FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Northbrook Racquet Club
DOCKET NO.: 08-29482.001-C-2 through 08-29482.002-C-2
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Northbrook Racquet Club, the appellant(s), by attorney Huan Cassioppi Tran, of Flanagan/Bilton LLC in Chicago; and the Cook County Board of Review.

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 **Cook** County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
08-29482.001-C-2	04-08-200-018-0000	65,542	0	$65,542
08-29482.002-C-2	04-08-201-006-0000	223,780	424,109	$647,889

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one and part two story, masonry constructed tennis club that contains 55,820 square feet. The subject was built in 1970 and is situated on a 99,024 square foot rectangular site comprised of approximately 250 front feet and 475 feet of depth.

The appellant, via counsel, appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a complete summary appraisal of the subject with an effective date of January 1, 2007 and an estimated market value of $1,400,000. The appraisal was signed by Thomas Grogan and Joseph Ryan. The appraisal indicates both Mr. Grogan and Mr. Ryan hold the designation of MAI and that they are certified general real estate appraisers in Illinois. Mr. Grogan was not present at the hearing. Mr. Ryan testified at hearing that he has been writing real estate appraisals since 1985 and founded LaSalle Appraisal Group in 1991. He also testified that he has appraised at least 25 health clubs, of which six or eight were tennis clubs. In addition, Mr. Ryan stated that he has previously testified before

PTAB as an expert witness. Without objection, PTAB accepted Mr. Ryan as an expert in the field of appraisal of real property for tax purposes.

Mr. Ryan testified that he made a physical inspection of the subject property. He described the subject as "basically a warehouse," and later in his testimony, described the subject as, "wide open inside, as much as a warehouse would be, except that there are tennis courts instead of warehouse material." (Transcript pages 9 and 14.)

The appraisal indicated that the highest and best use of the subject as improved would be its current use as a tennis club.

Mr. Ryan testified that he considered the three traditional approaches to value, but used only the income approach in the appraisal.

Mr. Ryan testified that he considered the cost approach but did not use it in the appraisal. Mr. Ryan testified that he found land sales that sold for $10.00 to $15.00 per square foot. He chose to not use them in the appraisal because the subject site is located in a primarily residential neighborhood and it has a "frontage depth ratio problem," as the site's front footage is lower than its depth. Mr. Ryan listed several other reasons for not using the cost approach, including: the subject is older as it was built in 1970; there is functional and economic obsolescence due to the decline in the tennis club industry; and, after talking with market participants, concluded that the cost approach is not considered in decisions to buy or sell tennis clubs.

Mr. Ryan also testified that he considered the market approach, but did not use it in the appraisal as he was unable to find any sales of tennis club facilities that occurred within the prior three years. He also stated that he found only two sales of health club facilities that occurred from January 2004 to January 2007, with one selling for $20.00 per square foot of building area and one selling for $30.00 per square foot of building area including land. Mr. Ryan indicated that these sales were not directly comparable to the subject and therefore deemed unreliable. Additionally, Mr. Ryan indicated that the available health club sales weren’t directly comparable; however, they ultimately bracketed his value conclusion.

Mr. Ryan testified that the appraisal used the income approach to value. He indicated that health and racquet clubs are usually owner occupied and therefore generate revenue not from the real estate itself but from revenues generated from membership and court time. The appraisal indicates the appraisers relied on the publication 2005 Profile of Success (IHRSA & E/W, 1983) as well as the subject's actual income and expenses. Mr. Ryan noted that the IHRSA survey does not segregate tennis clubs from health and fitness clubs and therefore, he relied on the historical revenues and expenses in his analysis.

Mr. Ryan testified that based on actual and historical income, the subject's potential gross income was $1,010,000 and that operating expenses were stabilized at 65% and 4% for replacement reserves was added as an additional expense. The net operating income was $305,600. Additional deductions for the tennis business were taken, including: $45,840 for an incentive management fee; $12,000 for return on personalty; and $34,286 for return of personalty. The resulting net operating income attributable to the real estate was $213,474. A loaded capitalization rate of 15.23% was utilized to estimate a value under the income approach of $1,400,000, rounded.

Upon cross examination by the assistant state's attorney Bill Blyth, Mr. Ryan agreed that the subject building is basically a warehouse and that if the tennis courts and locker room space were taken out of the subject building, the subject property would be a 55,000 square foot rectangular building made of concrete. Mr. Ryan also stated that in the income approach, no comparable properties were utilized.

Upon re-direct by the appellant's attorney, Mr. Ryan stated that he utilized the subject's audited financial statements and that it is accepted appraisal practice to use actual expenses in an income analysis. Mr. Ryan stated that doing a cost approach without sales of tennis clubs in the prior three year period may have been misleading.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $713,431 was disclosed. The subject's assessment reflects a fair market value of $2,002,889, or $35.88 per square foot, when the Cook County Real Property Assessment Ordinance Level of 38% for class 5a property and 22% for Class 1-00 property, such as the subject, is applied. To demonstrate the subject was correctly assessed, the board of review presented six sales comparables. The comparables are health clubs that range in size from 27,710 to 79,200 square feet. These properties sold from June 2002 to August 2007 for prices that ranged from $750,000 to $10,800,000 or from $19.12 to $192.86 per square foot of building area including land. The board of review's sale comparable located at 2950 Golf Road, Rolling Meadows, is identical to the property which Mr. Ryan referred to in his previous testimony. He testified that he considered this sale but did not use it in a sales comparison approach since he only had two sales. (Transcript page 16.)

At hearing, the board of review rested on the evidence and argued that the appellant's appraisal was insufficient as a matter of law, pursuant to Cook County Board of Review v. Property Tax Appeal Board, 384 Ill. App.3d 472(2008) ("Omni"). The board of review argued that the appellant's appraisal was insufficient as it failed to use the appropriate valuation methodology in determining the estimated market value by failing to include the cost and sales approaches to value. In addition, the board of

review argued, the appellant's appraisal was insufficient as the income approach to value used actual and not market data.

In rebuttal, the appellant's attorney argued that the case at hand is distinguishable from Omni as the appraiser considered the cost and sales approaches and found that they would be unreliable. Id. In addition, the appellant's attorney argued that a single approach appraisal is sufficient pursuant to Board of Education of Meridian Community School District No. 223 and The Ogle County Board of Review v. Property Tax Appeal Board and Onyx Orchard Hills Landfill, Inc., 2011 IL App. (2d) 100068 ("Onyx") and Board of Education of Ridgeland School District 122 v. Property Tax Appeal Board, Cook County Board of Review, South Cook Mosquito Abatement District, and Sears Roebuck & Company, 2012 IL App. (1st) 110461 ("Sears").

After hearing the testimony and considering the evidence, the PTAB finds it has jurisdiction over the parties and the subject matter of this appeal. The PTAB further finds a reduction in the subject's assessment is not warranted.

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). 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 appellant has not met the burden of proving the value of the property by a preponderance of the evidence and that a reduction is not warranted.

As to the cost approach, the PTAB finds that Mr. Ryan's explanation for considering, but not including the cost approach to value in his appraisal is sufficient. In Omni, and later cited in Onyx and Sears, the courts stated, "Where the evidence supports the use of one valuation method and the appraiser supports exclusion of a method of valuation by citation to this evidence, it is sufficient for the PTAB, and the courts, to follow." In the instant matter, Mr. Ryan provided an explanation regarding the reasons he did not include the cost approach. He testified he did not include the cost approach as: the subject is older as it was built in 1970; there is functional and economic obsolescence due to the decline in the tennis club industry; and, after talking with market participants, concluded that the cost approach is not considered in decisions to buy or sell tennis clubs. Accordingly, Mr. Ryan provided sufficient detail regarding his decision to not include the cost approach. Therefore, the appraisal's failure to include the cost approach and provide a value for the land is not fatal.

As to the income approach to value, the appraisal did not use market income and expenses. Instead, Mr. Ryan testified that he stabilized the subject's actual historical income and expense

data from 2004 to 2006. The subject's stabilized gross income was $1,020,000. Expenses totaling $704,000 were deducted for a net operating income of $305,600. An incentive management fee of $45,840 and $12,000 for return "on" personalty and $34,286 for return "of" personalty were deducted resulting in a total net operating income attributable to real estate of $213,474. The appraisal indicates that the direct comparison and band of investment techniques were used to arrive at a capitalization rate. Mr. Ryan testified that he used two investor survey publications, Korpacz and RealtyRates.com to determine the 9.50% capitalization rate. A tax load of 5.73% was added to this amount resulting in a loaded capitalization rate of 15.23%. Based on these figures, the indicated market value was $1,400,000, rounded.

The PTAB gives the appellant's income approach argument little weight. Mr. Ryan testified that he used the subject's actual historical income to determine the subject's gross potential income. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

> [I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental 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. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Id. at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. Although the appellant's attorney made this argument, the appellant's appraiser did not demonstrate that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using income, one must establish, through the use of market data, the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. The appellant did not provide such evidence and, therefore, the PTAB gives the appellant's appraiser's estimate of value under the income approach no weight and finds that a reduction on this basis is not warranted.

As to the sales comparison approach, the appellant's attorney argued that the appellant's appraisal is sufficient, pursuant to Onyx, even though it excluded the sales approach. The Onyx court discussed the Omni decision and stated, "We do not read Omni as

requiring application of the sales comparison approach where it would result in unreliable estimates of fair market value." "Where the evidence supports the use of one valuation method and the appraiser supports exclusion of a method of valuation by citation to this evidence, it is sufficient for the PTAB, and the courts, to follow." Onyx.

Mr. Ryan testified that he considered but did not use the sales comparison approach as it would have been misleading. (Transcript page 18.) However, Mr. Ryan stated that, "The subject property is, I wouldn't say, a special use, but is somewhat of a limited use as a tennis club, and because of that use, there is some inherent functional obsolescence by design, some economic obsolescence due to the decline of the industry which it serves." (Transcript page 15.) He described the subject property as, "basically a warehouse," and, "wide open inside, as much as a warehouse would be, except that there are tennis courts instead of warehouse material." (Transcript page 14.) Additionally, under cross examination, he agreed that if the tennis courts and some of the locker room space were removed, the subject would be a 55,000 square foot rectangular building made of concrete.

The courts have defined special use to mean "whether the property is in fact so unique as to not be salable, not what factors might or might not make it so unique". Crysler Corp. v Property Tax Appeal Board, 69 Ill.App.3d 207. The record contains six sales of health clubs presented by the board of review that are relatively similar to the subject property. Moreover, Mr. Ryan testified that he found two recent sales of health club facilities; one of which was identical to the board of review's comparable located at 2950 Golf Road, Rolling Meadows and one located on Joliet Road in Countryside. Accordingly, the PTAB finds that the subject property is not so unique as to not be salable.

The board of review submitted six sales of health club properties located in the subject's market. The sales occurred from June 2002 to August 2007 and sold for prices that ranged from $750,000 to $10,800,000 or from $19.12 to $192.86 per square foot, including land. Furthermore, Mr. Ryan testified that he found two sales of health clubs. One of his sales, located at 2950 Golf Road in Rolling Meadows, was identical to the sale that was submitted by the board of review. The other sale was located on Joliet Road in Countryside and sold for $20 per square foot.

The six health club sales submitted by the board of review and the additional sale discussed by Mr. Ryan demonstrate that there is a market for the sale of properties similar to the subject. The PTAB finds Mr. Ryan's explanation for considering, but not including, the sales approach to value in his appraisal unpersuasive pursuant to Board of Education of Meridian Community School District No. 223 and The Ogle County Board of Review v. Property Tax Appeal Board and Onyx Orchard Hills Landfill, Inc., 2011 IL App. (2d) 100068 ("Onyx") and Board of Education of Ridgeland School District 122 v. Property Tax Appeal Board, Cook County Board of Review, South Cook Mosquito Abatement District,

and Sears Roebuck & Company, 2012 IL App. (1st) 110461 ("Sears"). Additionally, the PTAB finds Mr. Ryan's assertion that he did not use the sales approach, because sales of health clubs were not directly comparable to the subject, not credible in light of the fact that in determining the subject's expenses, Mr. Ryan partially relied on 2005 Profile of Success (IHRSA & E/W, 1983), a publication that does not differentiate between health clubs and tennis clubs. The subject property does not approach the uniqueness required of property for which market value by the sales comparison approach would be impossible to estimate. Id.

PTAB finds that the board of review's sales comparables are sufficient to show that there is a market for the sale of buildings comparable to the subject and that the subject's assessment reflects that it is within the unadjusted price per square foot of building area range of the comparables.

Having considered the evidence and testimony presented, the PTAB finds that the appellant has not met the burden of proving the value of the property by a preponderance of the evidence. Therefore, the Property Tax Appeal Board finds the subject's assessment as established by the board of review is correct and a reduction is not warranted.

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

Chairman

Member

Member

Member

Member

DISSENTING:

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

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

Date: June 21, 2013

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.