

STATE OF MINNESOTA
COUNTY OF HENNEPIN

TAX COURT
FOURTH JUDICIAL DISTRICT
REGULAR DIVISION

Osborne Properties,

Petitioner,

vs.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER FOR JUDGMENT**

File No. TC-13000

County of Hennepin,

Respondent.

Dated: September 10, 1992

The above-entitled matter was heard by the Honorable Kathleen Doar, Judge of the Minnesota Tax Court, on July 21 and 22, 1992, at the Hennepin County Juvenile Justice Center in Minneapolis, Minnesota.

Jon G. Sarff, Attorney at Law, appeared on behalf of Petitioner.

Paul R. Jennings, Assistant Hennepin County Attorney, appeared on behalf of the Respondent.

The issue in this case is the January 2, 1990 fair market value of real property improved with a bowling center located at 7500 Zane Avenue North in Brooklyn Park, Minnesota.

Post-trial briefs were filed by both parties and the matter was submitted to the Court for decision on August 4, 1992.

The Court, having heard and considered the evidence adduced at the hearing, and upon all of the files, records and proceedings herein, now makes the following:

FINDINGS OF FACT

1. Petitioner has sufficient interest in the property to maintain this petition; all statutory and jurisdictional requirements have been complied with, and the Court has jurisdiction over the subject matter of the action and the parties hereto.
2. The subject property is improved with a bowling center operated as the Village North Bowl. It contains 36 bowling lanes, a restaurant, nursery and locker and storage areas. The building was built in 1975 and is in good condition.
3. The property is located at 7500 Zane Avenue North in Brooklyn Park. Property I.D. No. 28-119-21-24-0013. It is south of the Village North Shopping Center in an area housing several office buildings and fast food restaurants.
4. The assessor placed an estimated market value of \$1,457,500 on the January 2, 1990 assessment date.
5. At trial Petitioner's appraiser estimated the January 2, 1990 fair market value of the subject property to fall within the \$800,000 to \$850,000 range.
6. At trial Respondent's appraiser estimated the January 2, 1990 fair market value of the property to be \$2,100,000.
7. The Court finds the subject property had a value of \$1,335,000 on January 2, 1990.

CONCLUSIONS OF LAW

1. The assessor's estimated market value for the subject property as of January 2, 1990 shall be reduced on the books and records of Hennepin County from

\$1,457,500 to \$1,335,000.

2. Real estate taxes due and payable in 1991 shall be recomputed accordingly and refunds, if any, paid to Petitioner as required by such computations, together with interest from the original date of payment.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS
HEREBY ORDERED.

BY THE COURT,

Kathleen Doar, Judge
MINNESOTA TAX COURT

DATED: September 10, 1992

MEMORANDUM

The subject property, located at 7500 Zane Avenue North in Brooklyn Park, is improved with a bowling center constructed in 1975. The center is operated as Village North Bowl and contains 36 bowling lanes, a restaurant and bar area, a nursery and storage and locker space. The building is in good condition.

Bruce Engelsma, President of Krause-Anderson Bowling and Entertainment Center, Inc. which operates Village North Bowl, testified at trial. Mr. Engelsma is experienced in the operation and management of bowling centers and has been actively involved in the purchase and sale of bowling centers. He presented unaudited financial statements for the Village North Bowl for fiscal 1988-89, 1989-90 and 1990-91. We accept the statements as accurate financials. We are aware that an incorrect financial statement was delivered to the County prior to trial, but have no reason to

doubt the accuracy of the corrected statement presented at trial.

Mr. Engelsma introduced a copy of the related party lease for the subject property and testified that the rent figure in the lease does not reflect market rent. Because most bowling centers are owner-occupied he was unable to tell the Court what a market rent would be. Mr. Engelsma presented his opinion of value for the subject property on January 2, 1990 which consisted of a range of value from \$687,000 to \$751,000. Because Mr. Engelsma is not an appraiser and because he testified that he is unaware of market rent, we place little weight upon his opinion in this case.

William K. Campbell of Campbell Appraisal Company, Inc. testified as Petitioner's expert witness. Ned Storla, an appraiser for the City of Brooklyn Park, testified for Respondent. Both agreed that the highest and best use of the subject property is its current use as a bowling facility. Each appraiser acknowledged that a market, albeit a limited one, exists for the property. Both agreed that a purchaser of the subject property would likely purchase it to continue its use as a bowling center. The property is not "special purpose property" as that term is used in technical appraisal theory. Blake Realty, Stadium Lanes and Gerald Singer v. County of St. Louis, File No. 90-2-0757 (Minn. Tax Ct. June 11, 1991). Our task is to determine its "market value", not its in use value.

Mr. Campbell and Mr. Storla each employed the cost approach. Mr. Campbell placed little weight upon this approach while Mr. Storla relied heavily upon it. Mr. Campbell used five comparable vacant land sales making no adjustments for differences in the comparables and the subject. Mr. Storla used four land comparables

adjusting the sale price of his comparables for location. We prefer Mr. Storla's method and accept his land value of \$2.50 per square foot or approximately \$500,000.

Each appraiser used the Marshall Valuation Service to calculate replacement cost. Mr. Campbell calculated a \$2,310,000 cost while Mr. Storla calculated a cost of approximately \$2,302,000. We find this difference minimal and use \$2,302,000. The experts disagreed significantly on depreciation. Mr. Campbell applied physical depreciation of 30% assuming an effective building age of 15 years and a fifty-year life. He applied a 60% external obsolescence factor to his physically depreciated cost as well as a 5% factor for functional incurable obsolescence. Mr. Storla used a 20% physical depreciation factor. We find that a 30% physical depreciation factor is reasonable and use a 20% external obsolescence factor to reflect the general economic decline in the bowling industry as supported by Mr. Engelsma's testimony, the league membership chart introduced at trial and evidence included in Mr. Campbell's appraisal. We find no functional obsolescence. Our depreciated replacement cost is \$1,151,000. Therefore our value utilizing the cost approach is \$1,651,000.

Mr. Storla used two comparable sales in his market approach arriving at a value of \$1,369,000. Mr. Campbell utilized five comparable sales to support his range of value of \$820,000 to \$940,000. Neither appraiser provided much information regarding the market approach. Mr. Campbell reduced his \$1,368,990 minimum conclusion of value by 40% for the subject's "poor economic condition". We find such a deduction inappropriate in the market approach and conclude that the subject property had a

January 2, 1990 value of at least \$1,369,000 by this approach.

Mr. Storla did not reach a conclusion of value utilizing the income approach because he was unable to verify market or economic rent. Mr. Campbell used a market rent which he derived from three sources: (1) comparable market rentals; (2) actual rent; and (3) a percentage of gross revenue rent. We disregard actual rent because all parties acknowledge that the lease is a related party nonmarket rent lease. We prefer market rent comparables to a percentage of gross revenue rent because neither Mr. Engelsma nor Mr. Campbell was aware of any bowling centers which rented on a percentage of gross income basis.

Our gross rent of \$4.11 per square foot or \$160,758 is based upon five of Mr. Campbell's market rent comparables. We disregard market rent comparable No.6 because of Mr. Engelsma's testimony that it is a property in bankruptcy. We deduct a 5% vacancy loss and 10% management and reserve expense to arrive at a net real estate operating income of approximately \$136,600. Because the rent comparables rented on a net basis we deduct no other expenses. We use Mr. Campbell's 11.5% cap rate to arrive at a value of \$1,188,000.

We have reviewed the information contained in Mr. Campbell's appraisal regarding the declining net income of the bowling business of the Village North Bowl. We have also reviewed a chapter in the third edition of the Encyclopedia of Real Estate Appraisers entitled "Appraisal of Bowling Centers", relied on by Mr. Campbell, which discusses at length the valuation of the property and business of a bowling center. Petitioner urges us to value the property as a going concern because it is likely that a

purchaser would continue the operation of the bowling facility. Our task here is the valuation of real property improved with a building used as a bowling center - not with the valuation of a business comprised of real and personal property. The operating income statement for the Village North Bowl is not helpful because the rent figure reflected on the statement is not market rent.

Our final conclusion of value on January 2, 1990 is \$1,335,000. We place 20% weight on the cost approach, 30% on the market approach and 50% on the income approach to value.

K.D.