



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

APPELLANT: HMH HPT Courtyard, Inc.
DOCKET NO.: 07-27837.001-C-3
PARCEL NO.: 02-01-401-020-0000

The parties of record before the Property Tax Appeal Board are HMH HPT Courtyard, Inc., the appellant(s), by attorney Paul J. Reilly in Chicago, the Cook County Board of Review by Cook County Assistant State's Attorney Joel Buikema; and Palatine C.C.S.D. #15, the intervenor, by attorney Michael J. Hernandez of Franczek Radelet P.C. 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: \$478,079
IMPR: \$1,573,921
TOTAL: \$2,052,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 218,801 square foot parcel of land improved with a 19 year old, four-story, masonry hotel containing 79,090 square feet of building area and 152 rooms. The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject is not accurately reflected in its assessed value.

In support of this argument, the appellant submitted a summary appraisal report. The appraisal has a valuation date of January 1, 2007 for an estimated value of \$2,700,000. The appellant presented the testimony of the appraisal's author, Joseph M. Ryan of LaSalle Appraisal Group, Inc., Chicago. Ryan testified he has been employed by LaSalle Appraisal Group as president since 1991. He stated he is a Illinois certified general real estate appraiser and holds the MAI designation from the Appraisal Institute. Ryan testified that while employed at the Cook County Assessor's Office he reviewed all the hotel assessment appeals.

He testified he has appraised over 125 hotels since 2000. He testified his company prepared approximately 300 to 400 appraisals a year. The PTAB accepted Mr. Ryan as an expert witness in property valuation without any objects from the parties.

Ryan testified the appraisal of a hotel differs from other income producing properties in that a hotel has four components: land, building, furniture and equipment, and business value. He stated that when all four of these components sell it is termed going concern value and this type of sale is typical. Ryan testified he would make adjustments within the appraisal for the income attributable to the personal property when that component is not being valued. He opined that a hotel does not usually sell without the component of personalty or good will.

Ryan was presented *Appellant's Hearing Exhibit #1*, a copy of the cover and page five of *Income Property Valuation*. Ryan testified that his appraisal followings the writings in establishing a value for the business enterprise. Ryan testified that Marriott is a nationally recognized brand, has a nationwide reservation system, nationwide advertising, and a strong rewards program which, he opined, enhance the value of the Marriott franchise.

Ryan described the subject as a four-story, select service hotel with 152 rooms, a small meeting space, a small exercise room, and an indoor pool. He testified that at the date of inspection, in January 2008, the subject was in overall good condition.

Ryan testified he did not employ the cost approach to value because he was valuing a property that included both land and building and that based on research of hotel valuation publications and individuals in that field there are too many variables in employing the cost approach to develop a credible estimate of value. He opined that the difficulty with the cost approach is not in determining the replacement cost or the physical depreciation, but with determining the external obsolescence which are the economics of the property.

Ryan also testified he did not employ a sales comparison approach to value. He testified he looked at sales data, but that these sales were all for the going concern. He testified he was unable to get further information on these sales. Ryan opined that the problem with the sales comparison approach is an issue of comparability. He testified that if he is unable to determine what really sold in the transaction, he is unable to adjust the properties for the real estate value only. Ryan opined that when a hotel sells it is because of its profitability or because the buyer wants to reposition it within the market with new personality and a new franchise. But if the profitability is unknown then adjustments based on profitability cannot be made and the sale cannot be used. Ryan opined the comparable could be used if the appraiser had appraised the property prior to it selling or if the appraiser knew why the buyer bought the

property. Ryan testified that *Appellant's Hearing Exhibit #2* is a copy of an article that supports his opinion.

As to the subject's highest and best use, Ryan testified that as vacant the use is for commercial purposes and continuation of a hotel is the highest and best use for the subject as improved. To estimate a total market value for the subject of \$2,700,000 as of January 1, 2007, Ryan employed the income capitalization approach to value.

Under the income approach, Ryan testified that in stabilizing the subject's operating statement he analyzed the subject's historical revenue from 2006 and market data from a 2007 hotel survey publication for 2006. Ryan explained how the survey categorized the subject and that expenses were identified as percentages.

As to vacancy and collection, Ryan testified he reviewed another hotel survey, *Star Report*. Ryan described how the information is collected for this report. He stated this report is not available to the public and was obtained for a hotel operator. Ryan testified that based on the survey, the subject was out performing the competition. Ryan clarified who the competition was. He opined these properties were physically similar to the subject and located within the same market. Ryan opined that the quality of the name of the hotel, called its "flag", or its hotel affiliation effects its profitability. He further opined that the subject's competitive advantage is the result of its flag.

Ryan testified he calculated a room rate by reviewing the subject's occupancy rate for 2006 of 61% and average daily room rate of \$88 a night. This was compared to the average of the competitive set with a 55% occupancy and an average room rate of \$77. Ryan opined that the higher rate and occupancy was due to the subject's flag and stabilized the subject at an average room rate of \$80 with an occupancy rate of 56% for an effective gross room revenue of \$2,485,504. From this amount, Ryan testified he added food and beverage revenue at a stabilized amount of \$180,000, or 6.59% of gross revenues. Telephone revenue of \$15,000, or .55% of gross revenue and other revenue of \$50,000 or 1.83% of gross revenue were added for a potential gross income of \$2,730,504.

For expenses, Ryan testified department and undistributed expenses are the standard in the hotel industry. He testified he compared the subject's actual departmental expenses to a survey of national expenses on a percentage basis. Ryan testified he stabilized the room expenses at 27% of the room revenue, the food and beverage at 62.5% of the food and beverage revenue, the telephone at 1% of the gross revenue and other expenses at 1.5% of gross revenue.

Ryan testified he stabilized the undistributed expenses by comparing the actual expenses and the market survey. Ryan testified to each of these expenses. These expenses came to 32.5%

of the gross revenue. Deducting all the expenses came to a net operating income of \$991,241.

Ryan testified this income is generated by all four components and needs to be adjusted to reflect the income for the real estate only. He testified that the expenses for management and franchise fees were deducted so the going concern has been addressed and only the fixture, furniture, and equipment remain and need to be adjusted out.

In regards to the fixtures, furniture and equipment, Ryan testified he reviewed surveys and publications to determine the market replacement costs for full-service and mid-scale hotels. He opined the subject falls between these two categories as a select-service hotel; and therefore, stabilized the subject's personalty at \$17,500 per room or \$2,660,000. Ryan then depreciated this value by 50% for a value of \$1,330,000. He testified that the operator is entitled to a return on the equipment because he spent that money in order to operate the business. He testified the return on the personalty is \$133,000 which is based on a capitalization rate of 10%.

The fixtures, furniture and equipment also qualify for a return of the personalty, Ryan testified, because of the periodic replacement of the items. He testified he chose a seven year life for the personalty. He testified he used the cost new of \$2,660,000 and calculated a seven year life for the items at \$380,000. Ryan testified that the amounts of the return on and of the personalty are deducted from the net operating income to arrive at an adjusted net operating income of \$464,941. He reiterated that the expenses of management and franchise fee deducted from the effective gross income account for the going concern, to a point.

In developing the capitalization rate, Ryan testified he utilized two methods, direct and the band of investment. He testified, for the direct capitalization, he reviewed Korpacz for full service and limited service hotels and chose a capitalization rate of 9.5%. For the band of investment technique, Ryan testified he reviewed track hotel mortgage rates for a rate of 8.95%. He reconciled these rates for an overall rate for the subject at 9.27% which was loaded for the tax burden for a capitalization rate of 17.74%. Dividing the adjusted net operating income by the appraiser's total capitalization rate resulted in an indicated value for the subject of \$2,700,000, rounded.

On cross-examination by the intervenor, Ryan testified that if he used the 2007 tax rate, the multiplier would be different and the opinion of value may have differed. Ryan acknowledged that Illinois law calls for a sales comparison approach to value within an appraisal unless certain parameters are met. He acknowledged he has appraised hotels in Illinois prior to and subsequent to this appeal. Ryan was then shown *Intervenor's Exhibit #2* through *Intervenor's Exhibit #8*, copies of appraisals of hotels prepared by Ryan with dates of valuation from January

1, 2000 to January 1, 2009. Ryan acknowledged he worked on all these reports and that he did include a sales comparison approach in all these reports wherein the property being valued was a hotel. He testified he did not include a sales comparison approach in the subject's appraisal.

Ryan agreed that one of the reasons for not employing the sales comparison approach to value in the subject's appraisal was because he was guided by a consultant for the hotel valuation industry. Ryan testified he was unaware that this consultant was involved in a hotel valuing system. He acknowledged this consultant wanted the sales comparison approach excluded from appraisals and agreed that the author wrote extensively on the factors to look at when employing the sales comparison approach.

Ryan acknowledged that he prepared an appraisal for the subject property in a previous Property Tax Appeal Board appeal wherein the Board did not accept his income approach to value which utilized the subject's stabilized income and market expenses. The Board was then presented with *Intervenor's Exhibit #9*, a copy of the decision from this previous Property Tax Appeal Board appeal.

Ryan testified that he used a competitive set of area hotels as part of the data review in the appraisal. He testified that he was not provided with these hotels from the subject's management. He acknowledged that the appraisal states "[t]he following hotels are considered the most competitive by management and are used in the Star Reports."

As to the subject's occupancy rate, Ryan testified the subject had an occupancy rate of 65% to 61%, but that he stabilized the subject's occupancy rate at 56%. Ryan testified he adjusted the rate to exclude the value associated with the Marriott name. Ryan testified he also stabilized the subject's average daily room rate at a low rate for the same reasons.

Ryan testified his expenses included deductions for franchise fees, administrative fees, and management fees.

Under cross-examination by the County, Ryan testified he reviewed the hotel survey *TRENDS 2007* which contained compiled information for hotels in the north central region of the United States and nationwide. He reiterated he stabilized the subject's income. Ryan testified that he used a 50% depreciation on the personalty because at any given time when new personalty is on the property it would devaluate. He acknowledged he has no justification for determining 50%.

Ryan testified he utilized capitalization rate information from national sales in order to determine a local capitalization rate for the subject property. He acknowledged that over half of the net operating income was deducted for personalty.

On redirect, Ryan testified that he was unable to use the 2007 tax rate because it was not available prior to the completion of the appraisal.

Ryan testified that he did employ the sales comparison approach in the other appraisals he was questioned about by the intervenor. He testified he did not place significant weight on that approach in those appraisals.

Ryan testified that the *Star Report* which had the compilation of the competitive set of hotels was prepared prior to his undertaking the subject's appraisal. He further testified that he utilized industry reports because of the use of percentages in those reports which is the way the industry looks at the data.

At the end of the appellant's case-in-chief, the intervenor moved to strike the appellant's appraisal and dismiss the appeal. The Property Tax Appeal Board denied the motion to strike the appellant's appraisal and reserved ruling on the intervenor's motion to dismiss the appeal. At this time, the Property Tax Appeal Board denies the intervenor's motion to dismiss the appeal.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$2,169,998 was disclosed. This assessment reflects a fair market value of \$5,710,521 or \$37,569 per room 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 raw sales information on eight hotel properties suggested as comparable to the subject. These properties range in size from 25,544 to 155,202 square feet of building area. They sold between September 2002 and August 2007 for prices ranging from \$2,707,060 to \$13,300,000 or from \$21,149 to \$102,211 per room. The board of review also included the warranty deed for the sale for the subject in 1996 for \$8,112,090. At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions. As a result of its analysis, the board requested confirmation of the subject's assessments.

In support of the intervenor's position, the intervenor submitted a summary appraisal of the subject prepared by James A. Gibbons with Gibbons & Sidhu, Ltd. Gibbons testified he has been an appraiser for 30 years and is a certified general real estate appraiser in Illinois, Wisconsin and Indiana. He also received his MAI designation in 1987. Gibbons then described the requirements for an MAI designation. He testified he has prepared thousands of appraisals with a focus on commercial or industrial properties. Gibbons testified that in the last five years he has prepared approximately a dozen hotel/motel appraisals and opined that he prepared at least 40 such appraisals over his career. He testified he has appeared as an expert before courts and tribunals. He was accepted by PTAB as an expert in appraisal practice without objection from the remaining parties.

The appraisal utilized the sales comparison and income approaches to value to estimate the value of the subject property at \$5,400,000 as of January 1, 2007.

Gibbons testified he inspected the subject for the appraisal and prior to the hearing. He testified he made an inspection of the public area accessible without booking a room within the subject property. Gibbons described the subject and its environs.

Gibbons testified that the subject's highest and best use as vacant would be for commercial development and that continuation of its existing hotel use is its highest and best use as improved.

Under the income approach, Gibbons testified he accounted for the business value by deducting professional management from the undistributed expenses and deducting from the stabilized income working capital and almost 14% to account for the return on and of the fixtures, furniture and equipment.

Gibbons testified he reviewed the subject's historical operating income and expenses. He testified he reviewed the average daily room rate for the subject and opined it was trending upwards. He testified he compared this actual data to several market indices and stabilized the average daily room rate at \$85. Gibbons testified that the average daily occupancy was trending downward and stabilized this rate, based on a review of the market, at 63%.

Gibbons testified he stabilized the income from other sources. He testified that the actual revenue from food and beverage was approximately 5.6% of the total revenue for 2006 and a review of the HOST Report indicates 30.6% of total revenue. Gibbons clarified that the report considers hotels which serve dinner and are open full-time whereas the subject only serves breakfast. He testified he stabilized the subject's food and beverage income at 5.74% of the total revenue. He further testified that other income was stabilized at \$65,000 which was similar to the actual income in 2006. Based on this data, the appraisal concludes total revenue at \$3,220,954.

As to the stabilized expenses, Gibbons testified room expenses were stabilized at 27% of room revenue based on a review of the actual expenses of 27.27% and the market reported expenses. He testified he stabilized the food and beverage expense at 80% of this income which is slightly less than the actual reported for 2006, but higher than the market surveys. Other departmental expenses, Gibbons testified, were stabilized at 1.5% of other expenses. This data results in total departmental expenses at \$998,472.

Gibbons testified he reviewed the historic undistributed operating expenses for the subject, compared them to the market survey, and then stabilized them. He testified the stabilized

expenses were determined to be 29% of the total revenue opposed to the actual expenses at 31%. Gibbons testified that the stabilized department and undistributed expenses come to 60% of revenue or \$1,932,472. He testified that the building reserves, working capital, and the return on and of the fixtures, furnishings and equipment (FF&E) then need to be deducted.

Gibbons testified he concluded building reserves at \$.25 per square foot of building area. For FF&E, Gibbons testified this value has to be segregated out so that only the real estate is being valued. In addition, the return of the personalty needs to be accounted for because the items have to be periodically replaced. He testified that based on cost studies and experience, he estimated the cost new of the FF&E to be \$15,000 per room or \$2,280,000. A depreciation factor of 50% was applied to arrive at a depreciated amount \$1,140,000. This amount was multiplied by a rate of return 9% for a return on the FF&E of \$102,600. The return of the FF&E was calculated by dividing the cost new of \$2,280,000 by the life span of eight years for a return of the FF&E of \$285,000.

For the working capital, the appraisal indicates this is the amount of money for the subject that is in excess of any purchase price that the appellant must retain to meet the normal expenses of operating the business. Gibbons testified he used the stabilized income divided it by twelve and multiplied this amount by 2 to account for two months of income and applied a 7% rate to this amount for total working capital of \$37,578. Deducting all the expenses from the total revenue resulted in a net operating income before taxes of \$843,531.

Gibbons testified he developed a capitalization rate by reviewing investor surveys and considering the band of investment technique. He testified the overall range of capitalization rates is from 7 to 9% for the surveys and 8.6% for the band of investment. Gibbons testified he used a rate of 9% which was loaded for the tax burden to arrive at a total capitalization rate of 16.7% which resulted in an estimate of value under the income approach of \$5,050,000, rounded.

Under the sales comparison approach, Gibbons testified he reviewed the sales of six hotel sales. He described the research utilized in finding the six sales. Gibbons opined that sales comparison approach is an appropriate approach for estimating the value of a hotel because there are many sales in the marketplace and data available to make adjustments.

Gibbons described each sale. The properties range in age from 7 to 23 years old and in room count from 114 to 184 rooms. The properties sold from October 2005 to January 2008 for prices ranging from \$2,533,028 to \$12,150,000 or from \$20,594 to \$70,805 per room. Gibbons testified sale #2 was a leasehold sale and described the adjustments made to this property. He testified that sale #3 listed a deduction to the sale price on the PTAX-203, Illinois Real Estate Transfer Declaration for personal

property and described the adjustments made to this property. Based on all the comparables and the adjustments, Gibbons testified he estimated a value for the subject under the sales comparison approach of \$37,500 per room for the subject or \$5,700,000.

In reconciling the two approaches to value, Gibbons testified he gave significant weight to both approaches to estimate a value for the subject of \$5,400,000 as of January 1, 2007.

On cross examination by the appellant, Gibbons testified he did not apply a cost approach because the property was not new, there are no plans or blueprints for the subject property, and it would be difficult to measure depreciation. He testified he generally does not employ a cost approach for a hotel. He acknowledged the appraisal also states that investors generally don't consider the cost approach for hotel properties. He testified this is relevant because he attempted to mirror the market.

Gibbons testified he stabilized the subject's income based on the actual revenue and a review of industry standards. He opined that the more information he has, the more supported his opinion. He testified that if there is a disparity in the actual versus the industry he will look further into the property prior to making a decision on data. Gibbons acknowledged he utilized the publication *2005 HOST* and the east north central geographical region. He acknowledged this publication had data from 2004 and the other publication utilized, *TRENDS*, utilized 2008 data. He testified he used data that was available to him and opined that bracketing from two different sources, earlier and the year later, was a guideline to the reported history for the subject. Gibbons testified that having the 2007 data would have provided more contemporary data, but testified he was comfortable with data points before and after in two different sources along with the actual subject information.

The appraisal indicated that the subject was outperforming other properties in the market in terms of average daily rate, but was at market in regards to the level of occupancy. Gibbons acknowledged he estimated the subject stabilized rate at \$9.00 higher than the market, but opined that the data set was very broad and that the best indication of income is the history which was given strong consideration.

Gibbons testified he deducted from the income stream management fees, the return on and of the personalty, and working capital to account for the business value for the subject. He opined he fully accounted for the business value. Gibbons testified he did not find a franchise fee within the subject's operating statement and that is why none was deducted from the income stream. He indicated he had the subject's 2006 operating statement and he did not have direct contact with the property owner. Gibbons was show *Appellant's Hearing Exhibit #3*, a copy of the page from *HOST* listing franchise fees and acknowledged that *HOST* has a 2004 franchise fee listing of 3.5%. He testified that if a property

has a franchise fee in the operating statement he would consider a franchise fee in stabilizing the income.

Gibbons opined that the actual management fee for the subject of 5% was beyond the range of both the indices used by him and stabilized this fee at 3%.

In the sales comparison approach, Gibbons testified he adjusted for the physical differences between the comparables and the subject by making adjustments based on the subject's and the comparable's classification as an upscale hotel or economy hotel. Gibbons was questioned on his use of the terms "operation-wise", "income-producing-wise", and "inferior income-producing" and if he made adjustments based on the income-producing capacity of the comparables. He opined that the quality of the building makes a difference in terms of what it's able to command as far as its income-producing abilities.

Gibbons testified that a sale of a property that was the fulfillment of an option to purchase can still be an arm's length sale. He opined that sale would have to be negotiated current to the transaction date or an adjustment would need to be made. Gibbons testified he would consider any information he had on a sale.

As to sale comparable #1, Gibbons was show *Appellant's Hearing Exhibit #4*, a copy of the Gibbons appraisal pages listing the details of this sale and copies of the PTAX-203, Illinois Real Estate Transfer Declaration and PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A for this sale. Gibbons testified that hotels usually sell with personal property included in the sale. When asked whether the exclusion of a listing for personal property on the transfer declaration, Gibbons responded that a separate agreement regarding the personal property may have been transacted.

Gibbons was shown *Appellant's Hearing Exhibit #5*, a copy of the Gibbons appraisal pages listing the details of the sale of comparable #2 and copies of the PTAX-203, Illinois Real Estate Transfer Declaration and the PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A for this sale. Gibbons acknowledged that the transfer declaration indicates this property was not advertised or sold using a real estate agent, but opined that this information would not disqualify the sale from being used. He argued that a sale comparable does not have to have a real estate agent involved. Gibbons acknowledged the buyer exercised an option to purchase which he opined would lead him to give less credence to the sale.

Appellant's Hearing Exhibit #6 is a copy of the Gibbons appraisal pages listing the details of the sale of comparable #4 and copies of the PTAX-203, Illinois Real Estate Transfer Declaration and the PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A for this sale. Gibbons testified the PTAX-203 for sale #4 indicates that the property was not advertised for

sale and the sale was between related individuals or corporate affiliates. Gibbons opined that if the sale was an exempt transaction the revenue stamps would not have been due on the sale. He testified he had information on the sale of this comparable so he considered the sale. He acknowledged the appraisal does not state the sale is between related parties.

Gibbons was shown *Appellant's Hearing Exhibit #7*, a copy of the Gibbons appraisal pages listing the details of the sale of comparable #5 and copies of the PTAX-203, Illinois Real Estate Transfer Declaration and the PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A for this sale. He acknowledged the property was not advertised for sale and the buyer was exercising an option to purchase. Gibbons testified he did not know how long ago the option to purchase was negotiated, but acknowledged that the supplemental form indicates the sale lease back arrangements are from 10 years ago. Gibbons opined that the fact the option was exercised at the time it was exercised is some indication of market activity.

Gibbons was shown *Appellant's Hearing Exhibit #8*, a copy of the Gibbons appraisal pages listing the details of the sale of comparable #6 and copies of the PTAX-203, Illinois Real Estate Transfer Declaration and the PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A for this sale. Gibbons acknowledged that the transfer declaration form indicated the sale was not advertised for sale and sold using a real estate agent and was between related individuals or corporations. He agreed the addresses of the buyer and seller were the same. Gibbons testified he used this sale because the parties did not indicate the sale was an exempt transaction. He opined it was an arm's length transaction.

On redirect, Gibbons testified he used data in the income approach from the years before and the year after because that was the data that was available to him and he opined it was enough for comparability. He reiterated that the construction type/style for a hotel can impact the income-producing capacity and he took this into consideration in the sales comparison approach.

Gibbons testified he did not include all of the information from the transfer declarations for the sales comparables within the appraisal, but that he did review the forms and reported some of the specifics regard several of the sales. He testified he considered the sales indicators of the market and were in proximate date to the valuation. He further testified that the sales comparison approach is employed to develop a range of values by looking at a number of transactions with some adjustments based on the information we have. He opined its one of the most desired approaches and, in this instance, it corroborated the income approach.

Gibbons testified the transfer declarations forms are filled out under penalty of perjury. As to sales #1, #2, #5, and #6,

Gibbons testified that the signatory on each transfer declaration found the sale to be a fair reflection of the market value of the real estate.

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 PTAB concludes that the evidence indicates a reduction is warranted.

In determining the fair market value of the subject property for tax year 2007, the PTAB examined the parties' two appraisal reports and testimony, and the board of review's submission.

The PTAB finds the board of review's witness(es) were not present or called to testify about their qualifications, identify their work, testify about the contents of the evidence or report on their conclusions or be cross-examined by the appellant and the Property Tax Appeal Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Property Tax Appeal Board gives the evidence from the board of review no weight.

The PTAB then looks to the two appraisals from the remaining parties, the testimony, and the exhibits submitted into evidence. The PTAB finds the appellant submitted an appraisal with only the income approach to value. The court has held that "[w]here the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing the market value is insufficient as a matter of law." Cook Cnty. Bd. Of Review v. Ill. Prop. Tax Appeal Bd., 384 Ill. App. 3rd 472 at 484 (1st Dist. 2008). The Illinois Appellate Court recently revisited this issue in Bd. of Educ. Of Ridgeland Sch. Dist. No. 122, Cook Cnty. V. Prop. Tax Appeal Bd., 2012 IL App. (1st) 110,461 (the "Sears" Case). In Sears, the court stated that, while the use of only one valuation method in an appraisal is not inadequate as a matter of law, the evidence must support such a practice and the appraiser must explain why the excluded valuation methods were not used in the appraisal for the Board to use such an appraisal. Id. at ¶ 29. In this case, Ryan testified he did not perform the sales comparison approach because he was unable to find sales that provided the data regarding the going concern so that adjustments could be made to

value the real estate only. However, Ryan was shown seven appraisals he prepared for hotel properties both prior to and after the date of valuation for the subject. In each of these appraisals, Ryan employed the sales comparison approach. Although Ryan placed minimal weight on the sales approach in these appraisals, some weight was given this approach to corroborate the income approach to value and the final conclusion of value in these appraisals. These appraisals also indicated the difficulty in that the unadjusted sales price may contain business value, but he still employed the approach.

The appellant submitted exhibits in regards to the intervenor's sales comparables. These documents are county records, signed under penalty of perjury, that indicate if there was any additional value included in the sale, such as personal property. The parties to the transaction must indicate on the transfer declaration the value of the real estate in addition to opining if this value represents the market value for the real estate. The PTAB finds that Ryan made no mention of how the use of these official documents would be unreliable under the sales comparison approach. Therefore, the PTAB finds the reliance on the appellant's appraisal would be deficient as a matter of law, and thus, gives this evidence no weight.

The PTAB finds the best evidence of the subject's market value is the Gibbons appraisal submitted by the intervenor. Gibbons employed the income and sales comparison approaches to value to arrive at a value for the subject property as of January 1, 2007 of \$5,400,000. Under the income approach, Gibbons testified he reviewed the subject's actual income and stabilized this market based on data that bracketed the assessment year at issue. He credibly testified that he did not include a franchise fee within the expense analysis because the subject's actual operating statement does not show that the subject was encumbered by this expense. In addition, Gibbons correctly accounted for the subject's going concern by deducting for working capital, a management fee, and the return on and of the personalty.

Moreover, Gibbons employed the sales comparison approach to corroborate the estimated value developed in the income approach. Gibbons testified he reviewed the transfer declaration forms and adjusted the sales price of those comparables that included personal property within those documents. Although Gibbons included sales between related parties, the adjusted sales range of the non-related sales bracket the estimate of value as established by Gibbons.

Therefore, the PTAB finds the subject had a market value of \$5,400,000 for the 2007 assessment year. Since the market value of this parcel has been established, the Cook County Real Property Classification Ordinance for Class 5a property of 38% will apply. In applying this level of assessment to the subject, the total assessed value is \$2,052,000 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: December 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.