FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Jack Gore
DOCKET NO.: 07-04031.001-C-3
PARCEL NO.: 19-04-400-023

The parties of record before the Property Tax Appeal Board are Jack Gore, the appellant, by attorney Lisa A. Marino and Melissa K. Whitley, of Marino & Assoc., PC in Chicago; the McHenry County Board of Review; and Algonquin Township, intervenor, by attorney James P. Kelly of Matuszewich, Kelly & McKeever, LLP in Crystal Lake.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***no change*** in the assessment of the property as established by the **McHenry** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$283,720
IMPR.:	$620,803
TOTAL:	$904,523

Subject only to the State multiplier as applicable.

ANALYSIS

The subject parcel of 2.36-acres is improved with a 57-room, three-story limited-service hotel. The masonry and stucco hotel was constructed in 2000 and consists of 30,879 square feet of building area. Features include a breakfast/meeting room, an indoor pool and a 2,500-pound elevator. Site improvements include asphalt parking for 139 vehicles, concrete walkways and landscaping. The property is located in Crystal Lake, Algonquin Township, McHenry County.

The appellant appeared through counsel before the Property Tax Appeal Board contending that the market value of the subject property was not accurately reflected in the property's assessed valuation. In support of the overvaluation argument, the appellant submitted an appraisal utilizing all three approaches to value. The report was prepared by Arthur J. Murphy, MAI, a Certified General Real Estate Appraiser, employed by Urban Real Estate Research, Inc. along with assistance from a "staff

appraiser." The report concluded the subject property had a fee simple market value of $1,600,000 as of January 1, 2007.[1]

Leslie Kruse was present and offered testimony in support of the report which he stated he prepared along with Murphy. At the time of hearing, Kruse was a certified real estate appraiser and Arthur Murphy was his former employer. As set forth in the report (page 1) Kruse, Staff Appraiser, inspected the subject property on February 9, 2008 and also reportedly inspected the comparables.[2] The licensed appraiser Murphy did not inspect either the subject or the comparables.

The history of the subject property included data that it was purchased in June 2006 for $3,265,000. The notation on page 17 of the report indicates that the buyer owns a portfolio of limited-service hotel and motel properties. The appraiser wrote the purchase was made to add to the income stream of the buyer's portfolio of properties. "We believe the buyer paid a premium over and above the fee simple interest in the subject real estate, and that the buyer's expertise in owning and operating these types of properties influenced the sale price. As such, we have given little weight to this transaction in our analysis and have relied on the Income Approach in our value conclusion." (Appellant's appraisal report, p. 17)

There are a limited number of hotel properties in Crystal Lake; at page 25, the appraiser noted there is a full-service Holiday Inn along with limited-service hotels such as Super 8 and Country Inn and Suites besides the subject Comfort Inn.

Under the cost approach, the appraiser utilized five land sales to value the subject's 2.36-acre site. The sales are located in Crystal Lake and range in size from 2 to 16.81-acres or from 87,120 to 732,244 square feet of land area. They sold from May 2004 to July 2006 for prices ranging from $831,355 to $3,300,000 or from $3.31 to $9.54 per square foot of land area. Adjustments were made for differences such as land size, shape, and exposure as discussed on page 56 of the report. After adjusting these properties for differences when compared to the subject, the appraiser estimated a value for the subject land of $8.00 per square foot or $820,000, rounded.

Direct building costs for the subject's improvements was estimated to be $3,089,469 or $100.05 per square foot of gross

[1] As was raised at hearing, numerous pages of the appraisal report appeared to be missing from the copies provided to both the Property Tax Appeal Board and to the opposing parties. Counsel provided some pages at the hearing which apparently had been provided to opposing counsel and other documentation came in during cross-examination. However, appellant's counsel's attempt to submit an annual version of a STR Report that had not specifically been referenced or included was not allowed. (TR. 13-15)

[2] During cross-examination, Kruse volunteered that "someone in our office" had gone to Sale #3. (TR. 28, 30)

building area using the Marshall Valuation Computerized Cost Service. Page 58 of the appraisal was meant to depict the development of the cost new, but the page was blank other than a title at the top and page number. The appraiser then added 3% for indirect costs ($92,864) due to the size of the property along with adding 10% for entrepreneurial profit ($318,233), plus soft costs of 3%, although this latter amount was not set forth in the summary on page 67 of the report showing a total replacement cost new of $3,500,566. In determining depreciation, the appraiser wrote that the subject was estimated to have an average effective age of 10 years with an estimated economic life of 45 years. Using the age/life method, the appraiser determined physical depreciation to be 22.2% or $777,126. There was no functional obsolescence, but to calculate external obsolescence the appraiser utilized "capitalization of an income loss." In this method, the appraiser multiplied the estimated total value of the land and depreciated improvements by the loaded capitalization rate to estimate the income necessary to support this value.[3] In the income approach, the appraiser found the subject can generate a stabilized net operating income of $184,349 which therefore resulted in a negative $240,483 which is capitalized at 11.5% for 59.7% or a deduction of $2,091,157 for external obsolescence.

Deducting the total depreciation amounts of 81.9% from the replacement cost new resulted in a depreciated improvement value of $632,283. Adding the site improvements of $150,750 along with the estimated land value of $820,000, the appraiser concluded a value under the cost approach of $1,600,000, rounded.

For his income approach, the appraiser stated that he used the subject's actual income and expenses supplied by the owner for year 2006 and the 9-months annualized for 2007. The data was included on page 70 in the appraisal report. For the room revenue, the appraiser analyzed the average daily room rates for each of these periods and along with reviewing Trends in the Hotel Industry USA Edition - 2007 and the Smith Travel Research (STR) Report in selecting a stabilized rate. The appraiser reported the subject's average daily rate of $66.57 per room was considerably lower than its competitive set. Based on the available data, the appraiser stabilized the average daily room rate for the subject at $66.50. The occupancy rates were reported to range from 60.1% to 67.5%. The appraiser concluded a stabilized occupancy rate of 56.5%. Using a daily room rate of $66.50 and an occupancy rate of 56.5% resulted in room revenues of $781,696. No other income from items such as food, beverage, telephone receipts, and vending machines were reported. Therefore, the appraiser determined total effective gross income of $781,696.

[3] $820,000 + $2,874,190 = $3,694,190 x 11.5% = $424,832 as the income necessary to support the estimated value.

The appraiser next reconstructed the subject's actual expenses for the same period. Expense ratios were reported to range from 19.7% to 35.9% of departmental revenue. After noting some survey data, the appraiser concluded stabilized expenses at 24% of the stabilized effective gross income or $187,607. He next discussed undistributed expenses such as administrative (7%), sales/marketing (4%), maintenance (4.5%), energy (5%), insurance (1.5%), wages (16.5%), and management fees (5.5%). As a result of the foregoing analyses, the appraiser opined overall undistributed expenses totaled an additional 44% or $343,946. Thus, the appraiser determined income less undistributed and distributed expenses to be $250,143.

For reserves for replacements, the appraiser explained that short-lived items of real property along with personal property in the rooms and public areas must be accounted for. Industry sources were used and cited by the appraiser in the report. He found reserves for replacements of real property to range from 4% to 7% of total income received and personal property ranged from 4.9% to 6.1% of revenues. The appraiser concluded the subject property's total reserves for replacements to be 2% of total revenue. Next, the appraiser deducted the value contributed by the furniture, fixtures and equipment (FF&E) with separate calculations for return on and return of the FF&E investment which resulted in deductions of $17,100 (2.2%) and $28,500 (3.6%), respectively. Next, a deduction of .6% for working capital was made or $4,560. Deducting the foregoing resulted in a net operating income of $184,349.

For his capitalization rate, the appraiser was unable to utilize the market extraction method. The band of investment method revealed a rate of 9.1% and published sources ranged from 6.5% to 14% with a higher range for less desirable properties. Based on the foregoing data, the appraiser determined the band of investment technique which was within the range of published sources reflected the appropriate overall capitalization rate of 9.1%. Adding the effective tax rate of 2.406% accounted for the taxes and resulted in an overall loaded capitalization rate of 11.5%. Dividing the net operating income by the overall capitalization rate resulted in an estimated value under the income approach of $1,600,000, rounded.

The witness next discussed the sales comparison approach. Kruse indicated that Sales #2 and #7 were most similar to the subject property. He testified that all the comparables were examined for similarity in location, amenities, average room size based on the building size, and condition of the building. As depicted in the report, the appraiser utilized seven suggested sales of hotel properties located in the Illinois cities of St. Charles, Harvard, Waukegan, Elgin, Mundelein and Barrington. Six of the comparables are situated on lots ranging from .96 to 2.0-acres; no land size was provided for Sale #5. Three properties are described as two-story structures; three properties are described as three-story structures; and Sale #6 has no design data. Six of the properties were said to be from 10 to 32 years old; no age

information was provided for Sale #6. Three of the properties had indoor pools and two of the properties had outdoor pools; one comparable was said to have some Jacuzzi suites. They contained from 12,760 to 43,500 square feet of building area[4] and contained from 53 to 108 rooms.

The sales occurred from March 2006 to September 2007 for prices ranging from $1,450,000 to $6,451,000 or from $18,354 to $59,731 per room including land. Sale #1 also reportedly sold two years earlier in January 2005 for $1,850,000 or $34,906 per room including land and Sale #3 reportedly sold six months earlier in January 2007 for $950,000 or $12,025 per room including land. After adjusting the properties to the subject for amenities, room size, age, condition, and/or location, the appraiser estimated a value for the subject of $28,000 per room or $1,600,000 including land, rounded.

In reconciling the three approaches to value, the appraiser gave limited consideration to the cost approach because of the difficulty in calculating the amount of accrued depreciation. Kruse testified that the most weight was placed on the income approach since a hotel is an income producing property and would reflect the best gauge of value. In contrast, he noted that the sale comparison approach to value is more difficult to gauge as the sale of a hotel includes business value. In the report, the appraiser wrote that primary weight was given to the income approach as it would reflect what a purchaser/investor would pay predicated on the property's income producing capabilities; limited weight was given to the sales comparison approach as deductions for "going concern value" are difficult to determine. The final estimated value for the subject property as of January 1, 2007 was $1,600,000 or $28,070 per room.

Based on the foregoing evidence, the appellant requested that the subject's assessment be reduced to $533,280 or a market value of approximately $1,600,000.

During cross-examination by counsel for the intervenor, Kruse contended the 13-page introductory letter discussed the business value component, but he further asserted that the income approach did not include any adjustment for business value. He acknowledged that the owner of the subject property owns "a lot of hotel property." He also acknowledged that the subject hotel was purchased in June 2006 for about $3.265 million. Kruse contended that based on his appraisal, the owner paid too much for the subject property.

As to the comparable sales, Kruse acknowledged that he did not do market analyses of the various communities where the comparables were situated as was done for the Crystal Lake area. He also

[4] Appellant's Sale #1 was also intervenor's Sale #5; appellant reported one-half the building size at 12,760 square feet (53 rental rooms) that intervenor's appraiser reported.

reiterated that this 7-year-old property was in average overall condition because hotel property gets a lot of wear and tear in a short period of time. (TR. 31)

In the course of cross-examination, a question arose regarding the STR Report utilized in the appraisal which was purportedly included in the addendum. Without objection, counsel for appellant submitted a multi-page document entitled on the first page, Comfort Inn Crystal Lake Weekly DaySTAR Report For the Week of December 9, 2007 - December 15, 2007. This was followed by multi-pages identified as Operating Statements, a Partnership tax return, depreciation and amortization schedule, and the qualifications of both appraisers which were not previously part of the submission made to the Property Tax Appeal Board.[5]

As cross-examination proceeded, it was established that Table 2 of the STR Report reflecting the 28-day period ending December 15, 2007 showed an occupancy rate for the subject of 57.4%. (TR. 34) Kruse testified that when the appraisal was performed, he had a full annual STR Report and due to some mistake, it was not attached to the report. He further contended that the numbers set forth in the appraisal shown on pages 76 through 78 were drawn from the 2006 annual STR Report as referenced at the bottom of page 77. Kruse acknowledged that he had no first-hand knowledge of the market areas of the comparable properties listed on page 77 which were drawn from the STR Report.

In the cost approach, the subject was noted to have fair exposure meaning that it was a visible site with good frontage on a commercial arterial. Kruse did not make a location visit to the comparable land sales. The subject was significantly larger than the comparable land sales. Admittedly, the land accounted for about ½ the value of the subject property under the cost approach.

Kruse testified that physical depreciation of 22% was deducted because even though it was only 7 years old, he asserted that hotel properties get a lot of 'wear and tear.' He further acknowledged that external obsolescence of 59.7% was applied to the subject property. As to the income approach, Kruse insisted that he stabilized the subject's income higher and did not give it a lot of weight because she had the annual STR Report along with other published data.

The board of review representative on cross-examination confirmed that the subject property was purchased by the appellant on June 30, 2006 (PTAX-203A), exactly six months prior to the valuation date at issue.

[5] The qualifications for Leslie Kruse do not indicate that he was a licensed real estate appraiser in the State of Illinois as of the preparation of this appraisal report; it reflects his title as Staff Appraiser with a college degree and being an affiliate member of the Appraisal Institute.

Next, counsel for the appellant, who had taken an oath at the commencement of hearing, sought to present her own testimony on behalf of the client that the client was not looking to purchase the subject property, but instead had been considering the purchase of two properties in Schaumburg which were with the Comfort Inn franchise. "In order to purchase those two hotels in Schaumburg, this hotel was thrown at him because this hotel was suffering, and he purchased at a price that he knows he overpaid for." A hearsay objection was made and counsel acknowledged that her presentation was classic hearsay, but offered to obtain an affidavit from her client. The objection was sustained and counsel was advised that submission of an affidavit was not permissible.[6]

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $904,523 was disclosed. The subject's assessment reflects a market value of $2,720,370 or $47,726 per room including land using the 2007 three-year median level of assessments for McHenry County of 33.25%.

In support of the subject's assessment, the board of review submitted a copy of the PTAX-203 Illinois Real Estate Transfer Declaration and PTAX-203A reflecting the sale of the subject property in June 2006 for a purchase price of $3,265,000 and indicating the property had been advertised for sale for one month with no amount of personal property included in the purchase price. Additionally, the board of review submitted a sales comparison grid of five properties, although Sale #1 was actually the sale of the subject property in June 2006. The other four comparables sales of hotels were located in Lake, DuPage and Will Counties with sites ranging from 1.57 to 2.42-acres of land. The comparables range in size from 20,416 to 26,580 square feet of building area and had from 52 to 74 rooms. They were two-story or three-story buildings built between 1988 and 1997. The comparables sold in September 2002 or May 2007 for prices ranging from $2,217,500 to $3,400,000 or from $29,966 to $50,000 per room including land. As a result of this data, the board of review requested confirmation of the subject's assessment.

The intervenor, Algonquin Township, submitted an appraisal prepared by Frank E. Harrison who was called as a witness. Harrison used the three traditional approaches to value to estimate the subject's fair market value as of January 1, 2007 at

[6] "An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. . . . Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client." 86 Ill.Admin.Code, Sec. 1910.70(f). Moreover, no new written or documentary evidence shall be accepted into the appeal record at a hearing unless previously presented, the filing requirement is waived by the Board, or the submission is specifically ordered by the Board or a Hearing Officer. (86 Ill.Admin.Code, Sec. 1910.67(k)).

$2,800,000. However, counsel for the intervenor specifically requested confirmation of the subject's assessment, despite the intervenor's appraisal evidence.

Harrison, a Certified General Real Estate Appraiser, has 39 years of appraisal experience with an MAI designation from the Appraisal Institute and a CRE designation from the Counselors of Real Estate. He has taught classes on appraisal techniques and has contributed to books on the subject. Harrison has also appraised commercial, industrial, agricultural, residential, multi-family, and many special use properties within McHenry County which has been the primary base of his appraisal work.

This appraisal was prepared with one extraordinary assumption: despite numerous attempts to obtain income, expense and occupancy information for the subject property, ownership refused to provide the data. The only such data available was that recited in the appellant's appraisal and thus this appraisal is subject to the extraordinary assumption that the appellant's appraisal report data is complete and accurate.

Additionally, despite numerous attempts to inspect the property, only exterior examination was permitted. The appraisal report references that descriptive data of the subject was drawn from both the appellant's appraisal report and from the township assessor's records. However, the appraiser did report the subject limited-service/economy hotel was in "good condition; well-maintained; no deferred maintenance noted; estimated effective age of 10 years; estimated 30-year remaining economic life expectancy." (Intervenor's appraisal, p. 21)

The appraiser reported a sale of the subject property in January 2007 that appeared to be between related parties. Prior to this sale, the subject was purchased in June 2006 for $3,265,000 which, according to data gathered by the Algonquin Township Assessor's Office, the preparer of the transfer declaration "indicated that personal property in the subject property was included in the sale price, and that the purchaser paid cash for the property." (Intervenor's appraisal, p. 3) Harrison therefore wrote in the report that the purchase price represents the value of both the real estate and the personal property associated with the subject.

Under the cost approach, the appraiser utilized six comparable vacant land sales to value the subject's 2.36-acre site. The sales are located in Crystal Lake and contain from 87,120 to 235,512 square feet of land area or from 2 to 5.41-acres. The land sold between November 2005 and October 2007 for prices ranging from $635,000 to $2,163,618 or from $7.29 to $16.00 per square foot of land area. After adjusting these properties for differences such as market conditions, location, lack of a corner configuration, interior configuration and/or zoning when compared to the subject, the appraiser estimated a value for the subject's site of $10.50 per square foot or $1,079,000, rounded.

Harrison opined that his land value conclusion differed from that of appellant's appraiser based on the sales used. Namely, Harrison contended that he and Murphy/Kruse had only one land sale in common and the sales used by Harrison were in closer proximity to the subject than those analyzed by Murphy/Kruse.

Replacement costs for the subject's improvements were calculated using the Marshall & Swift Commercial Estimator System, which included all direct and indirect costs as well as a provision for profit. Costs new were estimated to be $2,859,321 or $92.60 per square foot of gross building area. This estimate includes the elevators and sprinkler system as well as the enclosure for the swimming pool although it did not include the swimming pool itself or the site improvements. The appraiser estimated physical depreciation to be 25% or $714,831 using the straight line or age/life method of depreciation based on an estimated effective age of 10 years and a total economic life expectancy of 40 years. The appraiser then added contributory values for the site improvements of $50,000 and for the swimming pool of $50,000. The appraiser noted the cost approach did not take into consideration any obsolescence "because of the business operation of the property." (Intervenor's appraisal, p. 29) After deducting the depreciation amounts and adding the land value, the appraiser estimated a value for the subject under the cost approach of $3,323,000, rounded.

Under the sales comparison approach, the appraiser utilized five sales of hotel properties, which included the June 2006 sale of the subject. The four other sales were located in Barrington, Mundelein, Elgin and St. Charles. These four sales were also presented by appellant's appraiser as Sales #1, #5, #6 and #7.[7] Harrison testified the only sale found in Crystal Lake was that of the subject. The other sales were found by spreading out from the subject in concentric circles selecting properties that were most similar in location and type of hotel in terms of physical characteristics. The appraiser noted the most value-significant characteristics were the date of valuation, the subject is a 57-room limited-service/economy hotel with an indoor pool, the building was constructed in 2000 with an estimated effective age of 10 years and an estimated remaining economic life expectancy of 30 years, and the location/land value of the subject. (Intervenor's appraisal, p. 31)

As to the appellant's Sale #2 located in Harvard, Harrison testified that Harvard as a market is not comparable to Crystal Lake. The Harvard community is rural and depressed because of a large manufacturing plant closure and has little retail activity. Harrison also testified that hotel properties on the west and

[7] The data reflects differences in building size(s) by the appellant's appraiser and Harrison, but the rental room counts were identical as were the dates of sale and sale prices less any identified amount for personal property.

southwest sides of Waukegan in a highway/commercial district corridor would be comparable to Crystal Lake.[8]

In the market area research, Harrison found eleven hotel properties in McHenry County, one of which was a full-service hotel, four of which were limited-service/economy hotels, and six were budget hotels. Besides the 2006 sale of the subject, the appraiser reported the full-service hotel in Crystal Lake sold in February 2007 for $17,119,863 including over $1 million in personal property ($81,420 per room). Two budget hotels sold: one in Woodstock in January 2006 for $2,150,000 including $650,000 in personal property ($25,862 per room) and one in Harvard in July 2007 for $1,450,000 including $150,000 in personal property ($21,667 per room).[9]

The comparables are situated on lots ranging in size from 41,944 to 62,560,872 square feet of land area. Two comparables are two-story frame and masonry structures and three were three-story frame and masonry structures. They ranged in age from 6 to 32 years old. Sales #4 and #5 were renovated in 2005. Four comparables had swimming pools and the fifth comparable had a seasonal swimming pool in an adjacent park. They range in size from 25,520 to 45,439 square feet of building area and contain from 53 to 108 rooms. They sold between March 2006 and September 2007 for prices ranging from $2,100,000 to $7,051,000. Sales #4 and #5 identified personal property included in the price of $600,000 and $300,000, respectively. Thus, the sales prices (in two sales less personal property) ranged from $38,182 to $59,731 per room including land.

Each sale was said to be an apparent arm's-length transaction with market financing and between owner-operators. Each sale involved some sort of franchise arrangement at the time of sale and only one property changed its franchise after the sale. For each sale, Harrison estimated the land value as of the date of sale based on comparable site sales and compared that to the subject's site value conclusion of $1,079,000. Sales #1 and #4 were said to be inferior due to lower land values; Sale #5 had a superior land value. Condition adjustments were made for Sale #1 upward of 25% and downward by 10% for Sale #4 due to recent renovation.

After considering adjustments to the comparables for differences, the appraiser opined adjusted sale prices ranging from $38,202 to $57,678 per room including land. Harrison also recognized that the 'adjusted' sale price of Sale #2, the subject, at $57,281 per room was at the high end of the range.

Harrison noted Sales #1, #3, #4 and #5 were superior to the subject because they included business value. Harrison made no

[8] Harrison never opined whether appellant's Sale #3, a Day's Inn in Waukegan, was or was not in a similar market area to Crystal Lake.
[9] This latter property is appellant's Sale #2.

adjustment for the business value component, but acknowledged on page 37 that "some attempt should be made to reflect it." Sale #2, the subject, also purportedly included whatever business value was associated with the property. While the sale of the subject also included business value, Harrison again chose to make no adjustment to the subject's sale price of $57,281 per room even though this appraisal excludes business value. In analyzing the data, Harrison also mistakenly stated on page 37 that "the sale prices used for all of the sales excluded personal property" when, in fact, personal property had only been identified for Sales #4 and #5.

In reconciling the adjusted sale prices on page 38, Harrison identified the mid-point, median and mean per-room sale prices and reconciled the range at $50,000 per room or a value of $2,850,000 rounded.

Under the income approach, Harrison testified that he began by requesting an inspection of the subject and receipt of income and expense information so that actual income and expense information could be analyzed with other properties and national publications. Harrison was denied the opportunity to inspect the subject and was told to rely on the appellant's appraiser's income and expense data, but several pages were missing from the report. (TR. 68) Data that was available included a 2006 partnership tax return reflecting ownership only for a partial year meaning this data was unreliable and the 2007 income and expense statement for a 9-month period was found to be effectively unidentified and therefore deemed unreliable. Thus, Harrison relied on the STR system, both an industry-wide report and a custom report specific to a geographic region and specific properties as attached in his addenda.

The STR reports reflected limited-service hotel rooms in 2007 renting for rates ranging from $62.76 to $91.64 with an additional 2.3% to 3.3% attributable to other revenue sources. Based on these STR reports and the appellant's appraisal with the subject's purported average daily rate (ADR), Harrison projected an ADR for the subject in 2007 of $67.50. He also opined further income for telecommunications, facsimile and copy machine use, guest laundry, and pay-per-view movies to project total revenue of $69.00 per room. The STR reports on 2007 occupancy rate data for chain-affiliated, limited service hotels and the first quarter of 2007 for the Korpacz survey ranged from 66.2% to 69.6%. Based on analysis of the survey data and the appellant's actual occupancy data from its appraisal, Harrison projected a 2007 occupancy rate for the subject of 60% resulting in total revenues of $861,327.

The 2007 STR reports indicated departmental expenses (room expenses, telecommunications and miscellaneous items) for limited-service hotels ranged from 19.6% to 26% of total revenues. Harrison projected departmental expenses for the subject of 25% of total revenues or $215,332. The appraiser next considered undistributed expenses which relate to

administrative/general expenses, marketing, utility and operations/maintenance. The STR reports reflected 2007 undistributed expenses for limited-service hotels range from 23.2% to 24.7% of total revenues. Based on this data, Harrison projected undistributed expenses for the subject of 24.5% of total revenues or $211,025.

Next the appraiser considered the franchise fee, an expense reflecting the royalty fees charged by the franchise company. The STR reports for 2007 reflected franchise fees ranging from 0.6% to 4.8% of total revenues. Taking into account the subject has only 57 rooms, Harrison projected the subject's franchise fees to be 3% of total revenues or $25,840. Report data indicated management fees ranged from 0.9% to 4.5% of total revenues; Harrison concluded the subject's management fee should be 4% of total revenues or $34,453. Fixed expenses including real estate taxes,[10] insurance and reserves for replacements in the report data ranged from 6.1% to 10.9% of total revenues. Given the subject's size and location, Harrison projected fixed expenses for the subject of 11% of total revenues or $94,746.

In summary, deducting the subject's projected total expenses of $581,396 or an expense ratio of 67.5% resulted in a net income ratio of 32.5% or a net operating income of $279,931.[11] Harrison recognized that the subject's net income ratio was lower than the survey data, but he concluded "it is appropriate for the subject property." (Intervenor's appraisal, p. 50)

To determine a market capitalization rate, in the absence of meaningful income and expense information on the comparable sale properties, the appraiser utilized survey data published in the Korpacz Real Estate Investor Survey, First Quarter 2007. For National Economy/Limited-Service Lodging Segment, the survey reflected overall capitalization rates ranging from 6.5% to 14%. Having analyzed the reported data, Harrison concluded that an overall capitalization rate of 10% was appropriate for the subject as of the date of valuation. Applying this capitalization rate to the subject's net operating income resulted in an estimated value under the income approach of $2,799,000, rounded.

In reconciling the three approaches to value, Harrison testified and stated in the report that he relied primarily on the conclusions made in the sales comparison and income approaches to value. In comparison to the Murphy/Kruse appraisal that arrived at identical opinions of value of $1.6 million for the subject

[10] Harrison testified that there are two ways for an appraiser can handle real estate taxes: (1) load the capitalization rate as was done by appellant's appraiser or (2) incorporate the real estate taxes as a line item in the valuation. (TR. 72-73)

[11] Harrison reported the 2007 STR reports reflected expense ratios ranging from 51.3% to 65.5% resulting in net income ratios ranging from 34.5% to 48.7%.

under each of the three approaches to value, Harrison testified that he has found it rare to arrive at identical conclusions unless perhaps for office condominiums which sell and rent for the same prices. In his report, Harrison concluded the subject property had a fair market value of $2,800,000 as of January 1, 2007.[12]

On cross-examination by appellant's counsel, Harrison explained that personal property includes items such as beds, televisions, dressers and lobby furniture. This does not encompass business value or the franchise flag. In utilizing the STR reports, Harrison stated that he relied more heavily on the 36 properties in Illinois from the host report than from the national report. (TR. 78)

On cross-examination by the board of review representative, Harrison acknowledged that appellant's Sale #2 in Harvard the last he saw it no longer carried the Amerihost flag on the property.

In answer to the Hearing Officer's questions, Harrison explained that in order to determine land values for the comparable sales, he examined vacant land sale comparables at that location at time of the sale and determined the sale property's land value. Then, if an adjustment was required for market conditions, it was made and compared to the subject's land value of $1,079,000. (TR. 86-87) Harrison also acknowledged that the three sales that did not have specified personal property noted on the transfer declaration "might have been something more than just the real estate" in the sale transaction. (TR. 87-88)

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends overvaluation as the basis of the appeal. Section 9-145 of the Property Tax Code provides in part that except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). 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.

[12] On page 54, Harrison opined that based on the assessment, the subject's land was underassessed and the subject's improvement was overassessed. Furthermore, he concluded that the entire property was slightly underassessed.

2002). Proof of market value may consist of an appraisal of the subject property as of the assessment date at issue, a recent sale of the subject property or documentation of not fewer than three comparable sales. 86 Ill.Admin.Code, Sec. 1910.65(c). The Board finds the appellant has not met this burden of proof to establish overvaluation and therefore a reduction in the subject's assessment is not warranted.

The subject property has a total assessment of $904,523, which reflects a market value of approximately $2,720,370. The appellant submitted an appraisal prepared by Murphy/Kruse estimating the subject had a market value of $1.6 million as of January 1, 2007. The intervenor submitted an appraisal prepared by Harrison estimating the subject property had a market value of $2.8 million as of January 1, 2007. The board of review submitted sales data depicting the subject's sale price along with four comparables that sold between September 2002 and May 2007 for prices ranging from $2,217,500 to $3.4 million. While the appellant requested a reduction in the subject's assessment based on the evidence presented, both the board of review and the intervenor sought only confirmation of the subject's assessment.

The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the seller is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428 (1970). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill. App. 3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc., 45 Ill. 2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill. 2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

The evidence in this record indicates the subject property was "on the market" for one month prior to its June 2006 sale transaction. The documentation indicates that no personal property was included in the purchase price, although both appraisers who examined the sale believed the sale price included personal property and/or business value. Therefore, this Board has no confidence in the purchase price detailed in the evidence in this record as reflecting the real property value of the subject only.

The evidence also reveals that the signatories to the PTAX-203A asserted that the net consideration of $3.265 million for the real property was a fair reflection of the market value on the sale date (see Question #8 on PTAX-203A). Again, however, that contention is clearly called into question given the analysis of both parties' appraisers that the sale price included more than just the real estate. It is further noted that both the Real

Estate Transfer Declaration and Supplemental Form A provide in pertinent part:

> Any person who willfully falsifies or omits any information required in this declaration/form shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses.

With the credibility of the Real Estate Transfer Declaration and Supplemental Form severely diminished, the Property Tax Appeal Board finds there is no independent credible evidence showing the subject property's sale price did not also include personal property and/or business value.

Moreover, for purposes of assessment, real property is defined as "[t]he land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon . . . ." (35 ILCS 200/1-130). Both appraisers who analyzed this transaction for purposes of their respective reports did not place much reliance on the subject's recent sale price and both acknowledged that the sale price included the personal property of the hotel such as bedroom outfits and lobby furniture and/or business value. Based on all of these enumerated factors and despite the assertion in the Real Estate Transfer Declaration, the Property Tax Appeal Board finds the subject's June 2006 sale price is not a reliable indicator of the fair market value of only the real property.

The Property Tax Appeal Board finds the value conclusion contained in the appraisal offered by the intervenor, and supported by the sales data submitted by the board of review, is a better indicator of value than the appraisal offered by the appellant. Therefore, the Property Tax Appeal Board further finds the evidence does not support a reduction in the subject property's assessment.

The Property Tax Appeal Board accords little weight to the appellant's appraiser's value conclusion as will be discussed herein. Moreover, the licensed Certified General Real Estate appraiser, Murphy, who prepared the report did not testify and his absence was not explained on the record. Instead, a "Staff Appraiser" Kruse who assisted in the preparation of the report testified. Moreover, Kruse's qualifications attached to the appraisal do not indicate that at the time the report was prepared he was a licensed appraiser. Lastly, appraisal testimony offered to prove the valuation asserted may only be given by a preparer of the documented appraisal whose signature appears thereon. (86 Ill.Admin.Code Sec. 1910.67(l)). While not raised by the opposing parties, neither Kruse's nor Murphy's signature(s) appear on the appraisal submitted to the Property Tax Appeal Board. Furthermore, the evidence indicates that Kruse, without an appraisal license at the time, was not the preparer of the subject appraisal report.

As to the merits of the respective appraisals, the Board finds both appraisers relied heavily on the income approach in determining their final value conclusions. Both appraisers arrived at similar average daily room rates of $66.50 and $69.00, respectively. The lower daily room rate determined by the appellant's appraiser, however, failed to indicate any other income from items such as telephone charges, copy or facsimile use, guest laundry, or vending machines, which therefore understated the average daily room rate. Both appraisers arrived at relatively similar occupancy rates of 56.5% and 60%, respectively. These foregoing conclusions lead to gross revenue calculations of $781,696 and $861,327, respectively, again relatively similar.

Next, the appraisers differed on their total expense calculations. Appellant's appraiser had initial expenses of 68% resulting in income of $250,143; this was then further decreased by appellant's appraiser for reserves for replacements (2%), FF&E (5.8%) and working capital (.6%) for total expenses of 76.4% resulting in net operating income of $184,349. The Board finds the appellant's appraiser properly considered income attributable to FF&E which was not reflected in the intervenor's appraisal. One other point of divergence was in the treatment of real estate taxes, although both appraisers accounted for it but did so using different approaches. Intervenor's appraiser deducted total expenses, including real estate taxes,[13] of 67.5% for net operating income of $279,931. Appellant's appraiser opined a loaded capitalization rate of 11.5% including real estate taxes whereas the intervenor's appraiser opined a capitalization rate of 10%. Overall the Board finds the intervenor's income approach to be superior to that performed by the appellant's appraiser except that the income analysis failed to account for the return on and return of the investment in FF&E. Thus, in this regard the Board finds the intervenor's appraiser understated the expenses slightly. However, the Board also finds the intervenor's appraiser properly considered the franchise fee and furthermore supported all of the expense data through surveys of competing hotels from the subject's immediate area which supportive research data was not as clearly identified by the appellant's appraiser.

The Board finds the appellant's appraiser relied on the subject's actual income and expenses in 2006 and 9-months of 2007, even though the appellant did not own the property until June, 2006. Therefore, the Board finds this income and expense data was incomplete and suspect as two partial years or, alternatively, inclusive of income produced by a different, unknown owner and not fully explained on the record. To the extent that appellant's appraiser sought to support the income and expense figures with survey data, the underlying data may have only been

[13] Appellant's appraiser loaded the capitalization rate to account for real estate taxes whereas the intervenor's appraiser included real estate taxes as one of the expense items.

for a 28-day period (see appendix). This is so despite the testimony of Kruse that an annual report was analyzed. The Illinois Supreme Court in Springfield Marine Bank v. Property Tax appeal Board, 44 Ill. 2d 428 (1970) held that in determining the value of the property, rental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. It is the capacity for earning income, rather than the income actually derived, which reflects fair cash value for taxation purposes. The Board finds the intervenor's appraiser better supported the subject's capacity for earning income for the assessment date at issue than did the appellant's.

Additionally, the courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (1979), the court held that significant relevance should not be placed on the cost approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach.

Through the appraisals and the board of review's evidence, the parties presented a total of eleven different sales comparables. Board of review Sale #5 occurred in September 2002 and is too distant in time to be a valid indicator of the subject's market value as of January 1, 2007. While two of the suggested comparables were said to be in excess of 30 years old, one of these had been renovated as recently as 2005; based on this evidence, the Board has given less weight to the one older comparable located in Barrington that has not been recently renovated. Based on this analysis, the Board finds the remaining nine comparables sold for unadjusted prices ranging from $1.45 million to $6.451 million or from $18,354 to $59,731 per room. The subject’s assessment reflects an estimated market value of $2,720,370 or $47,726 per room including land using the 2007 three-year median level of assessments for McHenry County of 33.25%. These comparables had a wide array of differences in comparison to the subject in story height, land area, the number of rooms, age, condition, and/or amenities.

The Board has given most weight to three of the comparable sales contained in both of the appraisals submitted by the parties along with the three sales from May 2007 presented by the board of review. These sales occurred between March 2006 and September 2007 for unadjusted prices ranging from $45,161 to $59,731 per room including land. After considering the adjustments necessary to these comparables for differences when compared to the subject in terms of site size, age, building size, story height, number of rooms, condition, and/or amenities and accounting for the business value and/or personal property that was also likely

included in the purchase price, the Property Tax Appeal Board finds the subject's estimated market value based on its assessment of $47,726 per room including land, which is at the lower end of the range, is well-supported.

Based on the foregoing analysis, the Property Tax Appeal Board finds the appellant has failed to establish overvaluation of the subject property by a preponderance of the evidence and no reduction in the subject's assessment is warranted on this record.

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

Chairman

Member

Member

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: December 23, 2010

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.