



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

APPELLANT: Thomas Carey Heirs
DOCKET NO.: 06-22664.001-C-3
PARCEL NO.: 16-33-400-001-0000

The parties of record before the Property Tax Appeal Board are Thomas Carey Heirs, the appellant(s), by attorney Edmund P. Boland, of Carey Filter White & Boland in Chicago; and the Cook County Board of Review.

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: \$2,426,490
IMPR: \$1,430,510
TOTAL: \$3,857,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of an irregularly-shaped land tract containing 119.4 acres of total area developed with a horse racetrack facility consisting of a 401,042 square foot, 29-year old clubhouse/grandstand complex, 435,386 aggregate square feet of permanent stables, and several ancillary buildings, along with related site improvements. The appellant argued that the fair market value of the subject is not accurately reflected in its assessed value.

In support of this market value argument, the appellant submitted a complete, self-contained appraisal of the subject with an effective date of January 1, 2005 and an estimated market value of \$10,150,000.

The appraiser used the income capitalization approach and the cost approach to value to estimate a value for the subject. The appraisal indicates the sales comparison approach was not used because the appraiser was unsuccessful in finding any sales of directly comparable racetrack properties.

The appraisal describes the property as an irregularly-shaped 119.4 acre tract of land. The infield contains approximately 50 acres of area and includes a 10-acre lake which serves as a water retention device. The appraisal opined that the infield land is considered unbuildable in its present use because it would inhibit spectator view. Most of the backstretch area south of the track comprises filled land. The appraisal opined that Stable Nos. 5 through 12 are affected by abnormal soil settlement generally associated with inadequate subsoil support. Also, a section along the south wall of Stable K-2 has collapsed due to inadequate soil support and is currently being reconstructed. The remaining 35 acres of the site, according to the appraisal, consist of undisturbed, buildable soil. This area contains the clubhouse/grandstand complex and parking areas.

The improvements include a clubhouse/grandstand complex, 17 permanently constructed stables, some of which contain second level sleeping rooms, a field kitchen, a maintenance and equipment garage, and various ancillary support buildings. The appraisal describes the infield as surrounded by a seven furlong turf track and a one mile sand track over a limestone base. The clubhouse and grandstand complex provides an unobstructed view of racing events through a glass wall. These buildings were constructed of steel, masonry and reinforced concrete in 1979 and 1980. The appraisal opines an effective age of 29 years for these buildings.

The appraisal indicated that the highest and best use of the subject, as vacant, was for industrial development, and that as improved, its highest and best use would be its present use.

The appellant's appraiser developed the two traditional approaches to value in estimating the subject's market value. The cost approach indicated a value of \$10,135,000, rounded, while the income approach indicated a value of \$10,164,000, rounded. The appraiser concluded a market value of \$10,150,000 for the subject property as of January 1, 2005.

The initial step under the cost approach was to estimate the value of the site at \$6,385,500, or \$53,480 per acre. In doing so, the appraisal considered six land sales that sold from February 2002 to December 2005 that ranged in size from 42.622 to 86.953 acres and in sale prices from \$55,221 to \$112,245 per acre. Adjustments were made in the appraisal for differences between the comparables and the subject.

The appraisal separated the subject into different component sections based on the condition of the soil or subsoil with respect to development potential. They are separated as follows: the 35.4 buildable acres underlying the clubhouse/grandstand and most of the west, north and east parking area; 40 acres of unbuildable land in the infield; a 10 acre infield lake; and 34 acres of filled land in the backstretch area with evidence of subsoil support problems. The 35.4 acre buildable component was

estimated to have a value of \$95,000 per acre. The appraisal then estimated a value for the other component sections, discounting the value 25% to 55%, for an averaged value of \$53,480 per acre.

The appraisal utilized the Marshall & Swift "SwiftEstimator" to estimate a replacement cost new for the improvements. The appraisal separates out the cost into two categories, one for the clubhouse/grandstand using pricing for a parking structure and one for the stables using pricing for an industrial shell. Depreciation was applied separately to each category. The clubhouse/grandstand was estimated to have a replacement cost new of \$19,646,146. Based on an effective age of 29 years, the appraisal used the age-life method to estimate physical deterioration for the clubhouse/grandstand at 54%; the stables were estimated to have an effective age of 34 years for a depreciation of 68%. The appraisal then takes an additional percentage of depreciation for external obsolescence of 30% on each building. The appraisal indicated this depreciation was due to the fact that the subject property is only utilized for several months out of the year.

The appraisal then estimates the depreciated value of the other buildings/site improvements at \$3,749,907. Adding the land value resulted in a final value estimate, under the cost approach, of \$10,135,000, rounded.

Under the income approach, the appraisal indicates the subject is currently encumbered by a lease dated July 29, 2003 that runs through 2101. The base rent is \$2,000,000 for the first year and \$3,000,000 for the remaining years. A percentage rent of 20% of net earnings is applied to earnings exceeding the base rent. The appraisal opined that this lease, along with the subleases were not arm's length transactions and the appraisal did not use this data when developing the value for the subject.

The appraisal also indicates that the horseracing industry is intensely regulated by the Illinois Racing Board and that the gross revenue generated by racing is called the handle. This handle is generated from on-track, off-track, and inter-track pari-mutuel wagering. The gross handle from all sources is reduced by the horsemen's purses and operating expenses. The appraisal utilized the "royalty approach" in that it valued the property as if there were an absentee landlord and what the market rent would be. The appraisal adjusts the gross handle to reflect on-site wagering only because a potential operator/lessee would not pay percentage rent based upon the aggregate handle. The appraisal analyzed the site-specific, on-track handle for calendar years 2002 through 2004 and reduced it to dollars per allocated program for racing features.

According to the appraisal, research shows royalty-type rents range between 2% and 2.5% of the gross on-track handles. The appraisal estimated the subject's rent at 2.25% of the on-track handle estimated at \$61,250,000 for a potential rent of \$1,378,125.

The appraisal estimated the operating expenses at 5% for management, 4% for insurance and structural maintenance, and 2.5% for reserves for replacement for total expenses of 11.5% or \$158,484. The net income was estimated at \$1,219,641.

A capitalization rate was then estimated using the band of investment method to arrive at a rate of 12%. Applying this rate develops an estimate of market value under the income approach of \$10,164,000, rounded.

In reconciling the various approaches, the appraisal gave primary reliance to the cost approach and secondary reliance to the income approach. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2005 to be \$10,150,000.

At hearing, the appellant called Timothy Coleman as a witness. Mr. Coleman testified he began working at the subject property in 1983 and was employed there during 2005 and 2006 in several different capacities. He testified he managed the mutuel department where bets were taken. Mr. Coleman testified he was close with the president and general manager, Thomas R. Carey, and he worked with Mr. Carey and the attorneys in regards to real estate taxes as the liaison for Mr. Carey.

Mr. Coleman described the subject property. He opined that the grandstand is functionally obsolete and that the barns are extremely old. He testified that he saw settling of the soil near the stable area and foundation cracks in walls in the stable area. Mr. Coleman read from a report in regards to the soil condition, however, he had no personal knowledge as to the information contained in the report.

Under cross examination by the board of review, Mr. Coleman acknowledged that the soil settling did not prevent the operation of the facility as a horse racing facility. He opined the grandstand was in poor condition based on the amount of mechanicals breaking down, roof leaking, heat not working in the winter, air conditioning not working in the summer, escalators breaking, and infestation of rodents.

Mr. Coleman testified that when employees of the subject property break the soil surface in the backstretch, they have to wear protective gear from head to toe.

The board of review submitted "Board of Review-Notes on Appeal" that reflect the subject's total assessment of \$8,474,003 yielding a market value of \$22,300,007 when using the Cook County

Real Property Classification Ordinance for Class 5A property of 38%.

In support of this market value, the board of review submitted a memo indicating the board is submitting a chart illustrating the county's estimate for constructing and depreciating the subject. The memo indicates that cost for stables and grandstands were from a 1998 base price with no multipliers employed.

The memo states "For this appeal we are in agreement with the appraisers estimated square footage, estimated physical depreciation, the value of the other improvements and the estimated land value." The board disagrees with the appraiser's use of "parking garage" for pricing the clubhouse/grandstands and for "industrial shell" for pricing the stables.

The board also strongly disagrees with the inclusion of external obsolescence in the appellant's appraisal. They opined that the highest and best use of the property as determined by the appraiser is the current use which is legally permitted and is being utilized at its highest and best use. The county argues that the very legislation that allows the property to be used as a race track is the authority the appellant improperly uses to deduct the external obsolescence.

Also included in the evidence is a cost approach summary listing prices for stables, the club house and the grandstands with a rate of depreciation and a total depreciated value along with printouts from Marshall & Swift, some of which are dated 12/99. The board of review also included an email from Mike Sweeney, Director Industrial/Commercial Valuations to Margie Cusack. This email states that Mr. Difebo's value is about "2 mil above our final value on the racetrack, but he is going to go over the cost numbers again this morning and scale down the values from the 'high end' to a more moderate stable value." The final sentence reads "I asked Ralph to come in right at our value (23 mil?) or slightly lower (we put the subsequent year in at 14 mil)." The board of review did not call any witness at hearing, but rested on the evidence previously submitted.

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, 331 Ill.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 PTAB concludes that the evidence indicates a reduction based on market value is warranted.

Having considered the evidence presented, the PTAB concludes that the subject property's assessment is not supported by the market data in the record and that a reduction is warranted.

In determining the fair market value of the subject property, the PTAB closely examined the appellant's appraisal and the board of review's memo, cost calculations and email documentation. In reviewing these documents, the PTAB finds that the board of review agreed to the value of the land as established by the appraisal. Therefore, the PTAB finds the subject's land value as estimated in the appraisal is supported by the evidence submitted by both parties and a reduction in the land value to the appraisal value is warranted.

As to the improvement, the PTAB finds the best evidence to be the appellant's appraisal. The appellant's appraiser utilized the cost approach to value in determining the subject's market value. The PTAB finds the subject property is a unique property where sales would not be applicable to estimating the subject's market value. This is supported within the appraisal wherein the appraiser indicates he was unsuccessful in finding any sales of directly comparable race track properties. The PTAB finds the appraisal to be persuasive for the appraiser: has experience in appraising; personally inspected the subject property and reviewed the property's history; and used appropriate cost calculations while providing sufficient detail regarding those calculations along with the depreciation rates that were necessary.

The PTAB gives little weight to the board of review's evidence as the cost calculations were from 1999, there was no explanation as to the depreciation rate, and the email submitted by the board of review indicates a value the county predetermined and asked employees to estimate a market value at that predetermined amount.

Therefore, the PTAB finds that the subject property had a market value of \$10,150,000 for the 2006 assessment year. Since the market value of the subject has been established, the Cook County Ordinance Level of Assessment of 38% for class 5A property will apply. In applying this level of assessment to the subject, the total assessed value is \$3,857,000 while the subject's current total assessed value is above this amount. Therefore, the PTAB finds that 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.

Donald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

J. R.

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: September 21, 2012

Allen Castrovillari

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

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

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

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