FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: JJS, Inc.
DOCKET NO.: 08-29545.001-C-3
PARCEL NO.: 29-25-203-014-0000

The parties of record before the Property Tax Appeal Board are JJS, Inc., the appellant(s), by attorney Joanne Elliott, of Elliott & Associates, P.C. in Des Plaines; the Cook County Board of Review; the Thornton Twp. HS Dist. No. 205 intervenor, by attorney Scott L. Ginsburg of Robbins Schwartz Nicholas Lifton Taylor in Chicago.

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:

LAND:	$ 75,004
IMPR.:	$ 546,118
TOTAL:	$ 621,122

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2008 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of three-story hotel of concrete block construction with 31,287 square feet of building area, and 65 available rooms. All of the units within the subject are considered suites. The subject is 12 years old, and operates under the Comfort Suites flag. The property has a 56,394 square foot site, and is located in Thornton Township, Cook County.

The subject is classified as a class 5-29 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity as the basis of the appeal. In support of this argument, the appellant submitted information on seven equity comparables. These comparables are all class 5-29 properties under the Cook County Real Property Assessment Classification Ordinance. The appellant submitted printouts from the Cook County Assessor's website showing the characteristics of the subject and each of the comparables. The comparables have either a masonry or dryvit exterior construction, and are either two or three stories. They range: in age from 11 to 29 years; in size from 19,008 to 43,746 square feet of building area; and in available rooms from 49 to 90. These comparables have improvement assessments ranging from $1.29 to $9.22 per square foot of building area. According to the printouts from the Assessor's website, the subject and all of the comparables received partial assessments in tax year 2008.

The appellant also contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an income and expense report estimating the subject property had a market value of $1,240,000 for tax year 2008. In support of the income analysis, the appellant submitted income and expense information for the subject, as well as all of the equity comparables except for comparable #1. Additionally, the appellant submitted a STR Report for November 2008. The STR Report depicts information regarding the subject in comparison to other hotels in the subject's geographic area and competitive set. This information includes the occupancy rates, average daily rates ("ADR"), and revenue per available room ("RevPAR") for the subject and the other hotels.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of $621,122. The subject property has an improvement assessment of $546,118, or $17.46 per square foot of building area. The subject's assessment reflects a market value of $1,634,532, or $52.24 per square foot of building area, including land, when applying the 2008 statutory level of assessment for commercial property under the Cook County Real Property Assessment Classification Ordinance of 38.00%. In support of its contention of the correct assessment, the board of review submitted information on four comparable sales from the CoStar Comps Service. The board of review also submitted a warranty deed showing that the subject sold in June 2005 for $2,200,000.

The intervenor, Thornton Township High School District No. 205, submitted a brief in support of the subject's current assessment. The intervenor argued that the subject's current market value is consistent with other comparable properties, and submitted five comparable sales from the CoStar Comps service. The intervenor further argued that the subject is not entitled to vacancy relief, and that the Cook County ordinance level of assessment of 38.00% should be used in calculating the subject's assessment, and not the three year median level of assessment as determined by the Illinois Department of Revenue.

In rebuttal, the appellant argued that the comparable sales submitted by the board of review and intervenor should not be considered by the Board because, as is the case with many hotels, the sales included real property as well as tangible and intangible assets. The appellant argued that the sales prices likely included tangible and intangible assets, which are not taxable as real property and not subject to being assessed as such.

At hearing, the appellant was represented by Panagiota Fortsas of Elliott & Associates, P.C.; the Cook County Board of Review was represented by Assistant State's Attorney William Blyth; and the intervenor, Thornton Township High School District #205, was represented by Scott L. Ginsburg of Robbins Schwartz.

Ms. Fortsas began the hearing by waiving the appellant's market value argument based on the subject's income and expenses. The Administrative Law Judge ("ALJ") granting this request, without objection, and allowed the appellant to proceed solely on the uniformity argument. After opening statements from all parties, Mr. Blyth objected to any testimony that may be elicited by Ms. Fortsas from her witness which would describe the characteristics of the comparable properties submitted by the appellant. The ALJ overruled this objection, and stated that it was premature, as the witness had not begun testifying.

Ms. Fortsas then called Job Varghese to testify. Mr. Varghese testified that he is the president of JJS, Inc., the appellant in this appeal. Mr. Varghese testified that he is responsible for the administrative duties related to operating the subject, and that he has been in the hotel business for approximately nine years. Ms. Fortsas then offered into evidence the grid sheet of the appellant's comparables, which was included in the appellant's original evidentiary submission. This grid sheet was accepted into evidence for demonstrative purposes, and

marked as "Appellant's Hearing Exhibit 'A'." Mr. Varghese then testified that he is an officer of the corporation that owns comparable #7 on the grid sheet.

Mr. Varghese then testified as to the characteristics of the subject. Ms. Fortsas offered a picture of the subject from the Assessor's website into evidence. Mr. Varghese testified that this photograph accurately depicted the subject as of January 1, 2008. This photograph was accepted into evidence, without objection, and marked as "Appellant's Hearing Exhibit 'B'."

Next, Mr. Varghese testified that he is familiar with comparable #1 submitted by the appellant, and that he has visited comparable #1 on multiple occasions. Ms. Fortsas offered a picture of comparable #1 from the Assessor's website into evidence. Mr. Varghese testified that this photograph accurately depicted comparable #1 as of January 1, 2008. This photograph was accepted into evidence, without objection, and marked as "Appellant's Hearing Exhibit 'C'."

Mr. Varghese testified that he was, in fact, familiar with all of the comparables submitted by the appellant, but that he was the least familiar with comparable #1. Mr. Varghese testified that he was familiar with all of the comparables because they are all a part of the subject's competitive set, and that they were "comparable" to the subject. Mr. Blyth objected to the witness's testimony that the comparables are a part of the subject's competitive set. The ALJ overruled this objection, as it is within the purview of a hotel operator's knowledge to know what hotels compete with the owner's hotel for occupants. Mr. Blyth also objected to the witness's testimony that the comparables are "comparable" to the subject. The ALJ sustained this objection, as a property's "comparability" in relation to another property is reserved for experts, of which the witness was not.

Mr. Ginsburg objected to the leading nature of the questions being asked of the witness by Ms. Fortsas. The ALJ requested that Ms. Fortsas ask more open-ended questions to allow Mr. Varghese to testify.

Mr. Varghese next testified that comparable #1 had two stories, contained 90 available rooms, and was approximately four miles away from the subject. Mr. Blyth objected to the witness's knowledge of the characteristics of comparable #1. The ALJ overruled the objection, as Mr. Varghese had testified that he had been to comparable #1 multiple times.

Next, Mr. Varghese testified that he is familiar with comparable #2 submitted by the appellant, and that he has visited comparable #2. Ms. Fortsas offered a picture of comparable #2 from the Assessor's website into evidence. Mr. Varghese testified that this photograph accurately depicted comparable #2 as of January 1, 2008. This photograph was accepted into evidence, without objection, and marked as "Appellant's Hearing Exhibit 'D'." Mr. Varghese next testified that comparable #2 contained 49 available rooms, was slightly older than the subject, and was about one mile away from the subject.

Next, Mr. Varghese testified that he is familiar with comparable #3 submitted by the appellant, and that he has visited comparable #3. Ms. Fortsas offered a picture of comparable #3 from the Assessor's website into evidence. Mr. Varghese testified that this photograph accurately depicted comparable #3 as of January 1, 2008. This photograph was accepted into evidence, without objection, and marked as "Appellant's Hearing Exhibit 'E'." Mr. Varghese next testified that comparable #3 was constructed in a similar fashion as the subject. Mr. Blyth objected to the witness's testimony regarding the construction of comparable #3. After hearing argument from Mr. Ginsburg and Ms. Fortsas, the ALJ overruled the objection, as the witness was testifying as to his own personal knowledge after visiting comparable #3. Mr. Varghese then testified that comparable #3 operated under the Sleep Inn flag, that it was approximately 15 years old, that it has between 70 and 79 available rooms, that it was approximately five miles away from the subject, and that it had a pool.

As part of his testimony, Mr. Varghese stated that he obtained some of the information by speaking with the manager of comparable #3. Mr. Blyth objected to this testimony on hearsay grounds. After hearing argument Ms. Fortsas, Mr. Blyth stated that he was not objecting to the underlying information contained on the appellant's grid sheet, but was objecting to the hearsay statements being offered as testimony by the witness. The ALJ overruled the objection, as the number of rooms contained within comparable #3 was not disputed. While the information may have come via a hearsay statement, the ALJ found that the number of rooms in comparable #3 was listed on the grid sheet, and was not disputed. Therefore, the hearsay statement contained indicia of reliability.

Next, Ms. Fortsas queried Mr. Varghese about the STR Report which was previously submitted into evidence. Mr. Blyth

objected to any testimony Mr. Varghese may offer regarding the STR Report on hearsay grounds. The ALJ overruled the objection, and allowed the witness to testify about the contents of the STR Report, but not the methodologies in gathering and compiling the information contained therein. Mr. Ginsburg then objected to the relevancy of the STR Report, as it is dated December 21, 2008, and the relevant lien date in January 1, 2008. The ALJ overruled this objection. Mr. Varghese then testified that he uses the STR Report to learn how the subject is doing in comparison to other hotels in the area, and to determine which hotels the subject competes with for hotel customers.

Next, Mr. Varghese testified that he is familiar with comparable #4 submitted by the appellant, and that he has visited comparable #4. Ms. Fortsas offered a picture of comparable #4 from the Assessor's website into evidence. Mr. Varghese testified that this photograph accurately depicted comparable #4 as of January 1, 2008. This photograph was accepted into evidence, without objection, and marked as "Appellant's Hearing Exhibit 'F'." Mr. Varghese then testified that comparable #4 is approximately five miles away from the subject, has three stories, is ten years old, has between 70 and 79 available rooms, and has a pool.

Mr. Varghese then testified as to the furniture, fixtures, and equipment ("FF&E") contained in the rooms of comparable #4 in comparison to the subject. Mr. Blyth objected to this testimony. The ALJ sustained the objection on relevancy grounds, as FF&E is not taxable under the property tax code.

Next, Mr. Varghese testified that he is familiar with comparable #5 submitted by the appellant, and that he has visited comparable #5. Ms. Fortsas offered a picture of comparable #5 from the Assessor's website into evidence. Mr. Varghese testified that this photograph accurately depicted comparable #5 as of January 1, 2008. This photograph was accepted into evidence, without objection, and marked as "Appellant's Hearing Exhibit 'G'." Mr. Varghese then testified that comparable #5 operated under the Comfort Suite flag in 2008, that it contained approximately 70 available rooms, and that it had a pool.

Next, Mr. Varghese testified that he is familiar with comparable #6 submitted by the appellant, and that he has visited comparable #6. Ms. Fortsas offered a picture of comparable #6 from the Assessor's website into evidence. Mr. Varghese testified that this photograph accurately depicted comparable #6 as of January 1, 2008. This photograph was accepted into

evidence, without objection, and marked as "Appellant's Hearing Exhibit 'H'." Mr. Varghese then testified that comparable #6 operated under the Baymont flag in 2008, that it had three stories, that it was approximately 10 years old, that it contains 80 available rooms, that it has a pool, and that several of the available rooms have Jacuzzis.

Next, Mr. Varghese testified that he is familiar with comparable #7 submitted by the appellant, and that he has visited comparable #7. Ms. Fortsas offered a picture of comparable #7 from the Assessor's website into evidence. Mr. Varghese testified that this photograph accurately depicted comparable #7 as of January 1, 2008. This photograph was accepted into evidence, without objection, and marked as "Appellant's Hearing Exhibit 'I'." Mr. Varghese then testified that comparable #7 was located next door to the subject, that it operated under the Baymont flag in 2008, that it had four stories, that it was approximately 15 years old, and that it contains 72 available rooms.

Ms. Fortsas then asked Mr. Varghese which hotels the subject competed with the most for hotel occupants. Mr. Blyth and Mr. Ginsburg both objected to this question. The ALJ sustained the objection on relevancy grounds.

On cross-examination by Mr. Blyth, Mr. Varghese testified that the subject has an indoor pool, an exercise room, and Jacuzzis in seven available rooms. Mr. Varghese also testified that comparable #7 has an exercise room, but does not have a pool.

On cross-examination by Mr. Ginsburg, Mr. Varghese testified that the subject's available rooms are all suites. Mr. Varghese testified that a suite is a room where "there is a small sitting area away from your sleeping area. There is a partition half wall built, and there is a sofa and a table..." Mr. Varghese also testified that each room in the subject has a small refrigerator, and that there is no door that separates the sitting area from the sleeping area.

Mr. Varghese then testified that comparables #1, #2, #3, and #7 have no suites, and that about 10% of the available rooms in comparables #4 and #5 are suites. Mr. Varghese also testified that comparable #6 has some suites, but he was not sure how many. He did testify that not *all* of the available rooms in comparable #6 were suites. Mr. Varghese then testified that the subject, as well as comparables #3, #4, #5, #6, and #7 have an elevator, while comparables #1 and #2 do not. Mr. Varghese next

testified that the subject and all of the comparables, except comparable #1, have indoor corridors.

Mr. Ginsburg then asked Mr. Varghese what the revenue per average room for the subject was, and Ms. Fortsas objected. The ALJ sustained the objection, as the question appeared to be regarding the market value argument, which the appellant waived at the hearing's onset. However, the ALJ allowed Mr. Ginsburg to make an offer of proof. Mr. Ginsburg did so, and argued that an assessing official would look to the subject's ability to produce income in determining the subject's assessment. Mr. Ginsburg cited Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal Bd., 131 Ill. 2d 1 (1989) (the "Riverwoods" case) in support of this proposition.

On redirect by Ms. Fortsas, Mr. Varghese clarified that a suite did not contain two separate rooms, but instead, had a half wall dividing the room.

Ms. Fortsas then requested that the ALJ take judicial notice of an Agreed Judgment Order entered in the Circuit Court of Cook County, County Department, County Division with the caption Skan Hospitality, Plaintiff, v. Maria Pappas, Cook County Treasurer and Ex-Officio County Collector, Defendant, under docket number 10 COTO 002128 (the "AJO"). The AJO was accepted into evidence through judicial notice, over objections from Mr. Blyth and Mr. Ginsburg on relevancy grounds, and marked as "Appellant's Hearing Exhibit 'J'." Ms. Fortsas explained that the AJO was a settlement between the parties to lower the assessment for comparable #1 for tax year 2008. The appellant then concluded the case-in-chief.

In the board of review's case-in-chief, Mr. Blyth reaffirmed the evidence previously submitted.

In the intervenor's case-in-chief, Mr. Ginsburg reaffirmed the evidence previously submitted. Mr. Ginsburg also stated that all of the printouts from the Assessor's website, which were submitted by the appellant, state that the comparables received partial assessments for tax year 2008.

In rebuttal, Ms. Fortsas argued that the printouts' accuracy cannot be tested without a witness, and that the subject also received a partial assessment for tax year 2008.

During closing arguments, Ms. Fortsas reaffirmed the testimony of Mr. Varghese, and argued that the appellant has met the relevant burden of proof.

During the board of review's closing argument, Mr. Blyth argued that the appellant had not met the relevant burden of proof, and in support thereof, argued that the comparables submitted by the appellant were not similar to the subject. Mr. Blyth also argued that the partial assessments that the comparables received should not be compared to the subject's assessment. Furthermore, Mr. Blyth argued that the sale of the subject in June 2005 for $2,200,000 should be controlling over the subject's assessment.

During the intervenor's closing argument, Mr. Ginsburg also argued that the sale of the subject in June 2005 for $2,200,000 was relevant to determining whether the subject's assessment was uniform or not. Mr. Ginsburg then cited the Riverwoods case, and argued that the Supreme Court stated in that case that "the cornerstone of uniformity is [the] fair cash value of the property in question." Mr. Ginsburg argued that if a Hilton hotel and a Super 8 motel are located next door to each other, and have the same number of rooms, the same amenities, and the same layout, then the Hilton hotel would still not be comparable to the Super 8 motel because they generate different levels of income. Mr. Ginsburg also argued that the partial assessments that the comparables received should not be used in determining whether the subject's assessment is equitable or not. Mr. Ginsburg also argued that the comparables submitted by the appellant are not similar to the subject.

In rebuttal, Ms. Fortsas argued that the board of review and the intervenor had produced no relevant evidence to support their arguments. At this point, the hearing was concluded.

During the hearing, the intervenor's attorney argued, during an offer of proof, that the subject's income producing capability was relevant to determining the uniformity of the subject's assessment. After a thorough reading of the Riverwoods case, the ALJ found that the intervenor should not have been precluded from making this argument at hearing. Therefore, the ALJ issued a post-hearing order, which allowed the intervenor and the board of review an opportunity to submit a brief in support of this argument. The appellant was also given time to respond to the briefs submitted by the opposing parties.

The intervenor's post-hearing brief argued that the Riverwoods case requires the Board to analyze the income-producing capability of the subject in comparison to the income-producing capability of the comparables to determine if the subject's assessment is uniform. The intervenor also cited evidence in the record, which was submitted by the appellant, to show that the subject's income-producing capability is significantly higher than the income-producing capability of the seven comparables submitted by the appellant. For this reason, the intervenor argues, the comparables submitted by the appellant should be given no weight in the Board's analysis. The board of review adopted the brief submitted by the intervenor.

The appellant's post-hearing brief, filed in response to the intervenor's post-hearing brief, argued that the income-producing capability of the subject and the income-producing capability of the seven comparables submitted by the appellant were similar. In support of this argument, the appellant referenced the previously submitted STR Report and the income and expense data submitted for each of the comparables and the subject. The appellant summarized this data in a chart titled "Uniformity Comparable Earning Potential," which included the ADR for all of the comparables except comparable #1. The chart does not include the RevPAR for any of the comparables. Instead, the chart shows the ADR multiplied by each comparables' number of available rooms, multiplied by 365 days a year, which the appellant calls the "Gross Earning Potential."

The ADR for comparable #7 was obtained from Mr. Varghese, as he is a stakeholder in that hotel. This information was not previously submitted, and Mr. Varghese did not testify about it at hearing. As documentation of comparable #7's ADR, the appellant submitted an income and expense analysis for comparable #7 which was submitted as part of that property's appeal to the board of review for tax year 2008.

The appellant also submitted information regarding the sale of the subject and comparables #1, #6, and #7.

The intervenor then filed a post-hearing motion requesting that the Board take judicial notice of Momence Community Unit School District No. 1, 08-05004.001-C-3 (Ill. Prop. Tax Appeal Bd. October 24, 2014) (final admin. decision) (the "Momence" decision). The intervenor argued that the Momence decision supports its argument that the income producing capability of the subject is relevant to a uniformity argument. At the

request of the Board, the appellant did not file a response to this motion. The Board denied this motion in a written order.

Conclusion of Law

Initially, the Board finds that the appellant's additional sale evidence submitted in its post-hearing brief will not be considered in this decision. In making this finding, the Board notes that the post-hearing order issued by the Board requested that "[T]he parties limit their briefs to the ***legal argument*** which was presented at hearing by counsel for the intervenor during his offer of proof," (emphasis added).

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b).

> The principle of uniformity of taxation requires that similar properties within the same district be assessed on a similar basis. The cornerstone of uniform assessment is the fair cash value of the property in question. As stated, a property's income-earning capacity is an important factor in determining its fair cash value. Thus, uniformity is achieved only when all property with the same income-earning capacity and fair cash value is assessed at a consistent level.

Riverwoods, 131 Ill.2d at 21 (citations omitted). The Board finds the appellant has not met this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted seven comparable properties for the Board's consideration. The board of review and the intervenor did not submit any equity comparables for the Board's consideration. While all of the comparables were fairly similar to the subject in age, design, number of stories, number of available rooms, and square footage, they varied significantly in their individual income-earning capacity.

For tax year 2008, the subject's ADR was $60.51, its occupancy rate was 69.00%, and its RevPAR was $41.75. Comparable #2's ADR was $44.25, its occupancy rate was 33.67%, and its RevPAR was $14.90. Comparable #3's ADR was $20.96, its occupancy rate was 41.55%, and its RevPAR was $8.71. Comparable #4's ADR was $86.80, its occupancy rate was 42.34%, and its RevPAR was $36.75. Comparable #5's ADR was $28.40, its occupancy rate was 41.91%, and its RevPAR was $11.90. Comparable #6's ADR was $46.22, while its occupancy rate and RevPAR were not disclosed. No income information was available for comparables #1 and #7.

Comparables #2, #3, and #5 have significantly lower ADRs, occupancy rates, and RevPARs than does the subject. It cannot reasonably be said that these hotels are similar to the subject in income-earning capacity. The same is true for comparable #6 when looking at its ADR as compared to the subject. As stated above, income-earning metrics were not provided for comparables #1 and #7, and thus, a comparison cannot be made. The Board also notes that the STR Report states that the subject's ADR, occupancy rate, and RevPAR were all higher than its competitive set for tax year 2008, excluding December of that year. Therefore, based on this income-earning data, the Board finds that comparable #4 submitted by the appellant is the only comparable that is similar to the subject in age, design, number of stories, number of available rooms, square footage, and income-earning capacity.

However, as stated at hearing, the subject, as well as comparable #4, were both granted partial assessments for tax year 2008. Therefore, it is impossible for the Board to determine whether a reduction is warranted for the subject, as the subject's full assessment must be determined, and then compared to the full assessment of any similar properties. Since the full assessments of the subject and comparable #4 are not available, the Board is unable to make this comparison. Thus, the Board finds that the appellant has failed to prove, by clear and convincing evidence, that the subject's assessment is not uniform with other, similar properties, and a reduction in the subject's assessment 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: December 19, 2014

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.