisal was marked as Intervenor's Exhibit #5. Overall Dost was of the opinion the appellant's appraisal did not adequately describe the trade area; noted there was no land value; was of the opinion the rent comparables were very poor; the capitalization rate was too high; and the comparable sales were very poor.

Dost was of the opinion you can't test the highest and best use without an estimate of land value. He further testified that land is an important component of total value and should be included.

With respect to the improved sales, Dost testified only one was within the Chicago area and it was actually a land sale because the building was purchase for demolition. Dost prepared a retail market profile comparison for the subject and the comparable sales used by Ryan (Intervenor's Exhibit #5, pages 5 & 6). The data source was identified as being from ESRI and the CCIM Institute, which is a commercial real estate investment association that provides demographic information. The witness explained the column under each property address represents demographic information within a five mile radius of each property. Dost testified that page 6 of his report contained the comparison analysis so a person does not have to perform the mathmatics.

With respect to appellant's sale #1, Dost was of the opinion the comparable had less population, fewer households and less retail sales within a five mile radius than the subject. Dost testified Sale #2 is slightly inferior demographically, is on a pad site and was a sale-leaseback transaction. Dost testified sales #3 and #4 were bankruptcy sales, which are questionable. He also noted that demographically these sales are inferior to the subject. Additionally, the witness indicated sale #4 had a pad site which is inferior to the subject. Dost explained sale #5 was purchased by the mall owner for redevelopment, the building was razed and redeveloped with a lifestyle center. Dost testified sales #6 and #7 were purchased together. He explained sale #6 had a ground lease and the appraiser adjusted the value to include the land value but there was no description of how the land value was added. Dost was of the opinion this was a sale of a partial interest and the improvement is on a pad site. Dost was of the opinion sale #7 was in an area with inferior retail potential as compared to the subject. Dost testified sale #8, located in Springfield, is a significantly smaller market within a five mile radius and is inferior to the subject. He further testified the property located at the Lincoln Mall is a listing, not a sale, and the mall has had chronic vacancy problems since the early '90s. He explained this mall is undergoing redevelopment, which included demolition of the comparable.

With respect to the "national sales" identified by the appellant's appraiser, the witness testified the property in Denver, Colorado was purchased by the mall owner for redevelopment. Dost was of the opinion the sale located in El Paso, Texas, is close to Mexico and is not a comparable market area. He further believed the sale located in Houston, Texas was purchased by the mall owner for redevelopment. Dost testified these market areas are not comparable to Chicago Ridge.

Dost was of the opinion the sales comparison approach developed by Ryan was unreliable.

Dost also prepared a retail market profile comparison for the subject and the comparable rentals used by Ryan (Intervenor's Exhibit #5, pages 9 & 10). Dost was of the opinion that given the size of the market and the date of the lease, rental comparable #1, located in Alton, was useless. Rental comparables #2 and #3, located in Anderson, Indiana, had leases signed in 1998 and is an area a fraction the size of the subject with a population of 75,000 within five miles of the comparables as opposed to the subject's population of 347,000 within five miles. He testified rental #4 located in Normal, Illinois, had a lease that occurred in 1998 and the mall, except for the anchors, was subsequently demolished and redeveloped into a lifestyle center. Rental #5 was located in Lansing, Michigan and was not considered to be a comparable market area. Dost explained rentals #6 and #7 are located in Lansing, Michigan and suburban Detroit. He testified both had percentage leases, which are extremely undesirable by landlords. He testified percentage leases indicate the property is having severe difficulties and are usually given to anchors to keep them in place to cover some operating expenses. He further testified rental comparable #8 is in Southfield, Michigan and has an asking rent. He was of the opinion that if he was using an asking rent he would use one from the Chicago area, not from Detroit. In summary, Dost was of the opinion there was inadequate analysis of the rental data.

Dost was also of the opinion Ryan did not properly and correctly utilize the Dollars and Cents of Shopping Centers publication. He testified that in appellant's appraisal they estimated retail sales and then applied a percentage from the Dollars and Cents to those sales but that is incorrect. He testified percentage rent in that publication is percentage rent in addition to base rent and the percentage rent is usually applied after a certain sales level or breakpoint is achieved. Dost testified the appellant's appraisal omitted the base rent. He also testified that the rental data in the Dollars and Cents of Shopping Centers does not represent current market rent.

Dost also was of the opinion the vacancy rate of 7% in the LaSalle appraisal is not supported. He was of the opinion using CB Richard Ellis statistics for shopping centers greater than 50,000 square feet but excluding regional malls does not support the figure used. He also stated the capitalization rate in the appellant's appraisal using the Korpacz data was incorrect and should have been 7.33%. The witness was also of the opinion the amortization period in the band of investment method used by the appellant's appraiser was too short and should have been 25 to 30 years. Using a period of 25 years a capitalization rate of 8.29% is calculated. The witness was of the opinion that a capitalization rate of 10% was excessive in light of the subject's stabilized retail sales of $185 per square foot, which exceeded the National and Midwest median sales of approximately $154 and $146 per square foot, respectively. Dost was of the opinion the income approach in the appellant's appraisal was unreliable.

Dost ultimately was of the opinion the LaSalle Appraisal Group report was not reliable.

Under cross-examination Dost testified he agreed with Ryan's conclusion of highest and best use. The witness also agreed the cost approach is not relevant to the appraisal assignment. The witness further explained that the ESRI demographic data is taken from the U.S. Census. He further agreed he did not have any idea of the competition from regional malls and freestanding department stores within the five mile radius he developed for the comparables.

Dost testified that the demographic data he used in the review appraisal was from 2007 while the date of Ryan's report was December 5, 2005. He agreed that Ryan would not have had the data that he used in the appraisal review. Dost agreed Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) provides that data available subsequent to the date of the work being reviewed must not be used by a reviewer in the development of an opinion as to the quality of work under review. The witness maintained, however, he did not violate USPAP.

Dost was of the opinion that the retail market for anchor department stores in 2005 and 2006 was improving and was of the opinion that anchor department stores were improving in value at that time. He testified, however, the subject's sales were declining during this time period.

With respect to sale #2 in Ryan's report, Dost agreed that his comments about the transaction being a sale-leaseback were not in his report and he did not talk to any of the parties about this transaction. With respect to sales #3 and #4, he did not know specifically how the bankruptcv sale was handled other than what was in the LaSalle Appraisal Group report. He agreed that if the sales transpired as indicated in the appraisal they may have been usable market transactions.

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 assessment of the subject property.

The appellant contends overvaluation as the basis of the appeal. 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). Proof of market value may consist of an appraisal of the subject property as of the assessment date at issue. 86 Ill.Admin.Code 1910.65(c)(1). After considering the appraisals submitted by the parties the Property Tax Appeal Board finds a reduction in the subject's assessment is warranted.

The Board finds the subject's total assessment for each of the assessment years under appeal as established by the Cook County Board of Review was $6,085,755. The subject's assessment reflects a market value of $16,015,145 using the 38% level of assessment for a class 5-31 shopping center under the Cook County Real Property Assessment Classification Ordinance. The appellant submitted an appraisal prepared by Joseph Ryan of LaSalle Appraisal Group, Inc., estimating the subject property had a market value of $8,600,000 as of January 1, 2005. The Cook County Board of Review submitted an appraisal purportedly prepared by Jeffrey M. Hortsch estimating the subject property had a market value of $11,835,000 as of January 1, 2004. Ridgeland School Dist. No. 122 submitted an appraisal prepared by James A. Gibbons of Gibbons & Gibbons Ltd. estimating the subject had a market value of $14,000,000 as of January 1, 2005. The Board finds that each of the appraisals had estimates of market value less than the market value as reflected by the subject's assessment.

The Board gives no weight to the appraisal submitted by the board of review. Besides the fact that the estimate of value is for January 1, 2004, the appraiser was not present or called as a witness to testify about his qualifications, identify his work, testify about the contents of the report and his conclusions or be cross-examined by the appellant, the intervening taxing district and the Property Tax Appeal Board. Without the ability to observe the demeanor of the appraiser during the course of testimony, the Property Tax Appeal Board can give this appraisal no weight.

The Board finds the two remaining appraisals have both strengths and weaknesses; however, when considering the data within each appraisal, a reduction in the subject's assessment is justified. The Board finds both Ryan and Gibbons agreed with the physical description of the subject property and the site. Both appraisers, as well as the review appraiser, Eric Dost, agreed the highest and best use of the subject property as improved is for the continued use as an anchor department store. Both Ryan and Gibbons agreed the subject was in good condition and were in near agreement with the estimate of the subject's effective age of approximately 20 to 25 years old and economic life of approximately 40 to 45 years old. The two appraisers were also in agreement that the subject's value would not significantly change from 2005 to 2006.

Of the two appraisers only Gibbons developed the cost approach to value wherein he arrived at a value estimate of $19,690,000. This estimate of value under the cost approach was approximately 42% greater than his estimate of value under the income approach and approximately 43% greater than his estimate of value under the sales comparison approach. The Board finds this significant disparity in the estimate of value of the subject property using the cost approach demonstrates this is not a true reflection of the market value of the subject property. This inconsistency may be due to the overestimate of the replacement cost new, an underestimate of the depreciation of the subject improvements, an overvaluation of the land or a combination of the three. Gibbons gave this estimate less weight than the other two approaches to value he developed. Neither Ryan nor Dost were of the opinion the cost approach had any relevance in estimating the market value of the subject property. Based on this record the Property Tax Appeal Board finds the estimate of value derived by Gibbons under the cost approach is not reflective of the market value of the subject property and find that it shall be given it no weight.

The Board finds the two appraisers were in near agreement with respect to the market rent of the subject with Ryan at $5.00 per square foot of building area and Gibbons at $5.50 per square foot of building area. The Board finds Ryan's estimate of market rent is better supported in the record. Ryan's rental comparables were more similar to the subject's use as an anchor department store. Additionally, Gibbons testified that another anchor store in the subject's mall, Carson Pirie Scott, had a lease of $5.03 per square foot and a JC Penney anchor department store located in Bloomingdale, Illinois had a rent of $3.82 per square foot that was increased to $4.41 per square foot in November 2006. Furthermore, Gibbons' rental comparable #1, another anchor department store, had a rental of $4.41 per square foot. Gibbons had two additional anchor store rentals in his appraisal, rental comparables #4 and #5, but there was no data with respect to ages and they were both considered superior to the subject in location requiring downward adjustments. For these reasons the Board finds Ryan's estimate of market rent of $5.00 per square foot of building area and a PGI of $1,056,555 is better supported in this record.

Ryan estimated the subject property would suffer from a vacancy rate of 7.0% based on a marketing time of six months to a year and lease terms of 10, 15 and 20 years. Page 18 of his report quoted vacancy rates in the southwest suburbs in the First Quarter of 2005 of 8.6%. Gibbons estimated a vacancy rate of 5%. On page 43 of his appraisal, he quoted vacancy rates in the First Quarter of 2005 for the southwest submarket of 8.6%, which was higher than the overall rate of 7.3% for the Chicago Retail market. Considering this data, the Property Tax Appeal Board finds Ryan's estimate of a vacancy of 7% is better supported. Using a 7% vacancy rate and deducting that amount from the PGI results in an EGI of $982,596.

Both Ryan and Gibbons were in near agreement with respect to the expenses to be deducted from EGI. Ryan estimated expenses to be $63,393 while Gibbons estimated expenses to be $64,820. The Board finds Ryan's estimate is based at least in part on the "2004 Dollars and Cents of Shopping Centers" report prepared by the Urban Land Institute. Gibbons' estimate is based on reference to the Korpacz Real Estate Investor Survey for the First Quarter of 2005. The Board finds the use of the 2005 data is more probative in estimating the expenses associated for the subject property and finds Gibbons' estimate is better supported in the record. Deducting the expenses in the amount of $64,820 from the EGI of $982,596 results in a stabilized net operating income of for the subject of $917,776.

The next step developed by each appraiser in the income approach was to estimate the capitalization rate applicable to the subject property. Ryan estimated a capitalization rate of 10.58% while Gibbons estimated a capitalization rate of 7.50%. During the hearing Ryan agreed that he left the 2004 Korpacz Investor Survey data in the report as a data source for developing a capitalization rate. When shown the 2005 Korpacz Investor Survey, Intervenor's Exhibit No. 2, he identified the overall capitalization rate for this type of property in the first quarter of 2005 as being 7.33%. This evidence undermines Ryan's estimated capitalization rate for the subject. Gibbons indicated in his report that the overall rate for national regional malls was 7.33%. He also developed a band of investment technique arriving at an estimated capitalization rate of 8.45%. His report further stated at page 59 the Chicago Ridge Mall, excluding the Sears store, sold in January 2005 at an 8% capitalization rate. Gibbons' report further indicated at page 53 that at the time his comparable sale #2 sold in April 2006, the rent indicated a capitalization rate of no more than 8.21%. The appraisal further indicated the rent for comparable sale #2 was to increase on November 1, 2006 to $4.41 per square foot. Using the scheduled rent increase for comparable sale #2 results in a capitalization rate of 9.5%. Considering this data, the Property Tax Appeal Board finds the appropriate capitalization rate for the subject was 8.45% as calculated by Gibbons using the band of investment technique. Capitalizing the net income results in an estimated value under the income approach of $10,860,000, rounded, or $51.39 per square foot of building area, land included.

The final approach developed by both appraisers was the sales comparison approach. Gibbons provided information on three comparable sales that he actually analyzed in some detail. Of these three sales, the Property Tax Appeal Board finds that only Gibbons' sale #2 was similar to the subject's use as an anchor department store. This comparable was located in Bloomingdale, Illinois and sold in April 2006 for a price of $6,700,000 or $46.29 per square foot of building area, including land. Testimony provided by Gibbons was that this property had less retail sales per square foot than the subject, which may indicate an upward adjustment to this comparable is warranted. The Board gave less weight to comparable sales #1 and #3 because they were free standing big box type retail stores.

Ryan's appraisal included eight sales and one listing. The Board gave less weight to comparable sale #1 due to its date of sale in January 2000, five and six years prior to the January 1 assessment dates at issue. The Board gave less weight to sale #5 because it was composed of two concrete block buildings that were subsequently torn down and the property redeveloped. This property was not particularly similar to the subject and the transaction appears to be more in the nature of a land purchase. The Board gave less weight to comparable sale #6 due to the fact this property had a ground lease and the evidence showed that Ryan had been inconsistent in his analysis of this comparable in different appraisals. The Board also gave less weight to the listing because it was not an actual sale.

The five remaining sales in Ryan's report, #2, #3, #4, #7 and #8, were composed of anchor department stores located in Illinois, Michigan, and Ohio. These comparables sold from January 2002 to September 2003 for prices ranging from $4,200,000 to $10,215,000 or from $28.08 to $50.07 per square foot of building area, land included.

After considering sale #2 used by Gibbons and the five aforementioned sales used by Ryan, the Property Tax Appeal Board finds the subject had an indicated value under the sales comparison approach of $49.00 per square foot of building area, including land, or $10,354,000, rounded.

In conclusion, after considering the evidence and analyses contained in the respective income approaches and sales comparison approaches as discussed herein, and giving more weight to the sales comparison approach, the Property Tax Appeal Board finds the subject property had a market value of $10,400,000 as of the assessment dates at issue. Since market value has been determined the 38% level of assessment for a class 5-31 shopping center under the Cook County Real Property Assessment Classification Ordinance shall apply. (86 Ill.Admin.Code §1910.50(c)(3)).

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: January 21, 2011

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.