



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

APPELLANT: Old Abe, LLC
DOCKET NO.: 10-02426.001-C-3
PARCEL NO.: 14-34.0-128-042

The parties of record before the Property Tax Appeal Board are Old Abe, LLC, the appellant, by attorney Thom Moss, of Bickes, Wilson & Moss, Decatur; and the Sangamon County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Sangamon County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$305,761
IMPR: \$1,360,739
TOTAL: \$1,666,500

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of multi-story, 316 room full service hotel and conference center. The subject property is located in Capital Township, Sangamon County, Illinois.

The appellant appeared before the Property Tax Appeal Board through legal counsel claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted a memorandum outlining the details of the subject's purchase with accompanying Goup Exhibits A through I.

Steve Horve, the owner of the subject property, was called as the appellant's witness. Horve testified he owns and operates five hotels and has sold 13 other hotels. The witness testified he attended an auction for the subject property on December 14, 2009. The witness testified he learned of the auction by advertisement in the Wall Street Journal, the Chicago Tribune and hospitality trade magazines for three or four months prior to the auction. As a condition, Horve was required to place a \$250,000 deposit in order to bid on the property. The auction was held at the subject property and there was a total of 12 potential buyers. The other bidders included but not limited to

representatives or owners of Drury Inn, Hilton, Holiday Inn and Double Tree hotel chains. Horve testified the bidding started at \$2,500,000, which increased to \$5,000,000 when a number of prospective buyers dropped out of the auction. Horve testified that he was the successful bidder at \$6,500,000. Immediately after the successful bid, Horve was escorted to a private room by Alexi Giannoullias, Treasurer for the State of Illinois, and was vetted by state investigators to determine whether he (Horve) had any personal or business relationships with Bill Cellini. After this process was complete, Horve signed the purchase agreement (Exhibit A) for \$6,500,000. The purchase agreement included the building, air rights, service contracts, and furnishings, fixtures and equipment (FF & E).

Horve testified the closing of the sale occurred on February 16, 2010. The closing statement (Exhibit C) depicts a consideration of \$6,500,000. Horve testified the representatives of the parties discussed allocating values for the personal property and real property included in the transaction. Counsel next presented the witness with Exhibit H, an email between appellant's counsel and the legal representative for the State of Illinois. The email suggests the buyer (Horve) would like to allocate \$5,000,000 of the purchase price for the land and improvements and \$1,500,000 for personal property. In addition, 90% of the allocated value for the real property or \$4,500,000 would be assigned to the land and building with 10% or \$500,000 assigned to the air rights. Exhibit D was a copy of the deed. Exhibit E was a copy of the subject's Real Estate Transfer Declaration showing a reported sale price of \$4,500,000.

Exhibit F was labeled quit claim and assumption of air rights, which conveyed two parcels, 14-34-128-042 and 14-34.4-128-043. Exhibit G was comprised of a Real Estate Transfer Declaration that describes the transfer of the two aforementioned parcels. Line 3a describes Parcel 14-34-128-042 as 1.1555 acres and parcel 14-34.4-128-043 as 0 acres 100 parking spaces. Line 5 describes the type of instrument as a "leasehold interest" and line 8h describes the property's current use as a hotel. Line 11 shows a full consideration of \$500,000.

Exhibit I was a bill of sale including a 33 page inventory of the personal property associated with the sale of the subject property.

Under cross-examination, Horve testified the subject property was advertised for sale for about 90 days. With respect to the value of the "air rights", Horve explained the negotiations resulted in a value of \$500,000 for the air rights based on 10% of the \$5,000,000 sale price associated with the hotel after deducting for personal property. Horve testified the hotel could not be operated without the air rights. Horve further explained the hotel cantilevers over a parking garage owned by the Prairie Capital Conventions Center, so the air rights assignment had to be conveyed for hotel operations. Horve testified the \$500,000

transaction for the "air rights" was part of the fee simple interest of the hotel.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$2,694,755 was disclosed. The subject's assessment reflects an estimated market value of \$8,085,074 when applying Sangamon County's 2010 three-year median level of assessment of 33.33%.

In support of the subject's assessment, the board of review called Chip Smith, Deputy Assessor for Capital Township. Smith testified the subject was assessed using the cost approach to value, which was not part of the record. The board of review also submitted the minutes from the local board review hearing, which states that as a rule, Capital Township does not use auction sales as market indicators. Auction sales appeal to a select group of potential buyers . . . market exposure is not normally seen as sufficient in an auction sale to produce a market price. The board of review did not submit any evidence of value to support its assessment of the subject property as required by Section 1910.40(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a)).

Based on this evidence, the board of review requested confirmation of the subject's assessment.

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 a reduction in the subject's assessment is warranted.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. 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. 2002). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant has met this burden of proof and a reduction in the subject's assessment is warranted.

In support of the overvaluation claim, the appellant submitted detailed documentation (Group Exhibits A through I) with respect to the subject's recent sale price. The appellant also presented credible testimony from the buyer/owner of the subject property pertaining to the transaction. The board of review did not submit any evidence to support the assessment of the subject property or to credibly refute the appellant's argument as required by section 1910.40(a) of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a)). The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner 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 Property Tax Appeal Board finds there is no evidence contained in this record showing the subject's sale was not an arm's-length transaction. The Board finds the evidence and corroborating testimony shows the subject's transaction meets the key fundamental elements of an arm's-length transaction. The buyer and seller were unrelated parties; neither party was under duress to buy or sell; and the subject property was exposed to the open market for a reasonable amount of time. Based on this analysis, the Board finds the best evidence of the subject's fair market is its net arm's-length sale price of \$5,000,000, which is considerably less than the subject's estimated market value of \$8,085,074 as reflected by its assessment.

The Property Tax Appeal Board finds the appellant has demonstrated the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the subject's assessment as established by the board of review is incorrect and a reduction is warranted. Based on this record, the Board finds the subject's real property had a market value of \$5,000,000 as of January 1, 2010. Since fair market value has been established, the three-year median level of assessment for Sangamon County of 33.33% shall apply.

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.

Ronald R. Cuit

Chairman

Frank J. Huff

Member

Mario M. Louie

Member

J.R.

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: May 24, 2013

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.