FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Federated Retail Holdings, INC
DOCKET NO.: 06-21144.001-C-3
PARCEL NO.: 10-09-411-074-0000

The parties of record before the Property Tax Appeal Board are Federated Retail Holdings, INC, the appellant, by attorney Gregory J. Lafakis and attorney Ellen Berkshire, of Verros, Lafakis & Berkshire, P.C. in Chicago; and the Cook County Board of Review by assistant state's attorney Aaron Bilton with the Cook County State's Attorney's office in 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:	$ 424,456
IMPR.:	$ 1,741,544
TOTAL:	$ 2,166,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 72,064 square feet of land improved with a two-story, single-tenant, anchor department store of masonry construction located in a super-regional shopping mall. The retail store contains 121,642 square feet of building area and is owner-occupied. This store was constructed in 1995.

At the commencement of this hearing, the Board finds that these appeals involve common issues of law and fact and a consolidation of the 2005 and 2006 appeals for hearing purposes would not prejudice the rights of the parties. Therefore, pursuant to Section 1910.78 of the *rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78),* the Board consolidated the above appeals solely for hearing purposes, while noting that distinct decisions would be rendered in each appeal year due to the disparity in parties and evidence in the second tax year at issue.

As to the basis of this appeal, the appellant argued that the fair market value of the subject is not accurately reflected in its assessed value.

As to procedural matters, initially the board of review requested that the intervenor's exhibits and examination utilized in the 2005 tax appeal be adopted and reflected in the 2006 tax appeal while the appellant similarly requesting that appellant's hearing exhibits #1 and #2 with related testimony thereto also be adopted and reflected in the 2006 tax appeal decision. Upon considering the parties' arguments as well as the lack of objections from the parties, the Board granted both motions and will include testimony relevant to these exhibits as well as the exhibits in this 2006 proceeding.

Secondly, the parties agreed to stipulate to the qualifications of the appellant's appraiser as an expert in the field of real estate appraisal. Therefore, the Board accepted Joseph Ryan as such at this hearing.

As to the overvaluation argument, the appellant's pleadings included a copy of a summary report of a complete appraisal undertaken by appraiser, Joseph Ryan. The Ryan appraisal addressed two of the three traditional approaches to value, while opining an estimated market value of $5,700,000 as of the effective date of January 1, 2004. This appraisal was identified for the record as Appellant's Exhibit #1. Ryan indicated that there were typographical errors on pages #44, #47, and #48 of his appraisal and at hearing, the appellant's tendered amended pages, which were identified for the record as Appellant's Group Exhibit #2. Ryan testified that he has undertaken over 50 assignments to appraise anchor department stores.

In addition, Ryan testified that he continues to review the subject and opine a market value for the subject in subsequent appraisals with effective dates in 2007, 2009 and 2010. He stated that there have been neither significant physical changes to the subject nor changes to the subject's market for similar properties from January 1, 2005 to January 1, 2006. Moreover, he testified that there have been no significant differences in the subject's market value from January 1, 2004 to January 1, 2006.

Ryan also stated that he undertook an interior and exterior inspection of the subject along with an associate, while undertaking an inspection on July 6, 2004. The appraisal stated that the majority of the building is utilized as open retail sales area. He described the subject's site as containing 72,064 square feet with a land-to-building ratio of 0.59:1 and overall effective age of 8 years. The subject property is improved with a two-story, masonry, commercial, retail building with 121,642 square feet. The structure is an owner-occupied, single-tenant, anchor department store attached to a super-regional shopping mall. The improvement has an economic life of 40 years and a remaining economic life of 32 years. He indicated that the purpose of his appraisal is to estimate the market value of the fee simple estate of the subject property and that the subject is a newer, anchor tenant in a desirable shopping center.

Furthermore, Ryan explained that this subject property's market area is really the retail market on a national or regional basis due to the fact that this property is an anchor department store.

The Ryan appraisal addressed two of the three traditional approaches to value in developing the subject's market value estimate. The income approach reflected a value of $5,635,000, rounded, and the sales comparison approach indicated a value of $5,780,000, rounded. In reconciling these approaches to value, Ryan placed primary reliance on the sales comparison approach to reflect his final value of $5,700,000 for the subject.

Ryan testified that the cost approach was inapplicable because his research did not uncover any sales of anchor mall pad sites in the subject's local area. He stated that there is a special relationship between anchor department stores and the developers of malls while stating that the retail industry thinks that an anchor department store generates traffic with developers requiring traffic to enhance the value of their inline stores. Second, he stated that he had observed a decline in sales per square foot at the property from 1999 through 2003, which he undertook to mean that the market was changing. Specifically, he indicated that anchor department stores and regional malls in general are not being constructed anymore with the market moving toward development of freestanding big box stores and power centers with big box stores. Moreover, his appraisal stated that market participants in the retail industry do not rely on the cost approach in making investment decisions.

As to the highest and best use analysis, Ryan testified that the property's highest and best use as if vacant was for development of a similar commercial, retail structure, while its highest and best use as improved was its current use as an anchor-type, commercial retail building.

As to the subject's area and market, Ryan testified that due to the effects of new trends in retailing, the Chicago retail market has undergone significant changes in the past years and that from a real estate standpoint, the increased competition from large superstores, power centers, and free-standing, big box stores will most likely cause an unstable period for closely held specialty stores which are experiencing a decline in sales volume. He explained that power centers contain non-traditional anchor store tenants, while category killers are retailers that sell only one product line. As to the subject's mall, he stated that there were four other anchor department stores located in the subject's mall.

Under the income approach, Ryan testified he analyzed eight comparables located in Illinois, Indiana, and Michigan. Ryan testified the comparables range in size from 79,247 to 297,000 square feet. The commencement dates on the leases ranged from 1997 to 2003 with lease terms from five to 40 years. The rents ranged from $3.06 to $7.25 per square foot, triple net, with two comparables using rent based on 1% or 2.5% of sales. Ryan testified after consideration of the data and adjustments for age, condition, utility and location, he estimated rent for the subject of $6.00 net per square foot.

In addition, Ryan testified that he reviewed *Dollars & Cents of Shopping Centers, 2002* to estimate a lease for the subject based upon gross median sales for department stores and national chain department stores in super-regional malls of $153.79 per square foot and a 2% median rate of percentage for super-regional stores resulting in an estimated percentage rent of 3.0% for a high-end department store, such as the subject. Ryan's appraisal indicated that he also reviewed the actual sales of the subject and stabilized the sales at $145.00 per square foot. Actual sales for the subject ranged from $135.00 per square foot in 2003 to a high of $175.53 in 1999.

The appraisal estimated the potential gross income (PGI) at $729,852. Ryan testified he estimated vacancy and collection loss (V&C) of 7.0%. Deducting V&C resulted in an effective gross income (EGI) of $678,762 for the subject. Ryan testified he allocated expenses at $.67 per square foot or 11.1% of PGI, even though industry standards reflected 5% of PGI. The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $642,269 for the subject.

To estimate the capitalization rate, Ryan testified he reviewed *Korpacz Investor Survey, First Quarter, 2003* for malls which had an estimate of 7.25% to 10.0%. He opined that the subject would be at the high end of the range due to the fact that anchor stores by themselves have more risks than regional malls due to their size and limited number of potential users. The appraisal also indicated the band of investment technique was also reviewed. Ryan testified he estimated a capitalization rate of 9.78%, rounded to 10%. The appraiser calculated an effective tax rate of 0.49%, which was added to establish a total capitalization rate of 10.50%. Dividing the NOI by the appraiser's total capitalization rate resulted in an indicated value for the subject of $5,690,000, rounded.

Under the sales comparison approach, Ryan testified he analyzed eight sales and one listing of similar properties located in the Midwest. The properties are anchor department stores located in Illinois, Michigan and Ohio. The properties consist of anchor department store buildings in regional malls. Ryan testified that he used sales within the Midwest because, after discussions with representatives in the department store field, there are three markets for department stores: the East Coast, the West Coast, and between the Appalachians and the Rocky Mountains. He opined it was easier to make adjustments between anchor department stores because they have similar characteristics than different types of stores in closer proximity to the subject.

Based upon the updated grid analysis identified as Appellant's Exhibit #2, the comparables ranged in building size from 94,341 to 254,720 square feet of building area and in land size from

62,920 to 755,330 square feet. They ranged in land-to-building ratios from 0.51:1 to 3.65:1 and in improvement age from five to 40 years. The comparables sold from January, 2000, to September, 2003, for prices ranging from $2,750,000 to $10,215,000, or from $25.45 to $50.00 per square foot of building area, including land. This data does not include the listing's data. Ryan described each sale in detail. He testified that, although sales #3 and #4 were bankruptcy sales, he spoke to the parties involved with the sale and determined them to be at market.

Furthermore, Ryan included a second improved sales grid analysis based upon a nationwide search and comprising three anchor store sales, one of which was located in Illinois. These properties sold from August, 1999, to June, 2004, for prices that ranged from $3,500,000 to $7,000,000, or from $26.67 to $34.82 per square foot. They ranged: in age from eight to 25 years; in improvement size from 104,414 to 201,000 square feet of building area; and in land size from 247,856 to 512,701 square feet of land. Ryan testified that this second grid of sales basically confirmed the sales data reflected from the Midwest area sales. He also stated that he verified the terms and conditions of each of the sales by speaking to a party involved in each transaction. Moreover, he indicated that his comparable sales were anchor department stores associated with a regional or a super-regional mall. He opined that only another anchor department store is comparable to the subject due to the characteristics of size, age, condition and usage.

Ryan testified, after adjustments, he arrived at an adjusted sale range of $45.00 to $50.00 per square foot of building area, including land and reconciled the subject at $47.50 per square foot of building area, including land which reflects an estimated market value for the subject of $5,780,000, rounded.

In reconciling the two approaches to value, Ryan testified he accorded primary weight to the sales comparison approach to value as the subject is an owner occupied, single-tenant anchor department store with no rental history. The appraiser testified he gave some weight to the income capitalization approach to value. Therefore, he concluded a final estimate of value for the subject of $5,700,000. Ryan testified that there was no significant change in value for the subject between January 1, 2004 and January 1, 2006.

Under cross examination, Ryan testified he had inspected all the sales comparables on multiple occasions and that he verified the sales transactions with representatives of the buyer or seller of these properties. The board of review adopted that intervenor's multiple questions posed of Ryan based upon several Exhibits from the United States Census Bureau as well as other sources, wherein Ryan answered all of the questions with candor and a thorough knowledge of the subject and its area.

As to Ryan's improved sales, he testified that sale #1 was a leased fee sale of a building slightly older than the subject.

As to sale #2, Ryan was shown a copy of Intervenor's Exhibit #5 which are printouts wherein this sale is identified as a sale-leaseback transaction. As to sales #3 and #4, Ryan stated that he was aware that these sales were part of a bankruptcy transaction. He also stated that in relation to a bankruptcy sale, one has to determine whether there was proper exposure to the market and if the sale met the criteria for an arm's length transaction, which he believes was the case in these sales. As to sale #5, Ryan testified that this sale involved the mall owner's purchase of the property in order to obtain another anchor tenant. As to sales #6 and #7, Ryan was shown a copy of Intervenor's Exhibit #8, which are printouts for sale #7. The printout stated that both transactions related to the acquisition of two former Marshall Field's stores from the Target Corporation. However, Ryan testified that based upon his verification each transaction was negotiated separately and because of the distinct negotiations, there were two distinct sale prices. Furthermore, Ryan was questioned at length about his adjustments to these sale comparables where he was able to substantiate all of his findings.

As to the rental comparables, Ryan testified he verified the information with a representative of the lease or leasor and that he inspected all the properties.

On re-direct, Ryan noted various typographical errors while stating that those errors would not have changed his determination of value for the subject. In addition, he stated that his opinion that the assessment period at issue was also a recessionary period for retail is supported by the decreasing retail sales of the subject with the data reflected in his appraisal. Therefore, Ryan opined that a mall could be successful, while a portion of that mall may not have success. He also stated that any store could realize decreasing sales based upon management issues or external factors.

As to Ryan's improved sale #1, he expounded on the details regarding its lease, sale and a new lease entered into by the new owner of the property. As to Intervenor's Exhibits #5 and #8, he stated that they appeared to be copies of CoStar Comps Service printouts without identifying marking; however, he testified that he does use this service as a source, but noted that this service does contain errors in its printouts. However, he stated that he uses these printouts initially and then verifies the data therein with a party to each sale transaction.

As to the subject's immediate environment, Ryan testified that neighborhood demographics and family income are only two factors related to the success of a mall, the others would be: area population, sales generated by the mall and competition within the mall or area. Ryan also provided detailed testimony regarding the unlikelihood that another anchor tenant could replace the subject's Lord & Taylor due to the subject's mall reputation of being a more upscale fashion mall which already contains anchor tenants such as Bloomingdale's and Nordstrom.

Lastly, Ryan testified at length regarding industry terminology including: regional malls, super-regional malls, in-line stores, anchor stores, departments stores, as well as expounding on trends in retailing such as power centers, category killers, free-standing stores, and big box stores and the differentiation between these retailers.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $3,004,556 was disclosed. This assessment reflects a fair market value of $7,906,726 when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A commercial property is applied. In support of this market value, the notes included a market analysis undertaken by Jeffrey Hortsch, identified as a Certified General Real Estate Appraiser. The analysis contained an effective date of January 1, 2004 with a market value estimate of $11,375,000. At hearing, the board of review did not call any witness and rested its case upon its written evidence submissions. As a result of its analysis, the board 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.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (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.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

In determining the fair market value of the subject property for tax year 2005, the Board examined the appellant's appraisal and supporting testimony as well as the board of review's written evidence submission.

Initially, the Board finds unpersuasive the board of review's evidence which reflects a market value estimate of $11,375,000, while the board of review's total assessment for the 2006 tax year indicated a market value of $7,906,726; therefore, finding the board of review's evidence to be suspect. The absence of reasoning for this increase in value is not explained by the board of review. Moreover, the Board finds that the board of review's witness was not present or called to testify about their qualifications, identify their work, testify about the contents of the evidence, the conclusions or be cross-examined by the parties and the Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Board gives the evidence from the board of review no weight.

The Board finds that the best evidence of the subject's market value was the appellant's appraisal and supporting testimony. Ryan convincingly testified to various aspects of his appraisal. Moreover, the Board finds that he: has extensive experience appraising anchor department stores similar to the subject property; had personally inspected the subject's premises; employed the subject's actual land size in his comparability analysis; utilized appropriate rental and improved sale comparables in the two approaches to value that he undertook; correctly applied adjustments to these comparables as necessary which were supported in his appraisal or within his testimony; and accorded primary weight to the sales comparison approach to value for the income approach is speculative in application to an owner-occupied, single-tenant, anchor department store.

Moreover, the Board finds credible Ryan's explanation for the absence of considering the cost approach to value based upon industry standards that buyers and sellers of properties such as the subject would not look to this approach. Further, the Board finds persuasive Ryan's testimony that buyers and sellers of large anchor department stores in regional and super-regional malls deal on a national market; thereby, Ryan choose comparables sited both in Illinois and in other states while obtaining comparables with similar highest and best uses. Clarity was also added to this testimony by Ryan's detailed explanations of retail industry trends as well as defining various components of that retail industry. Overall, Ryan's answers to lengthy questioning reflected reasonable and credible responses, while substantiating his findings.

Therefore, the Board finds the best evidence of market value was submitted by the appellant. Based on this analysis, the Board finds that the market value for the subject property as of the assessment date of January 1, 2006 was $5,700,000. The Board further finds that application of the Cook County Real Property Classification Ordinance level of assessment of 38% for class 5A, commercial property, such as the subject. This application reflects a total assessment of $2,166,000, while the subject's assessment is $3,004,556. Thereby, a reduction is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman

Member

Member

Member

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 30, 2012

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.