State of Illinois

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

DECIDED BY THE BOARD

During Calendar Year 2009

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PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
Official Rules - Section 1910.76
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2009 FOREWORD

In the following pages, representative decisions of the Property Tax Appeal Board are reported. An index is also included. The index is organized by subject matter, and is presented in alphabetical sequence. Section 16-190(a) of the Property Tax Code (35 ILCS 200/16-190(a)) requires the Board to publish a volume of representative cases decided by the Board during that year.

Should the reader wish to become more completely informed about an appeal than is permitted by a reading of this volume, he or she need only access the Property Tax Appeal Board's website at www.state.il.us/agency/ptab or www.ptabil.com and click on the link that says "Appeal Status Inquiry." Access to Board records is addressed in Section 1910.75 of the Official Rules of the Property Tax Appeal Board. Additional Property Tax Appeal Board decisions may also be accessed at: www.state.il.us/agency/ptab/Pub/SearchAdditionalPTABDocuments.htm.

The reader should note that a docket number is created as follows: the first two digits indicate the assessment year at issue; the digits following the first hyphen identify the particular case; the letter following the second hyphen indicates the kind of property appealed ("R" for residential, "F" for farm property, "C" for commercial property, and "I" for industrial property), and the number which follows the final hyphen indicates the amount of assessed valuation at issue ("1" indicates less than $100,000 in assessed valuation is at issue, "2" indicates between $100,000 and $300,000 is at issue, and "3" indicates $300,000 or more is at issue). Thus, a docket number might appear as: 03-01234.001-I-3.

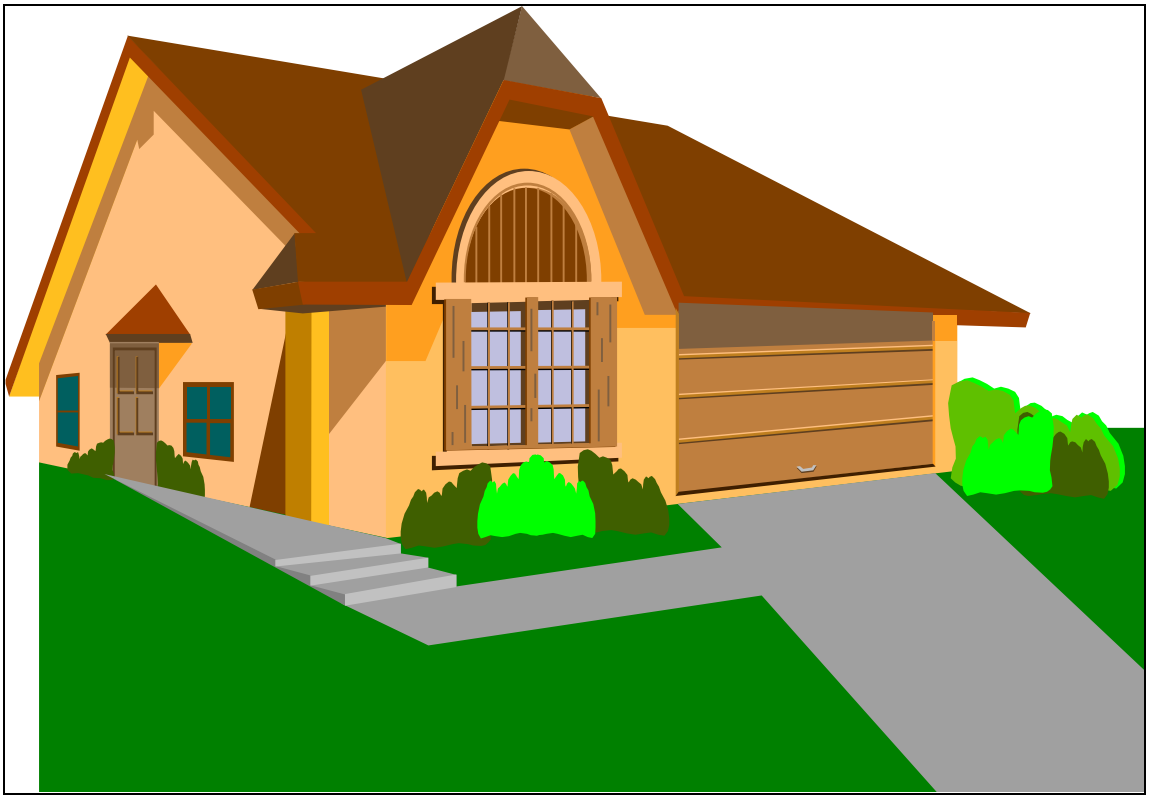
The reader should also note that Property Tax Appeal Board appeals are docketed according to the particular appeal form filed by the appellant rather than on the basis of the kind of property that is the subject matter of the appeal. Thus, a property that is actually an income producing or commercial facility might have a letter in the docket number that is inconsistent with the actual property type in the appeal.

The Property Tax Appeal Board anticipates this volume of the 2009 Synopsis will continue to aid in the understanding of the issues confronted by the Board, and the kinds of evidence and documentation that meet with success.

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2009 RESIDENTIAL DECISIONS



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2009 RESIDENTIAL CHAPTER

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APPELLANT:	**A. Lou & Patricia Benassi**
DOCKET NUMBER:	**07-00172.001-R-1**
DATE DECIDED:	**July, 2009**
COUNTY:	**Peoria**
RESULT:	**Reduction**

The subject property consists of a two-story brick dwelling containing 5,125 square feet of living area that was built in 1950. The dwelling features a partially finished basement, central air conditioning, three fireplaces, a three season room, swimming pool, pool house, and three-car attached garage. The dwelling is situated on a 5.05-acre site.

The appellant, A. Lou Benassi, appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellants submitted an appraisal report (Exhibit 1) estimating a fair market value for the subject property of $545,000 as of September 20, 2007, using only the sales comparison approach to value. The appraisal indicates the cost approach to value was not reported, but was developed and supports the final opinion of value. The appraiser, Janine C. Terrell, was present at the hearing to provide testimony and be cross examined regarding the appraisal methodology and final value conclusion. Terrell's qualifications and professional experience were provided without objection.

Under the sales comparison approach to value, the appraiser selected three suggested comparable properties. They consist of two-story brick or brick and frame dwellings that are from 27 to 74 years old. Features include partial finished basements, central air conditioning, two or three fireplaces, and two or three–car garages. Comparable 2 has a three season room like the subject. The dwellings range in size from 3,526 to 3,970 square feet of living area and are situated on lots that range in size from 11,250 square feet to 1.33-acres of land area. The comparables sold from September 2006 to September 2007 for prices ranging from $456,000 to $640,000 or from $116.33 to $161.21 per square foot of living area including land. The appraiser made adjustments to the comparables for differences when compared to the subject in land size, view, age, condition, room count, dwelling size, garage space, and features such as three-season room, fireplaces, and swimming pool. More specifically, large adjustment amounts ranging from $40,000 to $75,000 were made for land area, golf course or valley views, and condition. The adjustments resulted in adjusted sale prices ranging from $498,665 or $608,015 or from $122.21 to $153.15 per square foot of living area including land. Based on these adjusted sales, the appraiser concluded the subject property has an estimated market value of $545,000 or $106.34 per square foot of living area including land.

The appraiser first testified she found no physical defects regarding the subject's site. However, she next testified two acres of the subject parcel are considered usable land and three acres of land are considered un-usable land because of its wooded ravines. Thus, the appraiser made $40,000 or $50.000 adjustments to the comparables to account for topography and the amount of un-usable land. The appraiser testified comparables 2 and 3 were adjusted by $75,000 for condition as the subject suffers deferred maintenance because its windows need replaced, dated fixtures and décor, and the electrical system is in need of updating/replacement. The $75,000

adjustment amount was based on the cost to cure the subject property. The appraiser further explained comparables 1 and 3 received negative $50,000 adjustments due to their superior golf course or valley views when compared to the subject. Based on this evidence, the appellants requested a reduction in the subject's assessment.

Under questioning, the appraiser opined the three acres of "un-usable" land comprised of steep wooded ravines are less valuable than the buildable table land. The appraiser testified that the wooded ravine land is not buildable and cannot be subdivided. The appraiser next described the three acres of wooded ravines as unusable excess land, which was not independently valued. The appraiser testified she developed a vacant land value for the subject using 2 to 4 acre land sales under the cost approach to value. However, the cost approach to value was not included in the appraisal report, but was retained in her personal work file. The subject's condition and deferred maintenance were also discussed. The appraiser agreed the comparables are smaller in size than the subject, but were the most similar comparable properties available at the time the report was prepared. The appraiser testified she adjusted the comparables for dwelling size differences. Finally, the appraiser could not explain why the subject's final value conclusion of $545,000 or $106.34 per square foot of living area including land is less than the comparables' adjusted sale prices on a per square foot basis, which ranged from $127.21 to $153.15 per square foot of living area including land.

Under redirect examination, the appraiser testified three sides of the subject lot have steep wooded ravines that cannot be built upon. The appraiser testified although the subject's per square foot final value conclusion is less than the comparables, their overall adjusted sale prices support a value conclusion of $545,000.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of $201,360 was disclosed. The subject's assessment reflects an estimated market value of $631,223 or $123.17 per square foot of living area including land using Peoria County's three-year median level of assessments of 31.90% as determined by the Illinois Department of Revenue.

In support of the subject's assessment, the board of review submitted the same three comparable sales as detailed in the appraisal submitted by the appellants. For review, the comparables sold for prices ranging from $456,000 to $640,000 or from $116.33 to $161.21 per square foot of living area including land. The board of review argued the subject's assessment reflects an estimated market value of $604,080 or $117.86 per square foot of living area including land (using the statutory level of assessments of 33.33%), which falls at the lower end of the value range established the comparable sales. Based on this evidence, the board of review requested confirmation of the subject property's assessment.

Under questioning, the board of review acknowledged it did not prepare or submit any independent written analysis or alternative value conclusion that would refute the $545,000 value conclusion as detailed in the appellants' appraisal report. Additionally, the board of review acknowledged it made no market adjustments to the comparables for the differences when compared to the subject.

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 Property Tax Appeal Board further finds a reduction in the subject property's assessment is warranted.

The appellants argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000).

The appellants in this appeal submitted an appraisal estimating the subject property had a fair market value of $545,000 as of September 20, 2007, documenting only the sales comparison approach to value. The board of review merely submitted the same three unadjusted comparable sales that were detailed in the appellants' appraisal to support its assessment of the subject property. The board of review acknowledged it did not prepare or submit any independent written analysis or alternative value conclusion that would refute the appellants' appraiser's value conclusion nor made any market adjustments to the comparables for differences when compared to the subject.

After reviewing the evidence, the Property Tax Appeal Board finds a reduction in the subject's assessment is warranted. However, the Board finds the appellants' appraiser's final value conclusion unpersuasive. More specifically, the Board finds the appraiser's opinion that three acres of the subject is unusable and therefore less valuable is not supported by any market evidence. The Board finds this aspect of the appraisal report is cornerstone to the appraiser's final value conclusion. The Board finds the conclusion that the three acres in contention are less valuable may be logical. Nevertheless, the appraiser failed to support her conclusion with similar vacant land sales or a paired sales analysis to support this value opinion. The appraiser testified she developed a vacant land value for the subject using 2 to 4 acre land sales under the cost approach to value. However, the cost approach to value was not included in the appraisal report, but was retained in her personal work file. As a result of this analysis, the Board finds the appraisal report lacked market evidence to support the large adjustment amounts for land value differences under the sales comparison approach to value.

The Property Tax Appeal Board further finds the comparable sales contained in this record sold for prices ranging from $456,000 to $640,000 or from $116.33 to $161.21 per square foot of living area including land. The subject's assessment reflects an estimated market value of $631,223 or $123.17 per square foot of living area including land, which falls within the range established by these comparable sales. However, the Board finds all the comparables are considerably smaller in size than the subject property and one comparable is considerably newer when compared to the subject. In addition, the record is un-refuted that the subject property suffers from deferred maintenance. After considering logical adjustments to the comparables for differences when compared to the subject, including the supported adjustments calculated by the appellants' appraiser, the Property Tax Appeal Board finds the subject property has a fair market value of $575,000 or $112.20 per square foot of living area including land. The Board further finds that accepted real estate theory provides as the size of real property increases, its per unit value decreases, which comports with this Board's final value conclusion regarding this appeal.

Based on this analysis, the Property Tax Appeal Board finds the appellants have proven that the subject property is overvalued by a preponderance of the evidence. Since fair market has been established, Peoria County's 2007 three-year median level of assessment of 31.90% shall apply.

APPELLANT:	**David Coleman**
DOCKET NUMBER:	**06-00699.001-R-1**
DATE DECIDED:	**July, 2009**
COUNTY:	**Lake**
RESULT:	**No Change**

The subject property has been improved with a 57 year old, one and one-half story single-family dwelling of frame exterior construction. The dwelling contains 2,006 square feet of living area and features an unfinished basement, central air conditioning, a fireplace, and a one-car garage of 330 square feet of building area. The property is located in Highland Park, West Deerfield Township, Lake County, Illinois.

The appellant through counsel submitted documentary evidence to the Property Tax Appeal Board arguing that the fair market value of the subject was not accurately reflected in its assessed value. In support of that argument, a Settlement Statement reflecting the purchase of the subject property as of September 2005 for $465,000 was presented along with a color photograph of the subject dwelling. Based on the recent purchase price of the subject property, the appellant felt that the total assessment should be reduced to $154,845.

The Board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of $174,067 was disclosed. The assessment of the subject property reflects an estimated fair market value of approximately $523,825 or $261.13 per square foot of living area including land based on the 2006 three-year median level of assessments for Lake County of 33.23%. In support of the subject's current assessment, the board of review presented a grid analysis of three comparable sales, a letter and a copy of the executed and recorded Illinois Real Estate Transfer Declaration (PTAX-203) for the subject sale transaction.

In the sales grid analysis, the board of review presented three sales located within a few blocks of the subject property as depicted on a map. The comparables were described as either one and one-half story plus one or two-story frame and masonry dwellings that ranged in age from 54 to 65 years old. The comparables featured full or partial basements, one of which included a 443 square foot recreation room, and a fireplace. Two of the comparables had central air conditioning; two of the comparables had garages of 260 and 418 square feet of building area, respectively. The three comparables sold between October 2004 and March 2006 for prices ranging from $488,888 to $618,000 or from $237.09 to $292.75 per square foot of living area including land. The subject's purchase price of $465,000 calculates to $231.80 per square foot of living area including land.

In addition, the board of review through correspondence contended that the sale of subject property was not an arm's-length transaction in that the parties to the sale appear to be related (same last name for buyer and seller) and the property was not advertised for sale or sold using a real estate agent as set forth in the Real Estate Transfer Declaration. The board also contends there was no listing of the subject property in the Multiple Listing Service. Therefore, the board of review contended that the sale price of the subject property was not reflective of its fair market value.

No rebuttal evidence was filed by the appellant in this matter to refute the contentions of the board of review.

After reviewing the record 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 Property Tax Appeal Board finds that a reduction in the subject's assessment is not warranted.

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). The Property Tax Appeal Board finds the appellant has not overcome this burden.

The Settlement Statement reflects appellant and his spouse as the "buyer" and Geraldine Coleman as the "seller." Appellant had the opportunity in rebuttal to dispute that buyer and seller appear to be related parties and chose not to do so. Moreover, the Real Estate Transfer Declaration reflects that the subject property was not advertised nor sold through the use of a real estate agent. Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50).

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 buyers and seller in the subject property's sale transaction appear to be related; this assertion has not been refuted by the appellant who had the opportunity to do so. Due to the likely related nature of the parties, this sale cannot be said to be an arm's length transaction. Further supporting this conclusion is the lack of any advertising of the property for sale as stated in the Transfer Declaration and the lack of the involvement of a real estate agent for the sale transaction.

Further refuting the claim that the subject property has been overvalued is the fact that the subject property's current assessment, reflecting an estimated fair market value of $523,825 or $261.13 per square foot of living area including land, is within the sales prices presented by the board of review ranging from $237.09 to $292.75 per square foot of living area including land. On the basis of this analysis, the Property Tax Appeal Board finds that the subject property was not overvalued and the appellant has failed to establish overvaluation by a preponderance of the evidence. The Board finds that no change in the subject's assessment is warranted on this record.

APPELLANT:	**Edwin Del Hierro**
DOCKET NUMBER:	**06-28940.001-R-1**
DATE DECIDED:	**September, 2009**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of a four-year-old, three-story, single-family dwelling of masonry construction containing 3,930 square feet of living area and located in North Chicago Township, Cook County. Features of the residence include four and one-half bathrooms, a full-unfinished basement, air-conditioning and a two-car attached garage.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing unequal treatment in the assessment process of the improvement as well as overvaluation as the bases of the appeal. In support of the overvaluation argument, the appellant's evidence disclosed that the subject was purchased in April 2004 for a price of $1,950,000. In addition, the appellant submitted copies of the subject's real estate sales contract and settlement statement. At hearing, the appellant's attorney argued that the subject was purchased in April 2004 for a price of $1,950,000, the sale was an arm's length transaction and the property was sold by Realtor. Based upon this information, the appellant requested an assessment reflective of a fair market value for the subject of $1,950,000.

Regarding the inequity claim, the appellant provided seven suggested comparable properties consisting of two-story or three-story, single-family dwellings of masonry or frame and masonry construction with the same neighborhood code as the subject. Two of the comparables are located on the same street and within two blocks of the subject. The improvements range in size from 3,834 to 4,515 square feet of living area and range in age from four to 23 years. The comparables contain from three to five full bathrooms, a finished or unfinished basement, air-conditioning, from one to three fireplaces and a multi-car garage. The improvement assessments range from $41.70 to $48.65 per square foot of living area. Based on the evidence submitted, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of $219,961. The subject's improvement assessment is $195,320 or $49.70 per square foot of living area. In support of the assessment the board submitted property characteristic printouts and descriptive data on four properties suggested as comparable to the subject. The suggested comparables are improved with three-story, single-family dwellings of masonry construction with the same neighborhood code as the subject. The improvements range in size from 3,939 to 3,978 square feet of living area and range in age from four to seven years. The comparables contain three and one-half, four or four and one-half bathrooms, a full-finished basement, air-conditioning and a two-car garage. Three comparables contain one or two fireplaces. The improvement assessments range from $51.39 to $55.98 per square foot of living area. The board's evidence disclosed that the subject sold in April 2004 for a price of $1,950,000.

At hearing, the board's representative stated that the board's comparables are similar to the subject in size, design, age, amenities and location and indicated that the board of review would rest on the written evidence submissions. Based on the evidence presented, 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.

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); 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 arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c)) Having reviewed the record and considering the evidence, the Board finds the appellant has satisfied this burden.

The appellant's evidence disclosed that the subject was purchased in April 2004 for a price of $1,950,000. In addition, the appellant submitted copies of the subject's real estate sales contract and settlement statement. Consequently, the Board finds the subject's April 2004 sale for $1,950,000 to be the best evidence of market value contained in the record. The Board further finds the board of review failed to present any evidence to refute the arm's length nature of the sale. Moreover, the board of review's evidence neglects to address the appellant's market value argument besides noting the subject's sale.

Therefore, the Board finds that the subject had a market value of $1,950,000 as of January 1, 2006. The Board further finds that the 2006 Illinois Department of Revenue's three-year median level of assessments of 10.12% for Class 2 property shall apply and a reduction is warranted.

As a final point, the Board finds no further reduction based on the appellant's equity argument is warranted.

APPELLANT:	**Brian Eby**
DOCKET NUMBER:	**06-29508.001-R-1**
DATE DECIDED:	**December, 2009**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property is improved with a 1,200 square foot condominium unit located in a three-story building of masonry/block construction which was built in 2001. Features of the unit include central air conditioning, a fireplace and one uncovered parking space. The property is located in Chicago, West Chicago Township, Cook County.

The appellant's appeal is based on unequal treatment in the assessment process. While the appellant disputed the land assessment for the subject property, no land size data was submitted for either the subject or the comparables. The comparables were reported to have land assessments of either $1,704 or $1,714 while the subject has a land assessment of $2,601.

In support of the improvement assessment inequity argument, the appellant submitted information on three comparable properties located on the same block as the subject and described as individual condominium units located on the second floor in three-story masonry/block buildings that were each constructed in 2001 like the subject. The comparable condominium units contain 1,200 square feet of living area. Features include central air conditioning, a fireplace, and one uncovered parking space. The comparables have improvement assessments ranging from $19,018 to $20,235 or from $15.85 to $16.86 per square foot of living area. The subject's improvement assessment is $24,898 or $20.75 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to $20,400 or $17.00 per square foot of living area.

The board of review submitted its evidence. The Final Decision issued by the Cook County Board of Review reflected a total assessment for the subject property of $27,499. The board of review contended that the subject condominium unit was located in a seven year old building consisting of six units. The board of review further argued in support of the subject's assessment that, "The most appropriate way to determine the market value for the subject property is to analyze the recent sale prices of units within the subject building along with their allocated percentage of ownership. The condition of the building should be reflected in the sale prices of the units." The board of review then presented a grid analysis reflecting sales of five of the six units within the subject's building which occurred between 2003 and 2005 and the corresponding percentage of ownership accorded to that unit. From this data, the board of review contended that the subject condominium unit had a fair market value of $292,964 and the board of review concluded that based on the sales presented, the market value of the subject property was fair and uniform.

In written rebuttal, appellant contended that the board of review's sales evidence did not address the appellant's claim of a fundamental lack of uniformity in assessments.

After reviewing the record 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 land and improvement assessments is warranted.

The appellant contends unequal treatment in the subject's assessment as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellant has met this burden.

In support of appellant's inequity argument, appellant submitted data on three suggested comparable properties. In response to the appeal, the board of review presented comparable sales data. The Property Tax Appeal Board finds that the board of review failed to address the appellant's inequity argument when it submitted data on sales comparables.

Based upon the record evidence, the Property Tax Appeal Board finds the comparables submitted by the appellant were virtually identical to the subject in location, size, style, exterior construction, features and age. Due to their similarities to the subject and the inequity argument being made by the appellant, these comparable condominium units presented by the appellant received the most weight in the Board's analysis. These comparables had improvement assessments that ranged from $15.85 to $16.86 per square foot of living area. The subject's improvement assessment of $20.75 per square foot of living area is above the range established by the most similar comparables on this record. Likewise, the appellant contested the subject's land assessment and established that the three similar comparables had land assessments ranging of $1,704 and $1,714 whereas the subject had a land assessment of $2,601. The board of review failed to explain why a higher land assessment would be justified for the subject and failed to submit any data to support that the subject's land assessment was equitable. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's land and improvement assessments are not equitable and reductions in both the subject's land and improvement assessments are warranted.

APPELLANT:	**Eugene L. Frizzo**
DOCKET NUMBER:	**06-00006.001-R-1**
DATE DECIDED:	**April, 2009**
COUNTY:	**Madison**
RESULT:	**No Change**

The subject property is a part one-story and part two-story brick dwelling containing 3,066 square feet of living area that was built in 2003. Features include a full unfinished basement, central air conditioning, one fireplace, an enclosed masonry porch, and a 750 square foot attached masonry garage.

The appellant submitted evidence to the Property Tax Appeal Board claiming unequal treatment in the assessment process as the basis of the appeal. In support of this claim, the appellant submitted property record cards, photographs and an assessment analysis of the subject and three comparables located in close proximity to the subject. The comparables consist of one-story frame and masonry dwellings that were built in 2001 or 2002. Photographs and property record cards show the comparables have full, partially finished walkout basements. Other features include central air conditioning, one fireplace, and brick or frame attached garages that range in size from 588 to 636 square feet. The appellant calculated that the dwellings range in size from 3,287 to 4,372 square feet of living area, which included finished basement areas that ranged in size from 1,107 to 1,700 square feet. The comparables had improvement assessments, prior to equalization, ranging from $83,860 to $97,430 or from $21.81 to $25.54 per square foot of living area. The subject property has an improvement assessment, prior to equalization, of $105,950 or $34.56 per square foot of living area.

The appellant argued that generally accepted appraisal techniques, supported by Marshall & Swift, provide living space below grade of comparable quality to main floor living space can be valued at approximately one-third the value of main floor living space. The appellant also argued upper level or two-story living space of comparable quality to main floor living space can be valued at approximately one-half the value of main floor living space. Since the subject dwelling is the only house in the subdivision with an upper level, the appellant made calculations that purportedly show the valuation of the subject and comparables on a per floor and a per square foot basis using the aforementioned formulas. Using the average of per square foot values for each floor of the comparables, the appellant calculated the subject should have an improvement assessment of $92,431.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final equalized assessment of $114,840 was disclosed. In support of the subject's assessment, the board of review submitted a letter addressing the appeal, property record cards, an assessment analysis of the same three assessment comparables utilized by the appellant, photographs, and a "Selectability Detail Report" of 43 properties located in the subject's or a neighboring subdivision.

Again the assessment analysis submitted by the board of review contained the same three comparables as submitted by the appellant. The comparables consist of one-story frame and

masonry dwellings that were built in 2001 or 2002. The comparables have full, partially finished walkout basements, central air conditioning, one fireplace, and brick or frame attached garages that range in size from 588 to 636 square feet. Property record cards depict the dwellings range in size from 2,180 to 2,672 square feet of above grade living area. The comparables have improvement assessments, after application of the Godfrey Township equalization factor of .97000, ranging from $81,430 to $94,500 or from $35.74 to $37.65 per square foot of living area. The subject property has an improvement assessment after application of the Godfrey Township equalization factor of $102,770 or $33.52 per square foot of living area.

The assessment analysis also indicated the subject dwelling is the only multi-level dwelling within the subject's subdivision of custom built homes. The board of review argued the subject's all brick construction is superior to the comparables' partial brick and frame construction with vinyl siding exteriors. The board of review next pointed out differences between the subject and the comparables in terms of finished basements, garage sizes, plumbing fixtures, and open or enclosed porches. After making upward and downward adjustments to the three comparables for these differences when compared to the subject, the board of review calculated the comparables had adjusted equalized improvement assessments ranging from $84,270 to $100,590 or from $37.16 to $38.65 per square foot of living area. The board of review argued the subject's equalized improvement assessment $102,770 or $33.52 per square foot of living area is justified.

The board of review next presented a "Selectability Detail Report" of 43 suggested properties located in the subject's or a neighboring subdivision. These properties have unadjusted pre-equalized improvement assessments ranging from $33.00 to $41.97 per square foot of living area. The board of review argued the subject property's improvement assessment, after the board of review reduction to $105,950 or $34.55 per square foot of living area, is the third lowest per square foot assessment in the entire subdivision.

The board of review's letter and a contractor's statement also revealed the subject dwelling was constructed in 2003 for $331,789, excluding the $35,000 lot purchase price. The board of review argued the subject's final 2006 improvement assessment of $102,770 reflects an estimated market value of approximately $308,310, which is almost 9% less than its 2003 construction cost. In summary, the board of review argued the appellant's appeal lacks merit and the subject property is under-assessed in comparison to other homes within its subdivision. However, the board of review merely requested the Property Tax Appeal Board to confirm the subject's assessment.

In rebuttal, the appellant argued only the first 28 properties listed on the board of review's "Selectability Detail Report" are located in the subject's subdivision while the remaining properties are located in a neighboring subdivision. The appellant argued photographs show the comparable are one-story properties from the front view, but are two-story dwellings from the rear view. The appellant reiterated the quality of finish for the comparables' lower level basements is equal to the main levels and may be superior to the subject's upper level floor. Thus, the appellant contends the lower level finished areas of the comparables should be included in the overall amount of living area. Using information from Marshall-Swift obtained from a professional real estate appraiser, the appellant contends the formulas outlined in his case-in-chief should be utilized to determine the per square foot value of the lower and main levels of the comparables and the main and upper levels of the subject.

After reviewing the record 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 Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellant argued the subject property was inequitably assessed. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the evidence, the Board finds the appellant failed to overcome this burden of proof.

The Board finds the appellant's claim, in essence, that the lower level finished areas of the comparables should be considered as part of the overall amount living areas for comparison to the subject due to their high quality finish is without support. This contention was based in part on information purportedly gleaned from Marshall & Swift that was obtained from a professional real estate appraiser. The Board finds no documentation was submitted by the appellant from the Marshall & Swift Cost Service to support these contentions and valuation formula with respect to consideration and treatment of lower level finished basements or for that matter upper level or second story living area. Furthermore, the Property Tax Appeal Board finds accepted real estate valuation theory provides that only finished areas above grade are considered as part of the total amount of living area. For valuation, comparison and analyzing purposes, finished basements are considered as an amenity, and are not included in the overall amount of finished living area, even where there is a walkout basement.

The Property Tax Appeal Board finds the record contains the same three equity comparables submitted by both parties. The Board finds all the comparables are smaller than the subject, ranging in size from 2,180 to 2,672 square foot of living area, while the subject contains 3,066 square feet of living area. In addition, the comparables have finished walkout basements, a feature not enjoyed by the subject. The comparables are one-story style dwellings whereas the subject is predominately a one-story style dwelling containing 2,306 square feet of ground floor living area with an additional two-story section containing 760 square feet of living area. The comparables have varying degrees of similarly and dissimilarity when compared to the subject in exterior construction, garage sizes, and other ancillary amenities such as porches, decks and patios. The comparables have final equalized improvement assessments ranging from $81,430 to $94,500 or from $35.74 to $37.63 per square foot of living area. The subject property has a final equalized improvement assessment of $102,770 or $33.52 per square foot of living area, which falls below the range established by the assessment comparables contained in this record on a per square foot basis. Therefore, no reduction in the subject's improvement assessment is warranted.

The Property Tax Appeal Board further finds the board of review adjusted the assessment comparables to account for differences when compared to the subject in finished basement area, exterior construction, garage size, plumbing fixtures, and porches. In its review, the Board finds the adjustment methodology appears to be appropriate. The Board finds the appellant did not refute the adjustment method or amounts as calculated by the board of review. The adjustments resulted in adjusted improvement assessments ranging from $84,270 to $100,590 or from $37.16

to $38.65 per square foot of living area. The subject property has a final equalized improvement assessment of $102,770 or $33.52 per square foot of living area, which again falls below the range established by the adjusted comparables on a per square foot basis. The Board finds the subject's improvement assessment is justified and no reduction is warranted.

As a final point, the Board gave little to no weight to the "Selectability Detail Report" submitted by the board of review. The Board finds this report lacks detail for comparison to the subject nor was the report fully explained. This report is not a substitute for an actual side-by-side comparative analysis detailing the subject and comparables salient characteristics for a competent and measured review.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables contained in the record disclose that properties are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist on the basis of the evidence. Based on this analysis, the Property Tax Appeal Board finds the appellant has not demonstrated the subject property was inequitably assessed by clear and convincing evidence. Therefore, no reduction is warranted.

APPELLANT:	**Hidden Cove Condominium Association**
DOCKET NUMBER:	**04-23414.001-R-3 thru 04-23414.052-R-3**
DATE DECIDED:	**June, 2009**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property consists of a two-story, eight-year-old, 52 unit, frame and masonry constructed residential condominium building sited on a 206,988 square foot parcel located in Palatine Township, Cook County.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board claiming the assessment of the subject is excessive and violates the constitutionally guaranteed principle of uniformity of assessments. In support of the inequity argument, the appellant submitted copies of property search details from the Cook County Assessor's Office and photographs of ten suggested comparable condominium developments located within Palatine Township. In addition, the appellant submitted a brief as well as an analysis reflecting the unit numbers, number of units, addresses, property index numbers, assessment data, total assessed value and an average assessed value per unit for the ten suggested comparables. The data, descriptions and photographs provided by the appellant disclosed that the ten comparables consist of two-story or three-story, frame and masonry constructed residential condominium buildings located on parcels that range in size from 75,538 to 188,439 square feet of land; range in age from 12 to 23 years old; and contain from 28 to 48 units. The appellant's evidence indicated that the appellant's comparables like the subject have on-site parking. The size of each unit, type of unit, amenities per unit, features and total building size was not provided for either the subject or the suggested comparables. The appellant argued that the subject is most similar in age, unit size, development layout, and location to comparables one through five. The appellant also argued that the average assessed value of the subject units is $20,923 per condominium unit while the average assessed value of 400 comparable units is $14,438 per condominium unit. Based on the evidence presented, the appellant requested a reduction in the subject's per unit assessment to reflect the average per unit assessment of the suggested comparables of $14,438.

The appellant's attorney argued that in past years, the general reassessment of property in Palatine Township resulted in the subject's assessment being the highest for condominium type properties. The appellant's attorney also argued that in each reassessment year, the Cook County Assessor, or the Cook County Board of Review would recognize the historically high assessment of the subject property and grant relief.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $1,087,382 was disclosed. In support of its assessment of the subject property, the board of review presented a sales analysis that consisted of 18 units located in the subject's complex which sold from 2001 through 2003. The total consideration for the 18 sales was $4,242,375. Of that amount $45,000, or $2,500 per unit, was deducted for personal property. Thus, the total adjusted sales price for the real estate was calculated to be $4,197,375. The board then adjusted the sales price by applying the total of the percentages of ownership of the units which sold, or 35.99623%, to conclude a total market value for the subject complex of

$11,660,596. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is whether or not the subject's condominium units are being assessed equitably.

The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

The Board finds the appellant's argument claiming the assessment of the subject properties is excessive and violates the constitutionally guaranteed principle of uniformity of assessments unpersuasive. The appellant submitted ten properties as suggested comparables to the subject, however, the Board finds that the appellant's descriptive information with regard to the comparables is inadequate to determine their similarity or dissimilarity when compared to the subject. Section 1910.65(b) of the rules of the Property Tax Appeal Board (86 Ill.Adm.Code §1910.65(b)) requires documentation establishing the physical, locational, and jurisdictional similarities of the suggested comparables to the subject. The appellant failed to provide the percentage of ownership, size of living area as well as features and distinctive amenities of the subject units and the individual units associated with all the comparable properties. The Board finds that without this information, it is unable to make an in depth analysis of the appellant's comparables and make a comparability finding.

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 property in question. In this appeal the appellant did not demonstrate that the comparable condominiums had similar market values as the subject property but were being assessed at a substantially lower percent of fair market value than the subject condominium units. In order to demonstrate assessment inequity, the appellant needed to provide evidence to demonstrate the equity comparables had similar physical attributes as the subject and similar market values as the subject but were being assessed disproportionately lower than the subject property. This, the appellant failed to do.

The Board further finds the board of review's analysis clearly demonstrates that the same methodology was used to assess the 52 units in the subject's complex. Sales data from unit sales within the complex was accumulated over approximately 33 months. During this time 18 units sold, representing approximately 36% of the percentage of ownership in the common elements of the complex, and each received a personal property allowance of $2,500. The board then extended the adjusted sales figure by applying the total of the percentages of ownership of the units which sold, or 35.99623%, to conclude a total market value for the subject complex. The assessment for each unit was then based on the condominium unit's percentage of ownership in the common elements applied to the total market value for the complex. The Board finds

nothing in the record to indicate the subject properties are inequitably assessed or overvalued for assessment purposes.

Counsel argued that in past years, the general reassessment of property in Palatine Township resulted in the subject's assessment being the highest for condominium type properties. The appellant's attorney argued that in each reassessment year, the Cook County Assessor or the Cook County Board of Review would recognize the historically high assessment of the subject properties and grant relief. The Board finds, however, that there is no evidence or documentation in the record to support this claim. Moreover, the general reassessment of the subject properties in previous years has no bearing on the subject's current assessment and does not suggest the subject's 2004 assessment is inequitable.

Finally, the appellant argued that the subject's average assessed value per unit should not exceed the average of the appellant's comparables' per unit assessment. The Board gives this argument no weight. As previously stated, to demonstrate assessment inequity, the appellant needed to provide data showing that the subject property was being assessed substantially disproportionately greater in relation to its market value then were condominiums with similar market values. An adjustment to the subject's assessment would be made considering the comparables with the most similar market values and physical attributes not based on averages.

As a result of this analysis, the Property Tax Appeal Board finds the appellant has failed to demonstrate that the subject condominium units were inequitably assessed by clear and convincing evidence and no reduction is warranted.

APPELLANT:	**Jeffery Kadyk**
DOCKET NUMBER:	**06-02266.001-R-1**
DATE DECIDED:	**August, 2009**
COUNTY:	**Sangamon**
RESULT:	**No Change**

The subject property consists of an owner occupied residential dwelling located in Fancy Creek, Sangamon County, Illinois. The appellant submitted evidence before the Property Tax Appeal Board claiming the subject's assessment was not reflective of its fair market value. The appellant's evidence consists of page 2 of an appraisal report wherein the subject property was estimated to have a fair market value of $232,000 as of March 15, 2003, using the cost and sales comparison approach to value. The appellant's evidence also disclosed the subject property was the matter of an appeal before the Property Tax Appeal Board in 2004 under docket number 04-02257.001-R-1. In that appeal, the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to $81,444 based on the evidence and an agreement by the parties to the appeal. In addition, the appellant's evidence indicates equalization factors of 1.0577 for assessment year 2005 and 1.0511 for assessment year 2006 were applied to property in Fancy Creek Township.

The appellant argued the increase in the subject's assessed value over the past two years is not equal to the general housing market and the subject's 2006 assessed value is 17% higher than the 2003 appraisal. The appellant also contends the value of the subject property has decreased due to the close proximity of a sealed mine entrance. Based on this evidence, the appellant requested a reduction in the subject's assessed valuation.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $90,546 was disclosed. The subject's assessment reflects an estimated market value of $271,910 using Sangamon County's 2006 three-year median level of assessment of 33.30%. In response to the appeal, the board of review argued the appellant did not provide enough proper evidence to determine the correctness of the 2006 assessment. The board of review did not submit any independent valuation evidence to support its assessment of the subject property. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After reviewing the record 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 Property Tax Appeal Board further finds no reduction in the assessment of the subject property is warranted.

The appellant claimed the subject's assessment was not reflective of its fair market value based on page 2 of an appraisal report, wherein the subject property was estimated to have a fair market value of $232,000 as of March 15, 2003. The subject's assessment reflects an estimated market value of $271,910 using Sangamon County's 2006 three year median level of assessment of 33.30%. The board of review argued the appellant did not provide enough proper evidence to determine the correctness of the 2006 assessment, but did not submit any independent valuation evidence to support its assessment of the subject property.

Regardless of this poor value evidence or lack thereof, the subject property was the matter of a 2004 appeal before the Property Tax Appeal Board under docket number 04-02257.001-R-1. In that appeal, the Property Tax Appeal Board rendered a decision lowering the assessment of the subject property to $81,444 based on the weight and equity of the evidence. 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 on which a residence occupied by the owner is situated, such reduced assessment, **subject to equalization, shall remain in effect for the remainder of the general assessment period** (Emphasis Added) as provided in Sections 9-215 through 9-225, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. (35 ILCS 200/16-185)

Based on this statutory language, the Board finds its 2004 decision shall be carried forward to the subsequent assessment year(s) of the same general assessment period plus annual application of equalization factor(s). This finding is pursuant to section 16-185 of the Property Tax Code (35 ILCS 200/16-185). The Board finds the subject's final assessment for the 2006 assessment year reflects the Property Tax Appeal Board's 2004 decision plus application of equalization factors applied by Sangamon County Assessment officials of 1.0577% in 2005 and 1.0511% in 2006.

Additionally, the record contains no evidence indicating the subject property sold in an arm's-length transaction subsequent to the Board's decision or that assessment year in question is a different general assessment period. The subject's quadrennial general assessment cycle began in 2003 and continues through 2006. As a result, the Property Tax Appeal Board finds the board of review's assessment of the subject property is in accordance with section 16-185 of the Property Tax Code (35 ILCS 200/16-185). For these reasons, the Board finds no reduction in the subject property's assessment is warranted.

APPELLANT:	**Paul F. & Lilynn A. Kattner**
DOCKET NUMBER:	**06-00632.001-R-2**
DATE DECIDED:	**June, 2009**
COUNTY:	**Lake**
RESULT:	**No Change**

The subject property consists of a part two-story and part one-story brick, frame and stone dwelling containing 4,348 square feet of living area that was built in 2003. The dwelling features a full partially finished basement, central air conditioning, two fireplaces and a 1,590 square foot attached garage. The dwelling is situated on a 125,466 square foot lot.

The appellants submitted evidence to the Property Tax Appeal Board claiming a lack of uniformity as the basis of the appeal. In support of this claim, the appellants submitted photographs and an assessment analysis of four suggested comparables located along the subject's street. They consist of three, two-story dwellings and one, part one and part two-story frame, brick or brick and stucco dwellings that were built from 1987 to 1994. Two comparable have finished basements and two comparables have unfinished basements. Other features include central air conditioning, two or three fireplace and garages that contain from 793 to 1,248 square feet. The dwellings range in size from 4,412 to 5,465 square feet of living area and have improvement assessments ranging from $188,391 to $243,985 or from $40.95 to $47.20 per square foot of living area. The subject property has an improvement of $374,108 or $86.04 per square foot of living area. Based on this evidence, the appellants requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment of $430,654 was disclosed. The subject's assessment reflects an estimated market value of $1,295,980 using Lake County's 2006 three-year median level of assessments of 33.23%. The board of review indicated the appellants purchased the subject property for $1,766,600 in February 2005, considerably more than is assessed valuation.

In support of the subject's assessment, the board of review submitted property record cards and a grid analysis of four suggested comparables. They consist of a one and one-half story; a two story; and two, part two and part one-story dwellings of frame or brick construction that were built from 1998 to 2004. Two comparables have partially finished basements and two comparable have unfinished basements. Other features include central air conditioning, two or three fireplaces and attached garages ranging in size from 688 to 968 square feet. The dwellings range in size from 4,397 to 5,780 square feet of living area and have improvement assessments ranging from $288,422 to $493,155 or from $65.60 to $85.32 per square foot of living area.

Three of the four comparables sold from October 2001 to January 2006 for prices ranging from $1,025,000 to $1,536,341 or from $233.11 to $265.80 per square foot of living area including land. Based on this evidence the board of review argued the subject property satisfies practical uniformity as held in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169.

After reviewing the record 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 Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

The appellants argued unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. The Board finds the appellants have not overcome this burden of proof. When an appeal is based on assessment inequity, the appellant has the burden to show the subject property is inequitably assessed by clear and convincing evidence. Proof of an assessment inequity should consist of more than a simple showing of assessed values of the subject and comparables together with their physical, locational, and jurisdictional similarities. There should also be market value considerations, if such credible evidence exists. The supreme court in Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395, 169 N.E.2d 769, discussed the constitutional requirement of uniformity. The court stated that "[u]niformity in taxation, as required by the constitution, implies equality in the burden of taxation." (Apex Motor Fuel, 20 Ill.2d at 401) The court in Apex Motor Fuel further stated:

> "the rule of uniformity ... prohibits the taxation of one kind of property within the taxing district at one value while the same kind of property in the same district for taxation purposes is valued at either a grossly less value or a grossly higher value. [citation.]
>
> Within this constitutional limitation, however, the General Assembly has the power to determine the method by which property may be valued for tax purposes. The constitutional provision for uniformity does [not] call ... for mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute in its general operation. A practical uniformity, rather than an absolute one, is the test.[citation.]" Apex Motor Fuel, 20 Ill.2d at 401.

In this context, the supreme court stated in Kankakee County that the cornerstone of uniform assessments is the fair cash value of the property in question. According to the court, uniformity is achieved only when all property with similar fair cash value is assessed at a consistent level. Kankakee County Board of Review, 131 Ill.2d at 21. With respect to the courts' holdings, the Property Tax Appeal Board gave less weight to the comparables submitted by the appellants. All the comparables are older when compared to the subject and comparables 2 and 3 are larger in size when compared to the subject. The Board also gave less weight to comparables 2 and 3 submitted by the board of review due to their larger size when compared to the subject.

The Property Tax Appeal finds comparables 1 and 4 submitted by the board of review are most similar to the subject property in age, size, style, location and amenities. They have improvement assessments of $288,422 and $329,444 or $65.60 and $70.20 per square foot of living area. In addition, these comparables sold in September 2005 and January 2006 for $1,025,000 and $1,180,000. The subject property has an improvement assessment of $374,108

or $86.04 per square foot of living area, which is higher than the two most similar comparables contained in this record. However, the Board finds the subject property sold in February 2005 for $1,766,600, considerably more than the sale prices of the two most similar comparables contained in this record. Based on this analysis, the Board finds the subject's higher improvement assessment is well justified giving consideration to the credible market evidence contained in this record. Thus, the Property Tax Appeal Board finds no reduction in the subject's assessment is warranted based on the evidence in this record.

APPELLANT:	**Andrew & Sharon Leynes**
DOCKET NUMBER:	**07-04620.001-R-1**
DATE DECIDED:	**November, 2009**
COUNTY:	**Moultrie**
RESULT:	**Reduction**

The subject property consists of a two-story Victorian frame dwelling containing 2,997 square feet of living area that was built in 1898. Features include a partial basement that contains 1,086 square feet of finished area, central air conditioning, a non-functioning fireplace, a four-car detached garage that contains 912 square feet, three open frame porches, and an in-ground swimming pool. The dwelling is situated on a 1.56 acre home site.

The appellants appeared before the Property Tax Appeal Board claiming overvaluation and unequal treatment in the assessment process as the bases of the appeal. In support of these arguments, the appellants offered testimony, an appraisal performed by a state licensed appraiser and an analysis of four additional comparable properties. During the hearing, the parties agreed the subject property contains 2,997 square feet of living area.

The appellants first provided testimony in connection with the history of the subject dwelling. The subject dwelling was originally located in Atwood, Douglas County, Illinois near an expanding industrial property. The appellants became aware that the dwelling was going to be demolished. The appellants subsequently purchased the dwelling in September 2003 for $35,000 after 18 months of negotiations. The appellants agreed the sale was not an arm's-length transaction. After purchase, the appellants had the dwelling moved approximately 13 miles by truck to a new location approximately 1.5 miles west of Lovington, Moultrie County, Illinois. The cost to move the dwelling was $30,000. The subject dwelling was then placed on a new basement foundation which cost $32,103. A new four-car, two-story garage with connecting breezeway was constructed in 2006 for $31,199. A new rock driveway was installed for $2,263 and an in-ground swimming pool was added at a cost of $16,331. Thus, the total reported cost to purchase and move the subject dwelling with placement on a new foundation plus the addition of the garage, driveway and swimming pool was $146,896 excluding land. The appellants' appeal petition indicates the appellants purchased 8 acres of land in 1998 for $10,500, but the appellants allocated a $7,000 value for its 1.56 acre home site.

The appellants next presented an appraisal of the subject property prepared by David L. Johnson. Using two of the three traditional approaches to value, the appraisal report indicates the subject property has a fair market value of $125,000 as of March 17, 2008. The appraiser was not present at the hearing for direct or cross-examination regarding the appraisal methodology and final value conclusion. At the hearing, the appellants tendered an affidavit from their appraiser in support of the comparable sales used and final value conclusion and to refute the appraisal methodology used by the board of review's appraiser. The board of review objected to the affidavit and appraisal report because Johnson was not present for cross-examination. The board of review also made a motion the strike the appraisal report from the record.

The Property Tax Appeal Board sustained the motion and finds these documents are inadmissible hearsay. The general rule is that hearsay is inadmissible in an administrative hearing. Spaulding v. Howlett, 59 Ill.App.3d 249, 251, 375 N.E.2d 437, 16 Ill.Dec. 564 (1st. Dist. 1978). Hearsay evidence is an out-of-court statement offered to prove the proof of the matter asserted and is inadmissible in administrative proceedings unless it falls within one of the recognized exceptions to the rule. The Board finds none of these legal exceptions apply in this appeal. In Novicki v. Department of Finance, 373 Ill.342, 26 N.E.2d 130 (1940), the Supreme Court of Illinois stated, "[t]he rule against hearsay evidence, that a witness may testify only as to facts within his personal knowledge and not as to what someone else told him, is founded on the necessity of an opportunity for cross-examination, and is basic and not a technical rule of evidence." Novicki, 373 Ill. at 344. In Oak Lawn Trust & Savings Bank v. City of Palos Heights, 115 Ill.App.3d 887, 450 N.E.2d 788, 71 Ill.Dec. 100 (1st Dist. 1983) the appellate court held that the admission of an appraisal into evidence prepared by an appraiser not present at the hearing was in error. The court found the appraisal was not competent evidence stating: "it was an unsworn ex parte statement of opinion of a witness not produced for cross-examination." This opinion stands for the proposition that an unsworn appraisal is not competent evidence where the preparer is not present to provide testimony and be cross examined.

At the hearing, the appellants also presented an affidavit from a local real estate broker and owner of Century 21 Bagley and Associates regarding the general market climate of Lovington, Illinois to similar properties in other towns of Moultrie County. After objection by the board of review, the Property Tax Appeal Board sustained the objection as inadmissible hearsay based on the same aforementioned precepts.

In further support of the overvaluation claim, the appellants argued the subject property sold at its prior location with an unknown amount of acreage in 1994 for $87,500; in 1998 for $100,000; and in 1999 for $99,000. At the time of the prior sales, the appellants argued the subject dwelling was on a nice landscaped lot with mature trees where the subject is now situated on acreage with no landscaping in a corn field. The appellants allege the dwelling is in the same average condition as at the time of sale for $35,000. The appellants testified they did not perform any exterior improvements to justify the large increase in its assessment from its prior location in neighboring Douglas County. The appellants acknowledged the construction of a new basement foundation, which had to be constructed in order to move the dwelling to its new location. The appellant, Sharon Leynes, who is a real estate agent, testified she reviewed Multiple Listing Sheets from the past 12 months and found no similar properties near Lovington that sold for more than $100,000 and one-half the sales sold for less than $50,000. She testified 8 of 11 sales that occurred in Sullivan sold for more than $100,000. She testified this paired sales study[1] shows the Sullivan/Bethany market have higher values than the Lovington market where the subject is located due to a lack of industry and a poor functioning school district.

In support of the inequity claim, the appellants submitted assessment data for three suggested comparables. They consist of two-story frame dwellings that are from 98 to 125 years old. The suggested comparables are located from ½ of a mile to 20 miles from the subject. One comparable has an unfinished basement and two comparables have finished basements. Two comparables contain central air conditioning, one comparable has three fireplaces and two

[1] The appellant did not submit the Multiple Listing Sheets corroborating the testimony.

comparables have garages that contain 672 and 768 square feet. The comparables have improvement assessments ranging from $23,418 to $41,070 or from $9.13 to $13.28 per square foot of living area. The subject property has an improvement assessment of $75,374 or $25.15 per square foot of living area. At the hearing, the appellants provided four additional comparables located near the subject, but are assessed for less than the subject. No descriptive information or analysis showing their similarities and dissimilarities when compared to the subject was submitted.

Based on this evidence, the appellants requested a reduction in the subject's assessment.

Under cross-examination, the appellants testified the subject's prior location was in a commercial area and the subject did not have a finished basement or pool. The appellants testified the furnace/central air conditioning and duct work had to be removed to facilitate moving the dwelling. The appellants acknowledged the subject had a new furnace and central air conditioning installed for $8,000. The appellants testified the prior heating and cooling systems functioned properly and the replacement cost just returned the property to its prior condition. The appellants testified they also had to remove the fireplace and chimney to move the dwelling. The appellants testified approximately 50% of the plaster walls were damaged during the move, which was repaired with drywall. The appellants testified plaster walls are more valuable than drywall and may have decreased the value of the dwelling. The appellants testified the kitchen was remodeled, the interior was painted to taste and insulation was added. The appellants agreed the total acquisition costs including the purchase of the dwelling, moving the dwelling to its new location on a new basement foundation, the new garage, new heating and cooling systems, and interior improvements totaled approximately $170,000 excluding land. However, the appellants argued the improvements just brought the property back to its original good condition. With respect to the assessment comparables, the appellants agreed they are inferior to the subject and only two are located in the Lovington area. The appellants agreed they used one comparable from Bethany, which they argued is a superior market location when compared to the subject.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment for its home site and improvement assessment totaling $79,491 was disclosed. The subject's assessment reflects an estimated market value of $237,004 or $79.08 per square foot of living area including land using Moultrie County's 2007 three-year median level of assessments of 33.54%. Based on the appraisal prepared on behalf of the board of review estimating a fair market value of $180,000 for the subject property, the board of review offered to reduce the subject's assessment to $59,994, with an improvement assessment of $55,601 or $18.55 per square foot of living area. The proposed assessment reduction was rejected by the appellants.

In support of the subject's assessment, the board of review submitted a letter prepared by the Chief County Assessment Officer; property record cards; an assessment analysis detailing three suggested equity comparables; an appraisal of the subject property; and a copy of a newspaper article regarding the subject property published in the Decatur Herald and Review on March 25, 2007.

Cynthia S. Kidwell, Chief County Assessment Officer and clerk of the board of review was called as a witness. Kidwell was qualified as an expert in the field of real estate valuation.

Under questioning by the appellants, Kidwell acknowledged she is not a professional appraiser. Kidwell provided testimony with respect to the uniformity analysis submitted on behalf of the board of review. The comparables consist of two-story frame or brick dwellings that were built from 1918 to 1979 and are located 10 or 11 miles from the subject. The comparables have unfinished basements, central air conditioning, one fireplace and garages that contain from 576 to 780 square feet. Comparable 2 has swimming pool and two open frame porches. The comparables have improvement assessments ranging from $38,546 to $57,580 or from $17.39 to $19.53 per square foot of living area. The subject property has an improvement assessment of $75,374 or $25.15 per square foot of living area. Again, the board of review proposed to reduce the subject's improvement assessment to $55,601 or $18.55 per square foot of living area.

Under cross-examination, Kidwell testified the comparables are newer in age than the subject. Kidwell testified she did not utilize comparables from the Lovington area because there were no similar residential properties. Kidwell also testified she did not believe there was that much difference in market values between Lovington and the Sullivan/Bethany markets based on sale ratio studies. She further explained that due to the new and added improvements to the dwelling, such as its new basement foundation, garage and interior improvements, the subject dwelling's effective age was adjusted to 1980 from 1898. She agreed the Lovington School District is going through some financial difficulties and there is a lack of stable industry. She also agreed comparables 2 and 3 are approximately 800 square feet smaller in size than the subject, but were the best comparables she could find.

The next witness called on behalf of the board of review was David A. DeRocchi, licensed appraiser by the State of Illinois. DeRocchi was qualified as an expert in real estate valuation. The appraiser used one of the three traditional approaches to value in concluding the subject property has a fair market value of $180,000 as of January 1, 2007.

Under the sales comparison approach, the appraiser utilized five suggested comparable sales located from 5.16 to 10.17 miles from the subject. The comparables consist of two-story frame or masonry dwellings that contain from 2,039 to 2,636 square feet of living area that are situated on sites ranging in size from 2.5 to 7.96 acres. The dwellings range in age from 90 to 125 year old. One comparable has a crawl space foundation and four comparables have unfinished basements. The comparables have central air conditioning; three comparables have one or two fireplaces; and three comparables have two-car attached garages. Three comparables have out-buildings. Other features include various decks porches and patios. The comparables sold for prices ranging from $130,000 to $170,000 or from $55.34 to $80.92 per square foot for living area including land. The appraiser adjusted the comparables for differences to the subject in land area, room count, living area, finished basement area, garage area, pole buildings, and features such as swimming pools and fireplaces. The adjustments resulted in adjusted sale prices ranging from $172,395 to $194,205 or from $67.20 to $89.29 per square foot of living area including land. Based on these adjusted sales, the appraiser concluded the subject property has a fair market value of $180,000 or $60.06 per square foot of living area including land.

Under direct-examination, the appraiser testified he inspected the subject property and measured the exterior of the dwelling. He calculated the subject dwelling has 2,997 square feet of living area. He described the basement as 90% finished, including a recreation room, two bedrooms and two bathrooms. He observed a remodeled kitchen with new hardwood flooring. The

appraiser testified the rural nature of properties near Lovington in comparison to rural properties in Sullivan/Bethany show no measurable differences in market value.

Under cross-examination, the appraiser testified properties located in different school districts do not show a measurable difference in market value. The concept of supply and demand was also discussed. The appraiser further testified there were no similar comparable sales located in the Lovington market for comparison to the subject. The adjustment amounts for garage space were discussed, noting the subject's newer larger garage, which has a second level storage loft. Based on his inspection and upgrades, the appraiser concluded the subject property has an effective age from 5 to 30 years or from 1977 to 2005.

Based on the evidence presented, the board of review requested a reduction in the subject's assessment to reflect the DeRocchi appraisal.

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 Property Tax Appeal Board further finds a reduction in the subject property's assessment is warranted commensurate with the stipulation offer by the board of review.

The appellants argued the subject property was overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the board of review's evidence met this burden of proof.

The appellants submitted an appraisal report estimating the subject's fair market value of $125,000 as of March 17, 2008. In addition, the appellants submitted some of the cost to acquire the subject dwelling, the cost to move the subject dwelling and cost for additional items such as the new basement foundation, garage, swimming pool and driveway. The appellants did not include the cost or value of the new heating and cooling systems, including duct work, new remodeled kitchen, new drywall, painting and personals labor. The board of review submitted an appraisal of the subject property estimating a fair market value of $180,000 as of January 1, 2007.

The Property Tax Appeal Board finds the best evidence of the subject's fair market value is the appraisal submitted by the board of review for $180,000 using the sales compassion approach to value. The Property Tax Appeal Board finds the board of review's appraiser provided competent, logical and professional testimony regarding the reasonable application of the adjustment amounts and final value conclusion. Based on this record, the Property Tax Appeal Board finds the subject property has a fair cash value of $180,000 as of January 1, 2007. The subject's assessment reflects an estimated market value of $237,004, which is not supported by the most credible valuation evidence contained in this record. Therefore a reduction in the subject's assessed valuation is supported.

The Property Tax Appeal Board gave no weight to the appraisal submitted by the appellants. The appellants' appraiser was not present at the hearing to provided direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. Furthermore, the

board finds the acquisition costs of over $170,000 as incurred by the appellants in this appeal clearly undermines the value conclusion of $125,000 as determined by the appellants' appraiser.

The appellants allege the dwelling is in the same average condition as the time of sale for $35,000. The appellants testified they did not perform any exterior improvements to justify the large increase in its assessment from its prior location in the neighboring county. In Cherry Bowl v. Property Tax Appeal Board, 100 Ill.App.3d 326, 331 (2nd Dist. 1981), the appellate court held that evidence of assessment practices of assessors in other counties is inadmissible in proceedings before the Property Tax Appeal Board. The court observed that the interpretation of relevant provisions of the statutes governing the assessment of real property by assessing officials in other counties was irrelevant on the issue of whether the assessment officials within the particular county where the property is located correctly assessed the property.

The appellants further argued the subject property was inequitably assessed. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the evidence submitted, the Board finds the appellants have not overcome this burden and no further reduction is warranted.

The Board further finds the record contains assessment information for six suggested comparables. The suggested comparables have varying degrees of similarity and dissimilarity when compared to the subject. They have improvement assessments ranging from $23,418 to $57,580 or from $9.13 to $19.53 per square of living area. The subject property has an improvement assessment after the reduction granted for market value considerations of $55,601 or $18.55 per square foot of living area. After considering adjustments to the comparables for differences when compared to the subject, such as age, size, and features, the Board finds the subject's reduced improvement assessment is well justified. Therefore, the Board finds no further reduction in the subject's improvement assessment is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables disclosed that properties located in varying geographic areas of the county are not assessed at identical levels, all that the constitution requires is a practical uniformity, which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellants have not proven by clear and convincing evidence that the subject property is inequitably assessed.

Based on this analysis, the Property Tax Appeal Board finds the evidence contained in this record demonstrated the subject property was overvalued by a preponderance of the evidence and a reduction is warranted.

APPELLANT:	**Susan London**
DOCKET NUMBER:	**07-22661.001-R-1**
DATE DECIDED:	**November, 2009**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of an 8,439 square foot parcel improved with a nineteen-year-old, multi-level, single-family dwelling of masonry construction located in New Trier Township, Cook County. Features of the residence include two and one-half bathrooms, a full-unfinished basement, central air-conditioning, a fireplace and a two-car attached garage. The appellant argued that the subject dwelling contains 2,624 square feet of living area and provided an appraisal report performed by a certified State of Illinois appraiser. Along with the report was a schematic delineating and listing the outside measurements of the subject improvement. The schematic and listing indicate the subject contains 2,624 square feet of living area. The board's documents indicate the subject improvement contains 2,686 square feet of living area.

The appellant appeared before the Property Tax Appeal Board and raised two arguments: first, that there was unequal treatment in the assessment process; and second, that the fair market value of the subject is not accurately reflected in its assessed value. In support of the inequity argument, the appellant submitted a grid analysis indicating there are 42 class 2-34 or multi-level properties in the subject's neighborhood 120 and of those 42 properties; 21 have total assessments ranging from $40,000 to $49,999, 13 have total assessments ranging from $50,000 to $59,999 and 7 properties are assessed between $60,000 and $69,999, while the subject's total assessment is $75,850.

The appellant also submitted assessment data and descriptive information on three class 2-34 properties with the second, third and fourth highest assessments in the subject's neighborhood 120. These three properties consist of multi-level, single-family dwellings of masonry or frame and masonry construction located within two blocks of the subject. The improvements range in size from 2,084 to 2,552 square feet of living area and range in age from 40 to 48 years. The comparables contain two and one-half or three and one-half bathrooms, a partial-finished basement, central air-conditioning and a fireplace. Two of the comparables have a multi-car garage. The total assessments range from $64,873 to $69,797, the improvement assessments range from $51,777 to $57,285 and the land assessments range from $12,512 to $13,096.

In support of market value claim, the appellant submitted a uniform residential appraisal report prepared by Gregory Feldman of Advanced Appraisal Ltd., of Highland Park. The appraisal revealed that Feldman is a State of Illinois certified real estate appraiser. The appraisal disclosed that Feldman inspected the interior and exterior of the subject as well as the exterior of all properties listed as comparables in the report. The appraiser utilized the sales comparison approach as well as the cost approach to estimate a market value of $555,000 for the subject as of March 5, 2008.

In the sales comparison approach to value, the appraiser employed the sales of three properties located within a distance of .84 miles from the subject. The comparables consist of one-story or

multi-level, single-family dwellings of frame and masonry construction ranging from 45 to 53 years in age. The lots range in size from 13,029 to 79,200 square feet and the improvements range in size from 1,821 to 2,407 square feet of living area. The comparables sold between August 2007 and December 2007 for prices ranging from $520,000 to $600,000, or from $216.04 to $328.77 per square foot of living area, including land. After making adjustments, the appraiser concluded a value for the subject via the sales comparison approach of $555,000 as of March 8, 2008.

In the cost approach, the appraiser estimated the value of the subject site to be $300,000. The appraiser then estimated a reproduction cost for the subject of $386,496. Accrued depreciation based on the age/life method was estimated to be $38,000 and deducted from the estimated reproduction cost. A cost of $10,000 for other site improvements was added to the depreciated cost of the main improvement, as was the land value of $300,000. Thus, the appraiser determined a value for the subject via the cost approach of $658,500 as of March 8, 2008.

In reconciling the two approaches to value, the appellant's appraiser indicated that the most weight was given to the sales comparison approach with the cost approach used in support. Based on the evidence submitted, the appellant requested an assessment reflective of a fair market value for the subject of $555,000.

At the hearing, the appellant argued that the subject's location has a negative impact on its market value. The appellant stated that the subject property in located directly across the street from a major high school, right at the Eden's Expressway exit ramp and within 150 feet of a major cell tower. The appellant argued that the appellant's three suggested comparables with the highest assessed values in the subject's neighborhood 120 have nice backyards with two of the comparables abutting Forest Preserve.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of $75,850. In support of the assessment, the board submitted property characteristic printouts and descriptive data on four properties suggested as comparable to the subject. The suggested comparables are improved with multi-level, single-family dwellings of masonry construction with the same neighborhood code as the subject. The improvements range in size from 1,743 to 2,084 square feet of living area and range in age from 41 to 51 years. The comparables contain two and one-half or three and one-half bathrooms, a partial-finished basement and central air-conditioning. Two comparables have a fireplace and three comparables contain a two-car attached garage. The improvement assessments range from $23.96 to $25.92 per square foot of living area.

At hearing, the board's representative stated that the board of review's comparables are similar to the subject in size, design, age, amenities and location and indicated that the board of review would rest on the written evidence submissions. Based on the evidence presented, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted evidence highlighting various differences between the subject and the board of review's comparables.

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 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); 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 arms-length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c)) Having considered the evidence presented, the Board finds the appellant has satisfied this burden and a reduction is warranted.

The first issue before the Board is the correct square footage attributable to the subject improvement. The Board finds that the appellant presented schematics and a listing of the outside measurements of the subject improvement indicating the subject contains 2,624 square feet of living area. The Board finds that the board of review did not submit any documentation supporting its contention the subject improvement contains 2,686 square feet of living area. Consequently, the Board finds the subject improvement contains 2,624 square feet of living area. The subject's improvement assessment is $63,698 or $24.28 per square foot of living area, based on 2,624 square feet.

Next, the Property Tax Appeal Board finds that the appellant submitted a uniform residential appraisal report utilizing the sales comparison approach as well as the cost approach to value. The Board finds that the appraisal was prepared by a State of Illinois certified appraiser. The Board also finds the appellant's appraisal is the most credible evidence in the record of the subject's market value and accords the appraisal report primary weight.

Further, the Board finds that the board of review did not address the appellant's contention that the subject's market value is not reflected in its assessment. The board submitted equity comparables that have little similarity to the subject and accords the board of review's evidence diminished weight.

Therefore, the Property Tax Appeal Board finds the appellant has met the burden of proving the value of the subject property by a preponderance of the evidence. Further, the Board finds the subject had a fair market value of $555,000 as of January 1, 2007. Since fair market value has been established, the 2007 Illinois Department of Revenue's three-year median level of assessments of 10.04% for Class 2 property shall apply and a reduction is the subject's assessment is appropriate.

As a final point, the Board finds no further reduction based on the appellant's equity argument is warranted.

APPELLANT:	**Howard Nixon**
DOCKET NUMBER:	**05-23921.001-R-1**
DATE DECIDED:	**September, 2009**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property consists of a 5,412 square foot parcel of land improved with a 54-year old, two-story, masonry, single-family dwelling containing 1,976 square feet of living area, two and one-half baths, air conditioning, a fireplace, and a full, finished basement. The appellant argued unequal treatment in the assessment process as the basis of the appeal.

In support of the equity argument, the appellant, via counsel, submitted information on a total of three properties suggested as comparable and located within the subject's neighborhood. The properties are described as two-story, frame, masonry or frame and masonry, single-family dwellings with one and one-half or two and one-half baths, a fireplace, a partial or full basement with one finished and, for two properties, air conditioning. The properties range: in age from 21 to 61 years; in size from 1,812 to 1,875 square feet of living area; and in improvement assessments from $19.84 to $25.80 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $77,320 was disclosed. The property characteristic card indicates there was a homestead improvement exemption on the property beginning in 2004. The improvement's assessed value with the exemption applied was $50,599 or $25.61 per square foot of living area. In support of the subject's assessment, the board of review presented descriptions and assessment information on a total of two properties suggested as comparable and located within the subject's neighborhood. The properties are described as two-story, frame, single-family dwellings with one and one-half or two baths, air conditioning, a partial or full basement with one finished and, for one property, a fireplace. The properties are 31 and 21 years old, contain 1,626 and 1,812 square feet of living area, and have improvement assessment of $29.68 and $25.80 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant's attorney submitted a letter arguing that the board of review's comparables are not as similar to the subject as the appellant's.

After reviewing the record 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 not warranted.

The appellant contends unequal treatment in the subject's improvement assessment as the basis of the appeal. Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). After an analysis of the assessment data, the Board finds the appellant has not met this burden.

The parties submitted a total of five properties suggested as comparable to the subject. The PTAB finds all the comparables similar to the subject in design, size, and age. These properties are frame, masonry, or frame and masonry, two-story, single-family dwellings located in the subject's neighborhood. The properties range: in age from 21 to 61 years; in size from 1,626 to 1,875 square feet of living area and in improvement assessments from $19.84 to $29.68 per square foot of living area. Because the subject has a homestead improvement exemption, the increased value due to the rebuild is not to be included in establishing the assessed value of the improvement for four years after the date the rebuild was complete. 35 ILCS 200/15-180. Therefore, the subject's improvement assessment with the exemption applied of $25.61 per square foot of living area is within the range of the comparables. After considering adjustments and the differences in both parties' comparables when compared to the subject, the Board finds the subject's per square foot improvement assessment is supported and a reduction in the subject's assessment is not warranted.

APPELLANT:	**Prairie Ridge Condominium Association**
DOCKET NUMBER:	**05-21874.001-R-3 thru 05-21874.004-R-3**
DATE DECIDED:	**July, 2009**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property consists of a newly constructed, four-unit residential condominium building of masonry construction situated on an 8,709 square foot parcel and located in Oak Park Township, Cook County.

The appellant, through counsel, appeared before the PTAB arguing overvaluation based on the recent sale of the four units which comprise the subject property. In support of this claim, the appellant submitted a brief disclosing the total purchase price for the four units sold to be $1,061,000. The four sales occurred between September 2003 and August 2005 for prices ranging from $259,000 to $275,000. Next, the appellant deducted a personal property allocation of $159,150 or 15%, reflecting an adjusted sales price for the real estate of $901,850. The appellant then adjusted the sales price by applying the total of the percentages of ownership of the four units sold, or 100%, to conclude a total market value for the subject building of $901,850. The appellant's attorney submitted a three-page brief; copies of the settlement statements for the four unit sales as well as two affidavits. In addition, a copy of the board of review's decision disclosing the subject's total combined final assessment of $103,352 for 2005 was provided.

At hearing, the appellant's attorney indicated that a 15% personal property deduction was used in its analysis, however, it was noted that no personal property allocation was reflected on the four settlement statements. Based on this evidence, the appellant requested a reduction in the subject's total assessment to $90,185, which reflects a market value of $901,850 when utilizing a 10% level of assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total combined final assessment of $103,352. The subject's assessment reflects a fair market value of $645,950 using the level of assessment of 16% for Class 2 property as contained in the Cook County Real Property Assessment Classification Ordinance. The board of review also submitted a memo from Matt Panush, Cook County Board of Review Analyst. Mr. Panush's sales analysis used the same residential condo sales provided by the appellant. Total consideration from the four sales was $1,061,000. Of that amount $12,000, or $3,000 per unit, was deducted for personal property. Thus, the total adjusted sales price for the real estate was calculated to be $1,049,000. The board's analyst then adjusted the sales price by applying the total of the percentages of ownership of the units which sold, or 100%, to conclude a total market value for the subject of $1,049,000. Based on the evidence presented, 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 issue before the PTAB is the appellant's contention that the subject property is overvalued. When overvaluation is claimed, the appellant has the burden of proving the value of the property by a preponderance of the evidence. *The Official Rules of the Property Tax Appeal Board* §1910.63(e) 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. *The Official Rules of the Property Tax Appeal Board* §1910.65(c) Having considered the evidence presented, the Board finds the appellant has failed to meet this burden.

In the instant appeal, the appellant and the board of review provided the PTAB with the same four unit sales. The PTAB finds the appellant used a 15% personal property allocation in its analysis. The PTAB further finds there was no evidence in the record to support the appellant's use of a 15% personal property deduction. In fact, the settlement statements provided by the appellant indicate no adjustment for personal property was made. Therefore, the Board finds the appellant's market value argument is without merit. Furthermore, the Board finds the sales analysis provided by the board of review supports the subject's current assessment.

Based on the evidence submitted, the PTAB finds that the subject's assessment as established by the board of review is correct. Therefore, the PTAB finds that a reduction in the subject's assessment is not warranted.

APPELLANT:	**Jerry Siedenburg**
DOCKET NUMBER:	**06-02725.001-R-1**
DATE DECIDED:	**January, 2009**
COUNTY:	**Stephenson**
RESULT:	**No Change**

The subject property consists of a one-story frame dwelling that was built in 1955 and contains 1,038 square feet of living area. Features include an unfinished basement and one car garage. The subject dwelling is situated on a 6,621 square foot lot in Freeport, Illinois.

The appellant appeared before the Property Tax Appeal Board arguing the subject's assessment is not reflective of its fair market value. In support of this argument, a settlement statement was submitted indicating the appellant purchased the subject property for $52,500 on July 31, 2006. The appellant testified the owners/sellers, Scott and Megan Vinney, listed the subject property for sale on the open market. He could not recall the manner in which the subject property was listed. Based on this evidence, the appellant requested a reduction in the subject's assessment.

Under cross-examination, the appellant testified the seller, Scott Vinney, was a former sales agent at his Realtor firm, the Siedenburg Group. The appellant also testified no commission fee was paid by the sellers, which is not typical in a real estate transaction.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of $22,427 was disclosed. The subject's assessment reflects an estimated market value of $67,653 or $65.18 per square foot of living area including land using Stephenson County’s 2006 three-year median level of assessment of 33.15%.

In support of the subject's assessment, the board of review submitted a packet of evidence prepared by the township assessor's office on behalf of the board of review. The assessor indicated the subject property had been leased since September 2005 to the present date by two different individuals, with one tenant moving into the subject dwelling shortly after its July 2006 sale. A Real Estate Transfer Declaration submitted disclosed the Vinneys (sellers in this appeal) purchased the subject property in December 2004 for $54,000. A second Real Estate Transfer Declaration showed the appellant purchased the subject from the Vinneys in July 2006 for $46,000 excluding personal property. The assessor pointed out Megan Vinney, one of the sellers, prepared the Real Estate Transfer Declaration. In addition, the sale price listed on the Real Estate Transfer Declaration of $46,000 differed significantly from the amount of $52,500 as listed on the settlement statement submitted by the appellant. Notwithstanding the differing sale amounts, the board of review argued there is no evidence indicating the subject property was advertised for sale on the open market in 2006. Thus, the board of review argued the subject's July 2006 sale was not an arm's-length transaction.

The board of review also submitted a Multiple Listing Service sheet indicating the subject property was listed for sale on the open market in the summer of 2005 for $65,900. The subject property was listed through the Siedenburg Group, the Realtor firm owned by the appellant. The listing was withdrawn after 51 days on the market.

In support of the final assessment placed on the subject property, the board of review submitted 12 suggested comparable sales with varying degrees of similarity and dissimilarity when compared to the subject. The comparables sold from April 2004 to September 2006 for prices ranging from $55,000 to $76,000 or from $48.70 to $94.39 per square foot of living area including land. Based on these suggested sales, the board of review requested confirmation of the subject's assessed valuation.

In rebuttal, the appellant argued the 2005 listing of the subject for $65,900 was withdrawn because only one showing occurred in a two month period. Additionally, the appellant attempted to submitted new comparable sales for the Board's consideration. The Board finds it cannot consider this new evidence. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states:

> Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in guise of rebuttal evidence. (86 Ill.Adm.Code §1910.66(c)).

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 no reduction in the subject property's assessment is warranted.

The appellant argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant has not overcome this burden.

The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the seller 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). Furthermore, section 1-50 of the Property Tax Code defines fair cash value as:

> The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (35 ILCS 200/1-50)

The evidence in this record indicates the subject's transaction was a voluntary sale where the seller was ready, willing, and able to sell but not compelled to do so, and the buyer was ready, willing and able to buy but not forced to do so. However, the Board finds the subject's sale involved related parties, which detracts from the arm's-length nature of the subject's transaction

and sale price. The testimony and evidence clearly show that one of the sellers was an employee of the appellant's Realty firm at the time of sale. Furthermore, this Board has no confidence in the purchase price(s) detailed in the evidence in this record. The sale price listed on the Real Estate Transfer Declaration of $46,000 differed significantly than the amount of $52,500 as listed on the settlement statement submitted by the appellant. The Real Estate Transfer Declaration provides in pertinent part:

> Any person who willfully falsifies or omits any information required in this declaration shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses. Any person who knowingly submits a false statement concerning the identity of the grantee shall be guilty of a Class C misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses.

With the credibility of the Real Estate Transfer Declaration severely diminished, the Property Tax Appeal Board finds there is no independent credible evidence showing the subject property was listed or exposed for sale in the open market for a reasonable amount of time prior to its July 2006 sale price, which does not meet one of the key fundamental elements of an arm's-length transaction. Additionally , the Board finds one of the sellers, Megan Vinney, prepared the Real Estate Transfer Declaration, which is a further detraction regarding the circumstances surrounding the 2006 transaction. Finally, the board finds no commission fee was paid for the subject's 2006 sale, which the appellant testified is not typical in a real estate transaction. Based on all of these enumerated factors, the Board finds the subject's July 2006 sale was not an arm's-length transaction to be considered indicative of the subject's fair cash value.

The Property Tax Appeal Board further finds the board of review submitted 12 suggested comparable sales with varying degrees of similarity and dissimilarity when compared to the subject. The comparables sold from April 2004 to September 2006 for prices ranging from $55,000 to $76,000 or from $48.70 to $94.39 per square foot of living area including land. The subject's assessment reflects an estimated market value of $67,653 or $65.18 per square foot of living area including land. After considering any necessary adjustments to the comparables for differences when compared to the subject, the Board finds the subject's assessed valuation is supported.

Based on this analysis, the Property Tax Appeal Board finds the appellant has not proven that the subject property is overvalued by a preponderance of the evidence. Thus, the Board finds the subject's assessment as established by the Stephenson County Board of Review is correct and no reduction is warranted.

APPELLANT:	**Ryan Sloan**
DOCKET NUMBER:	**07-20893.001-R-1 thru 07-20893.002-R-1**
DATE DECIDED:	**September, 2009**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of a condominium unit containing 1,156 square feet of living area and one bath. The appellant argued both the fair market value of the subject was not accurately reflected in its assessed value and unequal treatment in the assessment process as the bases of the appeal.

In support of these arguments, the appellant submitted information and data on a total of three properties suggested as comparable and located within the subject's building or across the street. The comparable located in the subject's building contains 1,156 square feet of living area and a percentage of ownership of 14.9637%. A second document states the percentage of ownership is 17.6847%. This property sold in November 2007 for $258,000, or $223.18 per square foot of living area, including parking. The remaining two properties are condominium units that contain approximately 1,300 square feet of living area and sold between August 2005 and August 2006 for $333,000 and $315,000, including parking. These three suggested comparables have total assessments from $17,889 to $26,924 and improvement assessments from $15,907 to $25,383.

In addition, the appellant submitted colored copies of multiple listing service printouts showing the asking price for three condominium units located within the subject's building. The information shows that the units are for sale for asking prices from $245,900 to $249,900. The appellant's documentation states that these units are identical to the subject and that their percentage of ownership ranges from 14.3856% to 15.7300%.

The appellant included a letter arguing that the subject property's market value has decreased over the year. He argued that the subject was the first unit sold in the building for $304,800 and that the next sale did not occur until over a year later in November 2007 for $258,000. He also argued that the remaining units have not sold and that the asking price for these almost identical units from $245,900 to $249,900 is far below the subject's sale price. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's improvement assessment of $28,885 or $24.99 per square foot of living area and total assessment of $30,480 was disclosed. This assessment yields a market value of $301,196 when using the 2006 Department of Revenue three year median level of assessment for residential property of 10.12%. In support of the subject's assessment, the board of review also submitted a memo from Matt Panush, Cook County Board of Review Analyst. The memorandum shows that two units or 35.2917% of ownership within the subject's building sold between 2006 and 2007 for a total of $563,000. An allocation of $3,000 per unit was subtracted from the sale price for personal property to arrive at a total market value for the building of $1,578,274. The subject's percentage of ownership, 17.9483%, was then utilized to arrive at a value for the subject unit of $283,273. As a result of its analysis, the board requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a letter arguing that the calculations done by the board of review in its evidence is only an averaging of two sales: the sale of the subject and appellant's suggested comparable #1. An addition, the appellant submitted a grid included the final sale prices of the units in where the evidence presented was a listing price. These properties sold from July 2008 to January 2009 for prices ranging from $235,000 to $258,000. These are three units in the subject's building.

Mr. Sloan also developed a grid for suggested comparables #2 and #3 using the same methodology used by the board of review in their evidence. He then argued that these properties have a higher market value then the subject when this methodology is used, however they have a lower assessed value.

After reviewing the record 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.

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 reviewing the evidence, the PTAB finds the best comparables are the five units that sold within the subject's building. As indicated by the evidence, and un-rebutted by the board of review, these units are virtually identical to the subject. The square footage of the units and the amenities included in the sales of these comparables are similar to the subject. These comparable units sold from November 2007 to January 2009 for prices ranging from $235,000 to $258,000.

Therefore, the PTAB finds that the subject property had a market value of $258,000 for the 2007 assessment year. Since the market value of the subject has been established, the 2007 Department of Revenue median level of assessments for Cook County Class 2 property of 10.04% will apply.

APPELLANT:	**David & Mindy Vaupel**
DOCKET NUMBER:	**07-05154.001-R-1**
DATE DECIDED:	**December, 2009**
COUNTY:	**St. Clair**
RESULT:	**No Change**

The subject property consists of a one-story brick and frame dwelling containing 2,236 square feet of living area that was built in 1994. The subject dwelling is situated on a ½ crawl space foundation and ½ unfinished basement that has 1,104 square feet. Other amenities include central air conditioning, one fireplace, and a 594 square foot attached garage. The subject dwelling is located on a 10,128 square foot lot.

The appellants appeared before the Property Tax Appeal Board claiming a lack of uniformity regarding the subject's land and improvement assessments as the basis of the appeal. In support of this claim, the appellants submitted photographs, a location map, property record cards and an equity analysis detailing three suggested comparables located close in proximity to the subject. The comparables consist of one-story brick and frame dwellings that were built from 1990 to 1992. The dwellings are situated on crawl space foundations. Other features include central air conditioning, one fireplace and attached garages that contain from 440 to 600 square feet. The dwellings range in size from 2,089 to 2,255 square feet of living area and have improvement assessments ranging from $44,852 to $48,634 or from $21.30 to $21.57 per square foot of living area. The subject property has an improvement assessment of $52,062 or $23.28 per square foot of living area. The appellant testified the comparables were built by the same builder and have similar or identical floor plans as the subject.

The comparables are situated on lots that range in size from 9,569 to 15,695 square feet of land area with land assessments ranging from $10,061 to $14,852 or from $.95 to $1.09 per square foot of land area. The subject property has a land assessment of $13,438 or $1.33 per square foot of land area.

The appellants argued the comparables had 2007 tax bills ranging from $3,930 to $4,073.04, whereas the subject property had a tax bill of $4,528.96. The appellants argued the subject's property tax bill is from $455.92 to $531.04 higher than the comparables. The appellants argued this evidence demonstrates the subject property is over-assessed and over-taxed.

The appellants' evidence also shows there are two properties located in somewhat close in proximity to the subject property that were under foreclosure. The appellants argued research shows foreclosed homes decrease the value of surrounding properties. However, the appellants submitted no market evidence in support of this claim. The appellants testified they consulted with a Realtor, indicating the subject could be listed for sale on the open market for $199,000 due to proximity of the foreclosed homes and poor market conditions. However, the appellants testified the Realtor informed them the subject property would sell on the open market for approximately $190,000. The Realtor was not present at the hearing for direct or cross-examination nor was there any foundational or corroborating market evidence to support the value opinions. Thus, the board finds this argument is hearsay.

The evidence further shows the appellants purchased the subject property in August 2005 for $218,000, just 16 months prior to the January 1, 2007 assessment date at issue in this appeal. Additionally, testimony revealed $20,000 was spent for upgrades/renovations to the home subsequent to the purchase, for a total acquisition cost of $238,000. The appellants testified they purchased the property at the height of the market and overpaid for the property. The subject's final 2007 assessment of $65,500 reflects an estimated market value of $195,990 using St. Clair County's 2007 three-year median level of assessments of 33.42%. Based on the evidence presented, the appellants requested a reduction in the subject's land and improvement assessments.

At the hearing, the appellants attempted to submit an appraisal of the subject property as of September 8, 2009, for $195,000. The Property Tax Appeal Board finds it cannot consider this new evidence. First, Section 16-180 or the Property Tax Code provides in part:

> Each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board. All appeals shall be considered de novo. (35 ILCS 200/16-180).

The Property Tax Appeal Board finds the appeal petition and corresponding evidence shows the basis of this appeal was assessment equity, not the subject's estimated market value as reflected by its assessment. Additionally, Section 1910.67(k)(1) of the Official Rules of the Property Tax Appeal Board states:

> In no case shall any written or documentary evidence be accepted into the appeal at the hearing unless such evidence has been submitted to the Property Tax Appeal Board prior to the hearing pursuant to this Part; (86 Ill.Adm.Code §1910.67(k)(1)).

As a result, the Board finds the appellants' appraisal evidence is not admissible to this appeal.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of $65,500 was disclosed. In support of the subject's assessment, the board of review submitted property record cards, a location map and an assessment analysis of four suggested comparables located in close proximity to the subject. The comparables consist of one-story brick and frame dwellings that were built in 1994 like the subject. The evidence indicates comparables 1 and 2 have crawl space foundations and comparables 3 and 4 have full unfinished basements. Features include central air conditioning, one fireplace and attached garages that range in size from 420 to 624 square feet. The dwellings range in size from 1,802 to 2,352 square feet of living area and have improvement assessments ranging from $42,440 to $59,066 or from $22.99 to $25.30 per square foot of living area. The board of review argued the subject property's improvement assessment of $52,062 or $23.28 per square foot of living area is supported.

The comparables are situated on lots that range in size from 9,525 to 15,422 square feet of land area with land assessments ranging from $12,902 to $13,438 or from $.87 to $1.35 per square foot of land area. The subject property has a land assessment of $13,438 or $1.33 per square foot

of land area. Based on this evidence, the board of review requested confirmation of the subject's land and improvement assessments.

In rebuttal, the appellants argued the comparables 1 and 2 submitted by the board of review had tax bills of $3,788.18 and $3,829.88, whereas the subject property had a tax bill of $4,528.96. The appellants argued they paid $699.08 and $740.78 more in property taxes than comparables 1 and 2 submitted by the board review, which further supports that the subject property is not equitably assessed. The appellant also argued there are errors in the assessments for comparables 3 and 4 submitted by the board review. The appellants argued comparables 3 and 4 have quality grades of "C+5" unlike the remaining properties located on Kendra Ann Drive that have quality grades of "C". The subject property has a quality grade of "C". The appellants provided no specific evidence that would suggest the quality grades assigned to the subject or comparables were incorrect. The appellants next argued comparables 3 and 4 have full basements unlike the subject's ½ or partial unfinished basement. The appellants testified comparables 3 and 4 have finished basements, but provided no credible evidence to corroborate the testimony. Additionally, the appellants testified comparable 3 is assessed for a patio, which it does not have. Testimony was also provided with respect to the physical location of board of review comparables 3 and 4 in relation to the subject.

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 no reduction in the subject's land or improvement assessments is warranted.

The appellants argued unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellants have not overcome this burden of proof.

First, the Property Tax Appeal Board gave no weight to the appellants' property tax bill analysis. The appellants argued the subject property was over-assessed and over-taxed because its tax bill ranged from $531.04 to $740.78 higher than five of the seven comparables contained in the record. The Board finds this type of analysis is not a persuasive measurement or indicator demonstrating the subject property was inequitably assessed. The Board finds actual assessments for the subject and comparables properties together with their salient characteristics must be compared and analyzed to determine whether uniformity of assessments exists. More importantly, the Property Tax Appeal Board finds it has no jurisdiction and plays no part of the calculation of tax bills for the subject property or any of the the suggested comparables contained in this record. Section 1910.10(f) of the Official Rules of the Property Tax Appeal Board states:

> The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of the tax bill, or the exemption of real property from taxation. (86 Ill.Adm.Code §1910.10(f)).

The parties submitted descriptions and assessment data for seven suggested assessment comparables for the Board's consideration. The Property Tax Appeal Board gave less weight to comparables 1 and 2 submitted by the board of review due to their smaller dwelling sizes when compared to the subject. The Property Tax Appeal Board finds the remaining five comparables are more representative of the subject in age, size, design and location. However, the board finds the three comparables submitted by the appellants have full, crawl space foundations, inferior to the subject's ½ crawl space and partial unfinished basement with 1,104 square feet. In this same context, the Property Tax Appeal Board finds the board of review's comparables 3 and 4 have full, unfinished basements, superior to the subject's partial, unfinished basement. These five most similar comparables have improvement assessments ranging from $44,852 to $59,066 or from $21.30 to $25.11 per square foot of living area. The subject property has an improvement assessment of $52,062 or $23.28 per square foot of living area, which falls within the range established by the most similar comparables contained in this record.

In addition, the Board finds the three similar comparables submitted by the appellants, which have inferior foundation types, have improvement assessments ranging from $44,852 to $46,906 or from $21.30 to $21.57 per square foot of living area, which is less than the subject's improvement assessment of $52,062 or $23.28 per square foot of living area. The two similar comparables submitted by the board of review have superior foundation types, but are identical in age when compared to the subject. They have improvement assessments of $55,954 and $59,066 or $25.11 and $25.30 per square foot of living area, which is higher than the subject's improvement assessment of $52,062 or $23.28 per square foot of living area. After considering any necessary adjustments to the comparables for differences when compared to the subject, such as foundation types, age, amenities and location, the Property Tax Appeal Board finds the subject's improvement assessment is well supported and no reduction is warranted.

With respect to the subject's land assessment, the Board finds the parties submitted land assessment data on seven suggested comparables. The Board placed diminished weight on comparable 3 submitted by the appellants and comparables 2 and 3 submitted by the board of review due to their larger lot sizes when compared to the subject. The Board finds the four remaining comparables are most similar to the subject in size and location. They range in size from 9,525 to 12,247 square feet of land area and have land assessments ranging from $10,061 to $13,438 or from $1.05 to $1.35 per square foot of land area. The subject property contains 10,128 square feet of land area and has a land assessment of $13,438 or $1.33 per square foot of land area, which falls within the range established by the most similar land comparables contained in this record. Therefore, no reduction in the subject's land assessment is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill.2d 395 (1960). Although the comparables presented by the parties disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellants have not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds

that the subject's assessment as established by the board of review is correct and no reduction is warranted.

APPELLANT:	**Dolores Volpendesta**
DOCKET NUMBER:	**07-25815.001-R-1**
DATE DECIDED:	**October, 2009**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of a 28,378 square foot parcel of land improved with a 68-year old, two-story, frame and masonry, single-family dwelling containing 1,932 square feet of living area, one and one-half baths, a fireplace and a full, unfinished basement. The appellant argued both unequal treatment in the assessment process and that the market value of the subject property is not accurately reflected in the property's assessed valuation as the bases of this appeal.

In support of equity argument, the appellant submitted a letter arguing that the subject property is located near an expressway, commercial properties and vacant lots and that other properties located on residential side street are assessed lower than the subject.

She also argued that the land assessments in neighborhood 81 are less than the land assessments in the subject's neighborhood, 45. The appellant presented assessment information and photographs on a total of eight parcels located in the subject's neighborhood. These parcels range in size from 10,512 to 56,933 square feet and have land assessments from $.64 to $.72 per square foot. In addition, the appellant presented assessment information on eight parcels located within neighborhood 81, which the appellant argues is within walking distance of the subject and has a creek running through it. These parcels range in size from 21,960 to 84,201 square feet and in land assessments from $.32 to $.49 per square foot.

As to the improvement, the appellant presented assessment data and photographs on six properties located within walking distance of the subject. These properties are masonry, frame, or frame and masonry, single-family dwellings ranging in age from 69 to 149 years. These properties range in size from 1,288 to 2,182 square feet of living area and in improvement assessments from $14.04 to $24.16 per square foot of living area. Information regarding amenities for these comparables was not provided.

In support of the market value argument, the appellant argues that the Department of Transportation killed several trees adjacent to the subject property and which acted as a barrier to the expressway and now the subject is directly affected by the expressway as an eyesore, echo chamber and increased noise and pollution. In addition, she argues that several commercial properties located in close proximity to the subject affect the subject's value because it is an eyesore and there is a loss of privacy.

She then argues that the increased traffic levels and patterns subsequent to a widening of the expressway decrease the value of the subject property. The appellant included data on the increase in traffic and studies conducted on the subject's street traffic patterns. The appellant argues that subject property is located near the intersection and this affects the ingress and egress to and from the subject.

The appellant also argues that the subject property's neighborhood has deteriorated over the years. She argues that the rental and commercial properties in close proximity to the subject present an eyesore and are not maintained.

The appellant presented descriptions, photographs and sales information on four properties suggested as comparable to the subject and located within three miles of the subject. These properties are multi-level, one and one-half or two-story, frame or masonry, single family dwellings with between one and one-half and three baths, a basement, air conditioning for two properties, and, for three properties, a fireplace. The properties range: in age from approximately 48 to 70 years and in size from approximately 1,300 to 1,900 square feet of living area. These properties sold between December 2006 and October 2007 for prices ranging from $300,000 to $400,000. The appellant included a Sidwell map of the subject's area.

Finally, the appellant argues that the subject improvement's square feet of living area is incorrectly listed by the county. As proof of this she included a copy of an unsigned, hand drawn diagram of the subject property by an unknown author.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's improvement assessment of $34,039 or $17.62 per square foot of living area when using 1,932 square feet of living area and a land assessment of $20,448 or $.72 per square foot was disclosed. This assessment reflects a market value of $542,699 using the Department of Revenue's 2007 three year median of assessment of 10.04% for Cook County, Class 2 property. In support of the subject's assessment, the board of review presented descriptions and assessment information on a total of two properties suggested as comparable and located within the subject's neighborhood. The properties are described as two-story, frame and masonry, single-family dwellings with one and one-half baths, a full, unfinished basement, and, for one property, a fireplace. The properties are 70 years old, contain 1,688 and 1,792 square feet of living area and have improvement assessment of $19.03 to $19.18 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant argued that the county only provided two suggested comparables, unlike the many submitted by the appellant. The appellant included a copy of the subject's listing sheet from 2000, a copy of a listing sheet for two comparables previously presented, and a copy of a listing sheet for a property not presented in the previous evidence; this comparable is new evidence and will not be considered by the PTAB.

The appellant also argued that the board of review's evidence incorrectly listed the amenities of the subject property as well as the land size for one of the comparables. She argued the other comparable presented by the board is not similar to the subject in location.

After reviewing the record 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.

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.

As to the appellant's square footage argument, the PTAB finds that the appellant failed to submit sufficient evidence that the subject's square feet of living area was incorrectly listed by the board of review. The evidence submitted by the appellant was a copy of a hand drawn diagram of the subject. Although this drawing was on a builder's letterhead, there was no signature as to who created the document, no date on when it was created and no explanation as to how the figures were arrived at. Therefore, the PTAB finds that the subject contains 1,932 square feet of living area.

In determining the subject's market value, the appellant presented four comparables. The PTAB finds these properties comparable to the subject, especially comparable #1 which is located one home away from the subject. The comparables sold between December 2006 and October 2007 for prices ranging from $313,000 to $400,000. Comparable #1 sold in March 2007 for $400,000. This property shares the same concerns as the subject property brought on by the expressway, the commercial and residential rental properties and the traffic patterns. Therefore, the PTAB puts most weight on this comparable when determining the value of the subject. The board of review failed to present any market data on the two comparables submitted.

The PTAB finds that the subject property contained a market value of $400,000 for the 2007 assessment year. Since the market value of the subject has been established, the Department of Revenue median level of assessments for Cook County Class 2 property of 10.04% will apply.

As to the subject's equity argument, the PTAB finds that with a reduction based on the market value, the subject's total assessment is equitable.

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Arguments or Evidence in Opposition to the Appellant's claim]

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2009 FARM DECISIONS

PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
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2009 FARM CHAPTER

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APPELLANT:	**Joseph Fraser**
DOCKET NUMBER:	**06-01988.001-F-2 thru 06-01988.004-F-2 & 07-04224.001-F-2**
DATE DECIDED:	**September, 2009**
COUNTY:	**DeKalb**
RESULT:	**No Change**

For the 2006 assessment appeal, the subject property consists of four parcel identification numbers; for the 2007 assessment appeal, those four parcels plus an additional parcel were combined into one parcel identification number. The subject property consists of approximately 9.23-acres of land (402,058 square feet of land area). As of January 1, 2006, one parcel was improved with a residential dwelling. The residential dwelling was demolished in February 2006. The property is located in Sandwich, DeKalb County, Illinois.

The appellant appeared with counsel before the Property Tax Appeal Board claiming improper classification of much of the subject land and also seeking a reduction in the 2006 improvement assessment based upon demolition of the structure. In summary, the assessor had assessed the property entirely as non-farmland with a dwelling for 2006 and as entirely non-farmland without an improvement assessment for 2007. In support of these contentions, appellant through counsel submitted a brief and a number of ground-level photographs of the subject property along with the testimony of the appellant as to the use of the property. In further support of the classification claim, appellant claimed at least a portion of the subject property had received a farmland classification prior to 2006 although the brief contends that the entire property was assessed as farmland prior to the purchase.

At the hearing, appellant was called to testify and stated that he purchased four adjacent parcels comprising the 2006 assessment appeal in November 2005 for about $960,000. At the time of purchase, there was a rundown dwelling on each of two parcels situated along Church Street/State Route 34 in Sandwich or along the northern portion of the four adjoining parcels. Appellant demolished one dwelling in December 2005 and there was no improvement assessment on this particular parcel for the 2006 assessment. The other dwelling was not demolished until February 2006 and there was a 2006 improvement assessment of $60,132 placed on this dwelling. Appellant subsequently purchased an additional adjacent parcel (adding to the southwestern corner of the previous four parcels) in the Fall of 2006. (TR. 11-17)[1] Eventually, those five individual parcels were combined into parcel number 19-36-204-023 which is the subject of the 2007 assessment appeal which was assessed entirely as non-farm land with no improvements in 2007.

Appellant Fraser further testified that as a life-long resident of Sandwich, he was familiar with the subject land of approximately 9-acres located directly within the city limits of Sandwich and recognized that there were not many parcels in-town of that size to be purchased at one time. The property was listed for sale as a "farm" through the use of a Realtor in about September 2005. Prior to purchase, Fraser investigated the taxation of the property with the Realtor and

[1] References to the transcript of the proceedings will be made by a notation (TR.) followed by the applicable page number(s).

recalls the northern two parcels with dwellings were taxed for about $2,500 each and the adjoining southern parcels were taxed for $38 and $80, respectively. Therefore, Fraser believed the southern two parcels were assessed as farmland.

As to the farming activity on the parcels just prior to Fraser's purchase, the appellant testified the property was mainly a tree farm containing predominantly evergreens; appellant further acknowledged that he did no planting in 2005 after the purchase of the four parcels (TR. 20). Appellant further testified that he desired to change the entire land into farmland so he would need to remove some of the timber to create tillable soil and plant winter wheat or corn eventually (TR. 20-21). In September 2006, appellant testified that about 85% of the four parcels were planted in winter wheat (TR. 21-22). Appellant further testified that in 2007 99% of the total property, including the additionally purchased parcel, was winter wheat (TR. 22-23). In describing photographs #1 through #11 of the subject property, appellant testified that he first planted in September 2006 and the photographs depict the subject property planted in winter wheat from various directions in Spring of 2007 (TR. 25-28).

Fraser testified he began to become involved in real estate around 1990 and had advised the previous owner of the property at one time that if she was interested in selling to contact Fraser (TR. 30). Appellant testified that upon his view of the property in the years 2003 and 2004, the property was being farmed with trees (TR. 31).

On cross-examination, appellant acknowledged that the property's location within town made it attractive to the appellant for purchase. Appellant further acknowledged that in-town land would sell for about $100,000 per acre whereas farmland outside of town would sell for a lot less per acre; appellant noted that the property's in-town location justified the price he paid for the property (TR. 33-34). In the course of purchasing the property, appellant did not request records from the seller to support the contention that the property was being used as a tree farm (TR. 34-35). Upon cross-examination, appellant also acknowledged that none of the evergreen trees which dominated the property were harvested for re-sale because they were 40' to 50' tall and not able to be sold for the cost involved in transplanting them (TR. 36-37). Appellant was asked since farming the property if he filed a "form F" for tax purposes, but appellant testified he was not familiar with the form referred to in the question (TR. 37).

During further cross-examination, appellant testified he planted winter wheat in September 2006 and was issued a reassessment notice in November 2006 (TR. 37-38); appellant maintained that he was not billed for the planting work until later as shown in board of review Ex. 1, a receipt dated December 13, 2006 for $418 covering labor and twelve bags of seed (TR. 38-39).

Upon questioning by the Hearing Officer, appellant Fraser acknowledged that he had reviewed county assessment records and was aware that the parcels along the road which had the dwellings on them were not assessed as farmland nor did appellant expect them to be assessed as farmland as he acknowledged those parcels had not been farmed for two years prior to 2006 (TR. 46-47). Furthermore, Fraser testified he began removing the trees on the other two parcels commencing in late 2005 and early 2006 (TR. 47). As to the dwelling that was removed in February 2006, appellant testified in response to the Hearing Officer that the township assessor indicated to appellant that the dwelling would be assessed for 2006 since it existed on January 1, 2006 (TR. 47-48).

On redirect examination, appellant Fraser testified that in performing due diligence prior to purchasing the four parcels, he learned that in a comprehensive development plan there was a desire to expand a street through to another thoroughfare which would require the expanded roadway to cut through the subject property. Based on this comprehensive plan, appellant believed the property long-term would be valuable. Appellant indicated that he could "just sit" on the property "and while I was sitting on it I just thought I could keep it in the farmland." (TR. 48-53)

In summary, for 2006 appellant claimed the southern two of the four parcels should be assessed solely as farmland; parcel 19-36-204-003 should have both a farmland and a homesite land assessment whereas parcel 19-36-204-004 which was improved with a dwelling through February 2006 should have both farmland and homesite assessments along with a reduced improvement assessment to reflect the existence of the residence for only two months. For 2007 appellant claimed the entire combined parcel qualified for a farmland assessment.

The board of review submitted two sets of "Board of Review Notes on Appeal" wherein the subject's 2006 assessment of $315,382[2] was disclosed and the subject's 2007 assessment of $191,292 was disclosed. The subject's total 2006 assessment reflects an estimated market value of $946,525 utilizing the three-year median level of assessments for DeKalb County of 33.32% as determined by the Illinois Department of Revenue. The combined parcel in 2007 reflected an estimated market value of $574,796 utilizing the three-year median level of assessments for DeKalb County of 33.28%.

In a letter prepared by the Clerk of the board of review, the board contended that the subject property over a number of years had changed as shown in submitted aerial photographs from nursery use to non-nursery use and therefore was no longer entitled to a farmland assessment. The aerial photographs submitted depict the property in 1977, 1985, 1990, 1994, 2001, and 2006.

In support of the subject's assessment, Sheila A. Johnson, Sandwich Township Assessor since 1995, submitted a letter and testified at the hearing in this matter. In the letter, Johnson reported the four parcels were purchased by the appellant on December 22, 2005 for $950,625. Johnson further reported in her letter and testified at hearing that the subject property and all Route 34 properties were reassessed; Johnson commenced her reassessment process with the Route 34 properties because she believe it had been many, many years since those properties had been reassessed (TR. 55-56). To reassess the properties, Johnson began by examining all of the sales on Route 34 from which she developed a formula which she used on every property along Route 34 (TR. 56-57).

As to the subject parcels, Johnson testified that she reassessed the land as commercial property because upon inspection of the property in the Spring or Summer of 2005, Johnson saw no evidence of farming, even though the parcels had previously been assessed as farmland; Johnson observed grass or weeds and scrubby trees which she assumed to have been just part of the

[2] The 2006 assessment of the four parcels reflects an estimated market value of $946,525 based upon the 2006 three-year median level of assessments in DeKalb County of 33.32% as determined by the Illinois Department of Revenue.

overgrowth of the whole property; she saw no evidence of planted trees (TR. 57-58). At the time of her inspection, Johnson saw no signs indicating the property was a tree farm or any kind of business (TR. 58-59).

Johnson further reported in her letter that after the 2006 reassessment and application of the township multiplier, the four parcels had an estimated market value of $1,099,149. After the reassessment notices were issued, Johnson discussed with the appellant the options of reducing the assessment for one year only to reflect the recent purchase price which the assessor found to be an arm's-length transaction and/or combining the parcels in an effort to reduce the overall assessment; Fraser chose instead to appeal to the DeKalb County Board of Review on the grounds of incorrect classification of the property which the appellant believed qualified for a farmland assessment. (TR. 59-62)

On cross-examination, Johnson explained that while as a township assessor she is mandated to reassess all properties every four years, since there are so many parcels in Sandwich she tries to take a look at sections that she feels merit reassessment; the subject property was not reassessed in 2004, 2003, 2002 or 2001 and therefore other than any township multiplier, there would have been no reassessment on the subject property that Johnson was aware of. (TR. 64-66) Johnson also acknowledged that while she had been the assessor for over 10 years and the property was located along a main thoroughfare in Sandwich, Johnson had not evaluated the subject property for its farmland treatment since she became the assessor in 1995; Johnson further testified, however, that the county reassesses farmland, not the township assessor. Upon further questioning, Johnson testified she bases her determination of whether property qualifies as a farm purely upon observation of the property without talking with the owners or getting a statement from the owners. (TR. 66-68) After explaining her experience with orchards which have farmland assessments due to the reselling of produce, Johnson testified that for a property to be deemed a tree farm, she would have to receive proof of planting, that it was a tree farm in the past, and that a tree farm existed for the purposes of reselling (TR. 71-72). From Johnson's 2005 inspection of the subject property, it was her observation that no farming had taken place on the parcels for a number of years. In light of this observation, on cross examination Johnson conceded that the subject parcels were not properly assessed in 2003 and/or 2004 due to "error, omission." (TR. 80)

During cross-examination, Johnson identified her assessment methodology as to assessment of dwellings which are demolished and/or removed in that she assesses the improvement present on the land as of January 1 of the given year. Therefore, when the appellant removed the dwelling in February of 2006, that dwelling was not removed from the assessment rolls until January 1, 2007; Johnson does not do any type of proportionate assessment for a demolished structure. (TR. 73-75)

Lastly, Johnson acknowledged that in light of information from the appellant, the subject property was classified and assessed as farmland in 2008 (TR. 76-77).

Upon questioning by the Hearing Officer, Johnson testified that as best as she could tell the 2001 aerial photograph of the subject property was representative of what Johnson observed in early 2005 (TR. 81). As to the 2008 farmland determination, Johnson testified the appellant provided

information of planting and cropping of wheat through receipts of harvest and photographs (TR. 82-83).

The Clerk, Margaret M. Whitwell, who is also the Supervisor of Assessments and has held that position for nearly 18 years, testified as the board of review's second witness. Whitwell testified that the Sandwich Township Assessor turned in the assessment books for 2006 from which change notices were issued around October or November 2006 by Whitwell's office to the property owners, such as the appellant, to notify of changes in assessments (TR. 89-90). Within 30 days of receiving the notice, appellant came to the office and discussed with Whitwell the change in the assessment of the subject property and what could be done to change the classification; Whitwell explained that based on the township assessor's observation, the property was not being farmed and that under law, if the property were farmed for two years, it would be classified as farmland (TR. 91-92). In her letter, Whitwell also wrote that the appellant was to receive a one-year credit toward the two-year statutory requirement for farming activity since appellant had planted winter wheat in December 2006 (see board of review Ex. 1).

During cross-examination, Whitwell was asked to explain the quadrennial system of assessment: pursuant to statute, Whitwell testified that at least once every four years property should be reviewed and reassessed where necessary (TR. 94). Whitwell testified that 2003 was the start of a quadrennial cycle such that 2005 was in the "middle" of DeKalb County's quadrennial with 2007 being the start of another quadrennial reassessment cycle. Typically a property would be reassessed in year 1 of the quadrennial. (TR. 95-96)

Upon questioning by the Hearing Officer, Whitwell testified that there is no statutory limitation upon a township assessor from making corrections and/or viewing properties at any time (TR. 98).

Upon further cross-examination, Whitwell expounded that the township assessor has the authority to submit changes (TR. 99). She further testified that records of her office regarding assessments and the current classifications of properties are public records (TR. 102-03).

Based on the foregoing and in light of the Property Tax Code provisions, the board of review was of the opinion that the subject property's primary use was not for farming (35 ILCS 200/1-60) and that it was assessed accordingly in 2006. Moreover, the one dwelling on one parcel was properly assessed as of January 1, 2006, prior to its subsequent demolition. Similarly, as to the 2007 assessment, the property did not qualify for a farmland assessment in accordance with the Property Tax Code since farming activity had not yet occurred for two years (35 ILCS 200/10-110). Thus, the board of review requested confirmation of the subject's 2006 and 2007 assessments.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board finds that the subject property is not entitled to a farmland classification and assessment. Moreover, the assessment of the dwelling which was demolished in February 2006 also does not merit a reduction in the 2006 improvement assessment.

As to the farmland classification issue, Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

> any property **used solely** for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or **tree nurseries**, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming... [Emphasis added.]

Furthermore, to qualify for an agricultural assessment, the land must be farmed at least two years preceding the date of assessment. (35 ILCS 200/10-110).

Appellant in this matter has contested the 2006 assessment of the subject property so that the question becomes the use of the subject land in 2004 and 2005. The testimony presented by appellant indicated that he understood the property to be a tree farm prior to purchase, however, upon obtaining ownership of the property, the trees were so tall as to not be suitable for resale. The appellant presented no documentation to support that farming had occurred on the subject property in either 2004 or 2005, but rather relied upon his characterization of the property as a "tree farm" and the representation that the southern two parcels had received a farmland assessment prior to appellant's purchase of the property in late 2005. The aerial photographs submitted by the board of review depict a "grove" of trees on the western portion of the property in 2001, but no clearly defined lines of trees or even entirely tree covered ground; much of the land appears to be only grassland. In summary and most importantly, testimony failed to reveal that the subject property has been used as a farm since 2004 in accordance with the Property Tax Code (35 ILCS 200/10-110) in order to be eligible for a 2006 farmland assessment.

The final issue in the classification of this property can best be summarized as "detrimental reliance" in that appellant seeks to argue whether properly or improperly granted a farmland assessment as of the time of the purchase of the property, appellant should continue to enjoy the benefits of the reduced farmland assessment for the subject property, particularly since the appellant has after purchase cleared the property and planted crops in 2006 and 2007. The Property Tax Appeal Board gives this argument little merit.

The Property Tax Appeal Board finds that Section 9-75 of the Property Tax Code grants power to assessment officials to revise and correct individual assessments as appears to be just. Section 9-75 of the Code provides:

> The chief county assessment officer of any county with less than 3,000,000 inhabitants, or the township or multi-township assessor of any township in that county, may in any year revise and correct an assessment as appears to be just. Notice of the revision shall be given in the manner provided in Sections 12-10 and 12-30 to the taxpayer whose assessment has been changed.

(35 ILCS 200/9-75).

In summary, the Property Tax Appeal Board finds based on the evidence in this record that since no clear evidence of farming activity was presented as having taken place on the subject property in 2004 and 2005, no portion of the subject is entitled to be classified and assessed as farmland for the 2006 assessment year. Similarly, until the property meets the two-year farming requirement of Section 10-110 of the Property Tax Code, the subject property is similarly not entitled to a farmland classification for 2007. Therefore, the Property Tax Appeal Board finds the current classification of the subject property is correct and no change in the land assessment is warranted for either 2006 or 2007.

As to the appellant's claim for a reduced 2006 assessment on the improvement due to its demolition in February 2006, Section 9-160 of the Property Tax Code is relevant and provides in pertinent part for valuation in years other than the general assessment year:

> The assessment shall also include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, all new or added buildings, structures or other improvements, the value of which was not included in the valuation of the property for that year, and all improvements which were destroyed or removed. In case of the destruction or injury by fire, flood, cyclone, storm or otherwise, or removal of any structures of any kind, or of the destruction of or any injury to orchard timber, ornamental trees or groves, the value of which has been included in any former valuation of the property, the assessor shall determine as near as practicable how much the value of the property has been diminished, and make return thereof.

(35 ILCS 200/9-160). Further detail is then provided in Section 9-180 of the Property Tax Code as follows:

> When, during the previous calendar year, any buildings, structures or other improvements on the property were destroyed and rendered uninhabitable or otherwise unfit for occupancy or for customary use by accidental means (excluding destruction resulting from the willful misconduct of the owner of such property), the owner of the property on January 1 shall be entitled, on a proportionate basis, to a diminution of assessed valuation for such period during which the improvements were uninhabitable or unfit for occupancy or for customary use. The owner of property entitled to a diminution of assessed valuation shall, on a form prescribed by the assessor, within 90 days after the destruction of any improvements or, in counties with less than 3,000,000 inhabitants within 90 days after the township or multi-township assessor has mailed the application form as required by Section 9-190, file with the assessor for the decrease of assessed valuation. Upon failure so to do within the 90 day period, no diminution of assessed valuation shall be attributable to the property.
>
> Computations under this Section shall be on the basis of a year of 365 days.

(35 ILCS 200/9-180). In this matter, the evidence establishes that the appellant intentionally removed the structure in February 2006. While the appellant apparently verbally informed the

township assessor of the demolition of the structure (TR. 47-48), the record is not at all clear as to when he informed the township assessor (i.e., within 90 days of the demolition) and/or whether he filed the form prescribed by the assessor with which to seek a reduction in the assessment in accordance with Section 9-180. Therefore, the Property Tax Appeal Board finds that a reduction in the improvement assessment is not warranted on this record.

In conclusion, the Property Tax Appeal Board finds the board of review's assessment of the subject property for 2006 and 2007 is correct and no reductions are warranted.

APPELLANT:	**Hampton Township**
DOCKET NUMBER:	**05-00534.001-C-1**
DATE DECIDED:	**August, 2009**
COUNTY:	**Rock Island**
RESULT:	**Reduction**

(Please note, the Property Tax Appeal Board recognizes this case was filed as a commercial appeal, however the evidence and context of this decision primarily relates to farmland issues.)

The subject property consists of a 54.29-acre tract of land located in Hampton Township, Rock Island County, Illinois. The land is improved with a 4,800 square foot commercial building used as a reception hall and a parking lot.

The appellant Hampton Township appeared before the Property Tax Appeal Board claiming the Rock Island County Board of Review erred, as matter of law, in granting 31.9-acres of the subject parcel a farmland classification and preferential assessment. In support of this claim, the appellant submitted various newspaper articles (Exhibit A) printed from the internet between July 31, 2001 and September 24, 2004. The appellant contends the newspaper articles clearly show the property owners always intended that the subject property was to be used for commercial purposes. The appellant argued the 56-acre site has been developed as a recreational facility and customers are charged a fee to use any and all parts of the whole parcel, including two areas of the parcel that are enrolled in the Conservation Reserve Program (CRP).

The appellant submitted a copy of the request for special use permit (Exhibit B) dated May 18, 2004. The appellant contends this document shows the owners' intention to use the entire subject parcel as a public recreational facility. The appellant also presented various pages from Adventure Quest website (Exhibit C) claiming the subject parcel has been developed into various recreational uses for the general public who is charged a use fee. The appellant next submitted two aerial photographs (Exhibit D) showing the subject's appearance in agricultural use in 2002 and appearance with its commercial use in 2005.

The appellant next presented a document labeled: Rock Island County FSA Office Conservation and Reserve Program Permissive and Restrictive Uses (Exhibit E). The appellant acknowledged 24-acres of the subject parcel are under contract in the CRP, however, the appellant argued the ongoing commercial activities taking place on the subject parcel and the disturbance of nesting habitats of birds violate the regulations of the CRP program. The appellant argued the fact that a different government agency is allowing a practice that violates its own regulations is no reason to compound the error by granting a commercially used property an agricultural classification.

The appellant next presented the Property Tax Appeal Board's decision under Docket Number 00-00066.001-R-1 and the appellate court's ruling in Senachwine Club v. Property Tax Appeal Board, 362 Ill.App.3d 566, 840 (3rd Dist. 2005). (Exhibit F) The appellant argued these decisions analyze the legal assessment of land which allows for agricultural designation for tax purposes if the land is "used solely for the growing and harvesting of crops . . ." The appellant argued 7.9-acres of the subject property is planted in corn primarily for the use of a maze that

customers walk through after paying a fee. The appellant claims the woodlands and grassy areas become a "haunted forest" for customers to explore and picnic areas for personal enjoyment. The appellant contends the pond is stocked with fish and customers may rent fishing poles and purchase bait. In summary, the appellant alleges every activity planned and conducted on the subject parcel by the property owners is designed to provide a recreational experience for paying customers. Similarly, appellant argued the planned activities conducted on the subject parcel by the property owners in Senachwine Club was designed to facilitate only duck hunting for club members.

The appellant called Hampton Township Assessor James Cramblett to provide testimony for the reasoning the subject parcel was originally classified and assessed as commercial property. Cramblett testified the newspaper articles (Exhibit A) from 2001 to 2004 show the owners intent to establish an amusement park. Cramblett testified the owners were granted a special use permit (Exhibit B) after litigation to have the agricultural restrictions changed in order to operate Adventure Quest. Again, Cramblett testified this document shows the owners intent to operate the entire parcel as a commercial business. In addition to the banquet facility, Cramblett testified Adventure Quest offers various fee based activities such as but not limited to company picnics, zip lines, interactive games, team building, educational field trips, prairie grass and wildflower tours, fishing, and panning for gems. Cramblett argued these activities show the subject parcel is used as a commercial business. Cramblett testified the aerial photographs (Exhibit D) show two new gravel roads and various structures added, changing the primarily agricultural or conservation use into the recreational amusement park use.

With respect to the CRP, Cramblett testified he consulted with Farm Services Administration (FSA) and found little oversight with respect to how property enrolled in the CRP are inspected to ensure land is being used in conjunction with the requirements of the program. Based on the lack of oversight, Cramblett testified he felt his judgment as far as the correct classification and assessment of the subject parcel is separate from their (FSA) judgment whether the subject land falls under the requirements of the CRP. The assessor testified he reviewed the classification and assessments for multiple parcels between 207th and 214th Street because over time the rural nature of the township has become more urbanized. Thus, a number of parcels' land classifications were changed, including the subject property, according to their use and based on his interpretation of the farmland classification and assessment laws.

Under questioning, Cramblett testified he is somewhat familiar with Publication 122, Farmland Implementation Guidelines, issued by the Illinois Department of Revenue which states:

> **Land in conservation reserve program (CRP).** Land in the CRP is eligible for a farmland assessment provided it has been in the CRP or another qualified farm use for the previous two years and is not a part of a primarily residential parcel. CRP land is assessed according to its use. Land enrolled into the CRP can be planted in grasses or trees. If grass is planted, this land will be classified as cropland (according to the Bureau of Census' cropland definition). If trees are planted, then the cropland assessment should apply until tree maturity prevents the land from being cropped again without first having to undergo significant improvements (e.g., clearing). At this point, the "other farmland" assessment should apply.

After reviewing this document, the assessor agreed land enrolled in CRP is eligible for a farmland assessment. However, the assessor agued the publication did not address the fact a fee is charged for visiting or viewing the land, which is a separate issue. The assessor testified the publication does speak to exceptions for residential parcels, which could be carried into the idea of commercial or industrial uses. In assessing land, Cramblett testified land is categorized as residential, commercial or industrial as a whole.

Next the appellate court's holdings in Santa Fe Land Improvement Co. v. Property Tax Appeal Board, 113 Ill.App.3d 872, 875 (3rd Dist. 2005); McLean County Board of Review v. Property Tax Appeal Board, 286 Ill.App.3d 1076, 1078 (4th Dist. 1997); and Senachwine Club v. Property Tax Appeal Board, 362 Ill.App.3d 566, 840 (3rd Dist. 2005) were discussed.

Based on the evidence and testimony, the township argued the Rock Island County Board of Review's decision to grant a farmland classification and assessment for 31.9 acres of the subject parcel should be reversed. Thus, the appellant requested the Property Tax Appeal Board remove the subject's farmland classification and assessment and increase its land assessment to $62,347 as calculated by the township assessor.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of $81,353 was disclosed. In support of the subject's classification and assessment, the board of review chairperson Joan K. Russell testified the subject parcel was inspected in 2004 after a board of review complaint was filed. During inspection, the board of review noted "stubble" from corn that had been harvested from the 7.9 acre area. In addition, the board of review submitted two CRP contracts. The contracts show two areas totaling 24-acres of the subject parcel that are set aside under the Conservation Reserve Program. The contracts expire on September 30, 2008 and 2012. Based on this evidence, the board of review agreed 31.9 acres of the subject property were entitled to a farmland classification and assessment.

Under questioning, Larry Wilson, the Chief County Assessment Officer for Rock Island County, testified he holds an annual meeting for township assessors pursuant to statute. During this annual meeting, township assessors are given direction on implementation of assessing procedures, including farmland classification and assessments. Wilson testified township assessors were give direction to classify and assesses all land under CRP contracts as farmland. Wilson testified this procedure should be followed by all township assessors to maintain uniformity of assessment procedures throughout Rock Island County.

The intervenor/property owners, Dale and Anne Morris (taxpayers), were present at the hearing before the Property Tax Appeal Board. The taxpayers originally agreed with the board of review's classification and assessment for 31.9 acres of the subject parcel as farmland. However, the taxpayers argued 51.89 acres of the subject parcel should receive a farmland classification and assessment based on case law (Exhibit F). The taxpayers conceded that 2.4 acres of the subject parcel, which is comprised of a parking lot and commercial building, should be valued at its fair market value. The taxpayers argued that until 2005, the entire subject parcel received a farmland classification and assessment. Taxpayers argued the primary use of the subject parcel has been and still is farmland.

Taxpayers argued approximately 24 acres of the subject parcel that are not assessed as farmland are designated under Illinois Department of Natural Resources Wildlife Habitat Management Plan (Exhibit C). Taxpayers testified the plan was implemented in 1998 by the former property owner and the plan has continued to be implemented, with the exception of the commercial building and parking lot. Thus, the taxpayers argued the remaining acreage should be assessed as farmland. In support of this position, the taxpayers submitted the Appellate Court's decision in McLean County v. Property Tax Appeal Board, 286 Ill.App.3d 1076 (4th Dist. 1997). As background, the taxpayers argued the subject parcel is used exactly like the property owners in McLean County, wherein the owners maintain the parcel by mowing paths surrounding the grasses and the perimeter of the property, as well as periodically burning the grasses. The taxpayers argued that like the subject property in this appeal, the court found substantial evidence supported the determination of the Property Tax Appeal Board's decision that property used to grow and manage wildlife, to grow trees for eventual harvesting, and to grow prairie grass as a cash crop qualified for a preferential farmland assessment rather than residential classification and assessment under the Property Tax Code. (35 ILCS 200/1-60). The taxpayers next cited a passage in McLean County, wherein the appellate court noted the lower court affirmed the decision of the PTAB, although for other reasons specified by the PTAB. The appellate court noted that the circuit court concluded that Elder:

> "in managing the subject property as a wildlife and conservation area, he is in fact farming said land by planting, cultivation and growth of hardwood trees and native prairie grasses, either of which can be harvested at an appropriate time in the future, that the recreational use of the property is incidental and insignificant, and the property can be farmed and managed simultaneously as a conservation area, without losing its [farmland] assessment."

The taxpayers testified they have planted more than 3 acres of wildflowers and grasses, which seeds can be harvested and sold at a future and appropriate time. Taxpayers argued 7.9 acres of corn have been planted annually as a cash crop. Taxpayers testified trees planted under the Illinois Department of Natural Resources Wildlife Habitat Management Plan have quadrupled in size and can be harvested and sold at a future time.

Taxpayers argued 90% of the subject's business activity is the commercial building and parking lot. The remainder of the subject property is only used one or two days a week for six months a year by reservation only. The "Haunted Forest" is the only time of the year the subject property is open to the general public, but is used for only four hours a night for eight nights per year. The taxpayers argued the limited recreational activities taking place on the subject parcel are in no way inconsistent or detrimental to the conservation or wildlife habitat management. In summary, taxpayers argued environmental conservation is the primary and present use of the land with recreation as secondary and is not inconsistent with the primary use.

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 Property Tax Appeal Board further finds a reduction in the subject's land assessment is warranted.

The Property Tax Appeal Board finds the subject parcel qualifies for a farmland classification and assessment. Section 1-60 of the Property Tax Code defines "farm" in part as:

> any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, **forestry**, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and **wildlife farming**. . . For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. (35 ILCS 200/1-60)

Additionally, to qualify for an agricultural assessment, the land must be farmed at least two years preceding the date of assessment. (35 ILCS 200/10-110). Based on this statutory language, the Property Tax Appeal Board finds the evidence and testimony shows 51.89 acres of the subject parcel is qualified for a farmland classification and assessment for several factors.

The appellant Hampton Township argued the Rock Island County Board of Review erred, as a matter of law, in granting 31.9-acres of the subject parcel a farmland classification and preferential assessment. The appellant argued the property owners have always intended the subject property to be used for commercial purposes by developing the 56-acre site for recreational use in which customers are charged a fee to use any and all parts of the whole parcel, including the two areas that are enrolled in a Conservation Reserve Program (CRP). In addition, the appellant argued 7.9-acres of the subject parcel that is admittedly planted in corn and harvested, is primarily used as a maze for paying customers to walk through. The appellant claims the woodlands and grassy areas become a "haunted forest" for customers to explore and picnic areas for personal enjoyment. The appellant contends the pond is stocked with fish and customers may rent fishing poles and purchase bait for fishing. In summary, the appellant alleges every activity planned and conducted on the subject parcel by the property owner is designed to provide for a fee based recreational experience.

After reviewing Publication 122[1] Farmland Implementation Guidelines, issued by the Department of Revenue, the assessor agreed land enrolled in CRP is eligible for a farmland assessment. However the township assessor argued the publication did not address the fact a fee is charged for visiting or viewing the land, which is a separate issue. The appellant contends the publication speaks to exceptions for residential parcels with farmland, which could be carried into the idea of commercial or industrial uses. The township assessor testified that for assessment purposes, land is classified or categorized as residential, commercial or industrial as a whole. The intervenor (taxpayers) argued on cross complaint the entire subject property, except the 2.4 acres dedicated to the commercial business, is entitled to a farmland classification and assessment.

[1]Pursuant to section 1910.90(i) of the Official Rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.90(i)) the Board takes official notice of Publication 122, Farmland Implementation Guidelines, published by the Illinois Department of Revenue.

The Property Tax Appeal Board finds each of the contentions outlined by the appellant to be unpersuasive. With respect to the primary use aspect of the appeal as detailed in the appellant's brief and testimony, the Property Tax Appeal Board finds the primary use provision as detailed in section 1-60 of the Property is not applicable in this appeal. Section 1-60 of the Code provides in pertinent part:

> For purposes of this Code, "farm" does not include property which is primarily used for **residential** purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. (35 ILCS 200/1-60)

The Property Tax Appeal Board finds the record is clear that the subject property is not used in any part for residential purposes. The Board further finds the record is clear the subject parcel is improved with a commercial building and parking lot used for banquet/reception hall.

Section 10-115 of the Property Tax Code provides:

> Department guidelines and valuation for farmland. The Department shall issue guidelines and recommendations for the valuation of farmland to achieve equitable assessment within and between counties. (35 ILCS 200/10-115).

Publications 122, Farmland Implementation Guidelines, issued by the Illinois Department of Revenue provide direction for the proper classification and assessment of real property like the subject in this appeal. The primary use provision of a farm contained in Publication 122 (P. 6) states:

> This guideline **does not apply** to tracts assessed under the forestry management or vegetative filter strip provisions of the Property Tax Code, nor does it apply to **parcels that do not contain any residential use**.

Additionally, Publication 122 (P.7) details the significance of primary use on non-residential parcel as:

> The primary use of a non-residential parcel does not have to be agricultural in order for a tract within the parcel to be assessed as a farm.

Furthermore, the Board finds property used for the growing and harvesting of crops is properly classified as farmland for tax purposes, even if that farmland is part of a parcel that has other uses. Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799 (3rd Dist. 1999). Santa Fe Land Improvement Co. v. Property Tax Appeal Board, 113 Ill.App.3d 872, 875 (3rd Dist. 2005); and McLean County Board of Review v. Property Tax Appeal Board, 286 Ill.App.3d 1076, 1078 (4th Dist. 1997).

Finally, Publication 122 (P. 4) states:

> **Land in conservation reserve program (CRP).** Land in the CRP is eligible for a farmland assessment provided it has been in the CRP or another qualified farm use for the previous two years and is not a part of a primarily residential parcel.

> CRP land is assessed according to its use. Land enrolled into the CRP can be planted in grasses or trees. If grass is planted, this land will be classified as cropland (according to the Bureau of Census' cropland definition). If trees are planted, then the cropland assessment should apply until tree maturity prevents the land from being cropped again without first having to undergo significant improvements (e.g., clearing). At this point, the "other farmland" assessment should apply.

In reviewing all the aforementioned provisions, the Property Tax Appeal Board finds 7.9 acres of the subject parcel that were used to grow and harvest corn from 2003 to 2005, regardless of the "maze", are entitled to a farmland classification and assessment as cropland. The Board finds the issue that the 7.9 acres are used as a "maze" for "paying customers" for a few hours a night for a few days per year to be insignificant in the determination of its proper classification and assessment for taxation purposes.

The Property Tax Appeal Board further finds the board of review did not err in granting an additional 24 acres of the subject parcel a farmland classification. The Property Tax Appeal Board finds the record shows the 24 acres in question, which are comprised of two separate tracts of land within the subject parcel, have been enrolled in the Conservation Reserve Program (CRP) administered by the federal government. Land in the CRP is eligible for a farmland assessment.

Importantly, the Property Tax Appeal Board finds Larry Wilson, the Chief County Assessment Officer (formerly titled supervisor of assessments) for Rock Island County, testified he holds an annual meeting for township assessors pursuant to Illinois Statute. Section 9-15 of the Property Tax Code provides in part:

> In all counties of township organization having a supervisor of assessments, the supervisor of assessments shall, by January 1 of each year, assemble all assessors and their deputies for consultation and shall instruct them in uniformity of their functions. Any assessor or deputy assessor who willfully refuses or neglects to observe or to follow instructions of the supervisor of assessments, which are in accordance with law, shall be guilty of a Class B misdemeanor.

(35 ILCS 200/9-15). Wilson testified during the annual meeting, township assessors are given direction on implementation of assessing procedures, including farmland classification and assessments. Wilson testified township assessors were given direction to classify and assess all land under CRP contracts as farmland. Wilson testified this procedure should be followed by all township assessors to maintain uniformity of assessment procedures throughout Rock Island County. The Board finds it appears the township assessor ignored the supervisor of assessments directions regarding uniformity of assessments within the entire county with respect to property enrolled into the CRP.

The Property Tax Appeal Board finds the uniformity clause of the Illinois Constitution (Ill.Const. 1970 art. IX 4(a)) requires that taxes be levied uniformly by valuation. As stated by the Supreme Court of Illinois, "[t]he Illinois Constitution's uniformity clause requires not only uniformity in the level of taxation, but also in the basis for achieving the levels." Walsh v.

Property Tax Appeal Board, 181 Ill.2d 228, 235, 692 N.E. 2d 260, 263 (1998). A county must use the same basis for determining assessed valuations for all like properties. The Board finds that the policy of assessing property enrolled in CRP as farmland as testified to by the Chief County Assessment Officer must be uniformly applied to the subject property.

The taxpayers contend the entire subject parcel, except the banquet facility and parking lot, is entitled to a farmland classification and assessment due to its enrollment in the Illinois Acres for Wildlife program. Taxpayers relied on the appellate court holdings in McLean County Board of Review v. Property Tax Appeal Board, 286 Ill.App.3d 1076, 1078 (4th Dist. 1997). The Board finds this aspect of the taxpayers argument is well supported by this record. In McLean County, the appellate court held that the definition of a "farm" in Section 1-60 of the Property Tax Code is very broad. McLean County, 286 Ill.App. 3d at 1081.

In this appeal, the taxpayers provided un-refuted testimony and evidence that they have planted more than 3 acres of wildflowers and grasses, which seeds can be harvested and sold at a future and appropriate time. The owners maintain the parcel by mowing paths surrounding the grasses and the perimeter of the property, as well as periodically burning the grasses. Furthermore, taxpayers testified trees planted under the Wildlife Habitat Management Plan have quadrupled in size and can be harvested and sold at a future time, which is very similar, if not identical in many factors, to the factual circumstances in McLean County. In addition, the land in question is contiguous and is associated to lands this Board previously found to be entitled to a farmland classification and assessment.

Under Publication 122, Farmland Implementation Guidelines, Definition of Land Use provides in part (P.1):

> Other Farmland includes woodland pasture; woodland, including woodlots, timber tracts, cutover, and deforested land;

Section 10-125(c) of the Property Tax Code provides:

> Other farmland shall be assessed at 1/6 of its debased productivity index equalized assessed value as cropland. (35 ILCS 200/10-125(c)).

Based on this record, the Property Tax Appeal Board finds 7.9 acres of the subject property is entitled to a farmland classification and assessment as cropland. The Board further finds 24 acres of the subject property that are enrolled into the Conservation Reserve Program are entitled to farmland classification and assessment as other farmland. Additionally, the Board finds 20.39 acres of wooded or forestry land under the Wildlife Habitat Management Plan is entitled to a farmland classification and assessment as other farmland in accordance to the holding of McLean County. The Board further finds 2.4 acres dedicated to the operation of the banquet facility and parking lot shall be assessed at its fair market value. Therefore, the Board finds the subject's land assessment as established by the board of review is incorrect and a reduction is warranted.

APPELLANT:	**Thomas R. Jokerst**
DOCKET NUMBER:	**06-02521.001-F-1 thru 06-02521.005-F-1**
DATE DECIDED:	**May, 2009**
COUNTY:	**Randolph**
RESULT:	**No Change**

The subject property consists of five parcels of farmland located in Randolph County. Parcel 20-020-009-00 (hereinafter "009") contains 8.00 acres; parcel 20-021-008-00 (hereinafter "008") contains 118.97 acres; parcel 12-020-004-00 (hereinafter "004") contains 125.34 acres; parcel 12-014-007-00 (hereinafter "007") contains 42.37 acres; and parcel 20-021-012-00 (hereinafter "012") contains 11 acres.

Docket numbers 06-02521.001 through .005-F-1, 06-02488.001-F-1, 06-02491.001-F-1, 06-02489.001-F-1, and 06-02490.001-F-1 were consolidated for hearing purposes.

Thomas R. Jokerst and Carl Jokerst appeared before the Property Tax Appeal Board contending the assessment of the farmland was excessive and should be debased for flooding. In support of this argument the appellant submitted copies of aerial maps, 2005 assessment data, 2006 assessment data and a map depicting Kaskaskia Island. The 2005 assessment data indicated that the cropland on parcels 009, 008 and 012 received a 50% flood factor adjustment. In 2006 none of the parcels under appeal received any adjustment for cropland flooding.

At the hearing the appellant, Thomas Jokerst, testified that he had no evidence to challenge the productivity indexes assigned to each of the soil types on the respective parcels. The primary argument he had was with the inability of the soil to be productive when it is underwater. He testified that at one point in time some of the subject parcels had flood adjustments but those adjustments were removed. The appellant testified that he had inquired as to why the flooding adjustments were removed and further stated he was informed that all flooding adjustments had been removed as a matter of course. He also indicated that he was informed that he would have to reapply to receive adjustments for flooding. He explained the subject parcels are located on Kaskaskia Island, which is within a flood plain. He testified that every 20 years there is a total crop loss due to flooding. The appellant requested that the flood adjustments made in the previous year be applied.

Under questioning the appellant indicated that they recently began to keep records of production loss due to the propensity to flood. The appellant indicated that they have no records or history of crop loss due to flooding from 1995 through 2006 on the parcels other than general recollection.

With respect to parcel 009, the appellant asserted that the wasteland on the parcel experiences flooding every year but the cropland does not, although he has seen it flood. With respect to parcel 008, the appellant testified that this parcel has several flats and two ponds that have water year round. He also testified there are low spots on the parcel. The appellant guessed that there would be 25% to 30% crop loss each year. With respect to parcel 004, the appellant asserted that 20% to 25% of the area generally floods and has crop loss. With respect to parcel 007, the

appellant indicated that approximately 50% of the acres flood every year and of the area that flood results in almost total crop loss. With respect to parcel 012, the appellant indicated there are low areas that aren't very productive. The appellant indicated that 25% of the area floods every year with 100% crop loss. During questioning about the crop loss and propensity to flood both Thomas R. Jokerst and Carl Jokerst would confer with each other before responding about the crop loss. No data or documentation was presented that specifically identified the cropland areas or acreage that flooded on each parcel, the corresponding soil types associated with the flood prone cropland areas, the productivity indexes of the flooded cropland soils, and the yield loss in those years that the cropland experienced flooding.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of each of the parcels was presented. The board of review asserted in its documentation that the farmland assessments were calculated based on the soil productivity indexes that had been certified to Randolph County. The board of review submitted copies of the farmland assessment calculation for each parcel identifying the classification of land, soil type, acreage for each soil type, productivity index (PI) for the soil type, adjusted productivity index, the certified assessment based on the productivity index of the soil type and the equalized assessed value (EAV) for the corresponding acreage with that soil type. For each parcel the board of review submitted copies of the soil maps and the soil productivity index for the soils.

Wayne Voss, Randolph County Chief County Assessment Officer, testified that beginning in 2006 farmland in the county was assessed using *Bulletin 810, Average Crop, Pasture, and Forestry Productivity Ratings for Illinois Soils*, (Bulletin 810) prepared by the University of Illinois. Under Bulletin 810 the board of review determined it should revisit properties that had been flooded and received some type of proof to document the flooding. The board of review wanted to look at crop loss to determine the flooding adjustment. He stated that all flooding adjustments were removed from all farmland in 2006. Mr. Voss indicated it had no evidence or proof to allow a flooding adjustment.

Mr. Voss indicated that farmland was assessed under the farmland assessment provisions of the Property Tax Code using the individual soil type method identifying the soil types, the productivity indexes for the soil types and the equalized assessed values associated with the productivity indexes provided by the Department of Revenue. The witness indicated that the directives or guidelines provided by the Illinois Department of Revenue were followed in assessing the farmland.

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 the appeal. The Board further finds reductions in the assessments of the subject parcels are not supported by the evidence in the record.

The appellant asserts that the assessment on each parcel of farmland needs to be reduced to account for flooding. Section 10-110 of the Property Tax Code (PTC) provides in part that, "[t]he equalized assessed value of a farm . . . shall be determined as described in Sections 10-115 through 10-140. . . ." 35 ILCS 200/10-110.

Section 10-115 of the PTC provides in part that:

> The Department [of Revenue] shall issue guidelines and recommendations for the valuation of farmland to achieve equitable assessment within and between counties. . . . 35 ILCS 200/10-115.

Furthermore, section 10-115 of the PTC sets forth the various components that the Department of Revenue is to certify to each chief county assessment officer on a per acre basis by soil productivity index for harvested cropland such as: gross income, production costs, net return to the land, a proposed agricultural economic value, the equalized assessed value per acre of farmland for each soil productivity index, a proposed average equalized assessed value per acre of cropland for each individual county, and a proposed average equalized assessed value per acre for all farmland in each county.

Section 10-125 of the PTC (35 ILCS 200/10-125) provides for the assessment level of farmland by type and states in part that:

> (a) Cropland shall be assessed in accordance with the equalized assessed value of its soil productivity index as certified by the Department [of Revenue] and shall be debased to take into account factors including, but not limited to, slope, drainage, ponding, flooding and field size and shape. (35 ILCS 200/10-125(a)).

In accordance with the Section 10-115 of the PTC, the Department of Revenue issued Publication 122, Farmland Implementation Guidelines. The guideline provides the procedure to be used in making an adjustment for the flooding of cropland. The guideline reads in part as follows:

> **Adjustment for flooding.** Adjust the PI of the affected acreage only, which suffers actual, not potential, crop loss due to flooding as prescribed in Bulletin 810, published by the University of Illinois, College of Agriculture, Cooperative Extension Service. The following text is taken directly from Bulletin 810.
>
> > "Estimated yields and productivity indices given in Table 2 apply to bottomland soils that are protected from flooding or a prolonged high water during the cropping season because of high water in stream valleys. Soils that are subject to flooding are less productive than soils that are protected by levees. The frequency and severity of flooding are often governed by landscape characteristics and management of the watershed in which a soil occurs. For this reason, factors used to adjust productivity indices for flooding must be based on knowledge of the characteristics and history of the specific site. Wide variation in the flooding hazard, sometimes within short distances in a given valley, require that each situation be assessed locally.
> >
> > If the history of flooding in a valley is known to have caused 2 years of total crop failures and 2 years of 50% crop losses out of ten years, for example, the estimated yields and productivity indices of the bottomland soils could be reduced to 70% of those given in Table 2. Estimated crop

> yields and productivity indices for upland soils subject to crop damage from long-duration ponding have already been reduced accordingly in Table 2."
>
> Flood adjustment procedures should identify the actual acres affected by flooding; determine, from yield data, the extent of crop loss (in bushels) caused in each flood situation; adjust the PI of the affected soils by a percentage equal to the percentage of crop loss caused by each flooding situation over a multi-year (preferably ten year) period; and recompute the flood adjustments annually. The continuous collection and analysis of yield data is needed in order to identify and compensate for changes in a parcel's flooding history.

Illinois Department of Revenue, Publication 122, Farmland Implementation Guidelines, January 2006, p. 2. The Board finds the appellant did not provide sufficient data that would allow for the computation of an adjustment to the cropland for flooding. The appellant did not identify the actual cropland acres affected by flooding; did not provide yield data demonstrating the extent of crop loss (in bushels) caused in each flood situation; and did not adjust the PI of the affected soils by a percentage equal to the percentage of crop loss caused by each flooding situation over a multi-year period.

The testimony and evidence provided by the Randolph County Board of Review disclosed that in 2006 it was following the farmland assessment guidelines provided by the Illinois Department of Revenue in assessing farmland through the implementation of Bulletin 810. The evidence disclosed that the board of review was using the soil types set forth on soil survey maps and the PI associated with the soil type identified on the maps and the EAV per acre as certified by the Department of Revenue for each soil type in assessing the farmland. Based on this record the Board finds that the board of review correctly assessed the farmland on the subject parcels.

APPELLANT:	**Tressa Powell**
DOCKET NUMBER:	**06-02505.001-F-1**
DATE DECIDED:	**July, 2009**
COUNTY:	**Monroe**
RESULT:	**Reduction**

The subject property consists of approximately a 6.26 acre parcel improved with a one-story single family dwelling that contains 2,136 square feet of living area. Features of the home include a full basement, central air conditioning, a fireplace and an attached two-car garage. The home was constructed in 2005. The property is located in Columbia, Monroe Township, Monroe County.

The appellant and her husband, Kenneth Powell, appeared before the Property Tax Appeal Board contending a portion of the subject property was entitled to a farmland assessment. The appellant provided testimony that the entire parcel was farmed in 2004. The appellant further indicated that in 2005 and 2006 approximately 5.12 acres were farmed while the remaining area was used as for the homesite. The appellant testified the acreage was cultivated by Edward Schaefer who planted the subject acreage alternatively in either soybeans or wheat. Ms. Powell testified a portion of the crop was given to her grandmother, who owned the land prior to the appellant constructing the home on the site.

The appellant also submitted two affidavits signed by Mr. Schaefer attesting to the fact that he has farmed the subject property for the past 20 years. In an affidavit dated June 6, 2007, Schaefer attested to the fact that he farmed 3.550 acres of the subject parcel. In an affidavit dated June 11, 2008, Schaefer stated that he farmed 5.14 acres of the subject parcel in 2004, 2005, 2006 and 2007. At the hearing the appellant identified Appellant's Exhibit A as a plat of survey of the subject parcel. The plat of survey identified the house and associated yard as containing 1.14 acres and the farm area as containing 5.12 acres. The appellant explained that the second affidavit is more correct because it was based on the plat of survey dated June 9, 2008. Based on this evidence the appellant requested the subject property receive a farmland assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $91,620 was disclosed. The board of review's representative asserted the subject property was not entitled to a farmland assessment based on the applicable guidelines issued by the Illinois Department of Revenue. According the board of review the guideline provides that "farm" as defined by the Property Tax Code does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The board of review went on to assert that the guideline provides that, "The primary use of a parcel containing only conventional farm and residential uses is residential unless the conventionally farmed portion of the parcel meets both of the following requirements: 1) it is larger than the residential portion of the parcel; and 2) it is not less than 5 acres in area." The board of review argued that the subject parcel did not meet the criteria; therefore, it was not entitled to a farmland assessment.

At the hearing the board of review presented an aerial photo of the subject parcel, which was marked as Board of Review Exhibit A. The appellant marked the aerial photograph noting the location of the homesite and the farmland.

Subsequent to the hearing, at the request of the Property Tax Appeal Board, the Monroe County Board of Review submitted a farmland assessment for the subject property.

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 the appeal. The Board further finds a reduction in the assessment of the subject property is supported by the evidence in the record.

The appellant contends the subject property is entitled to a farmland assessment. Section 1-60 of the Property Tax Code (hereinafter Code) defines farm in part as:

> Farm. When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. The dwellings and parcels of property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. . . .

35 ILCS 200/1-60. Furthermore, section 10-110 of the Code (35 ILCS 200/10-110) provides that in order to qualify for a farmland assessment, the property must be used as a farm for the two preceding years. It is the use of the property which determines whether it is to be assessed at an agricultural valuation. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d 872, 875, 448 N.E.2d 3 (3rd Dist. 1983). Property that is used solely for the growing and harvesting of crops is properly classified as farmland, even if that farmland is part of a parcel that has other uses. Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799, 803, 715 N.E.2d 274 (3rd Dist. 1999).

The record is clear that slightly in excess of five acres of the subject tract was planted and harvested in either soybeans or wheat in 2004, 2005 and 2006. The Property Tax Appeal Board further finds that Illinois Department of Revenue Guideline relied upon by the board of review is a guideline and advisory only, giving criteria to a board of review that may be considered in classifying property used for farming for assessment purposes. Nevertheless, even using the guidelines espoused by the board of review would result in the subject property qualifying for a farmland assessment under the facts of this appeal.

For these reasons the Property Tax Appeal Board finds the subject property qualifies for a farmland assessment and a reduction in the land assessment is accordingly justified.

APPELLANT:	**David M. Steingrubey**
DOCKET NUMBER:	**06-02730.001-R-1**
DATE DECIDED:	**August, 2009**
COUNTY:	**Monroe**
RESULT:	**No Change**

(Please note, the Property Tax Appeal Board recognizes this case was filed as a residential appeal, however the evidence and context of this decision primarily relates to farmland issues.)

The subject property consists of a vacant parcel containing 2.913 acres located in Maeystown, Monroe County, Illinois. The property is further identified as Lot 3 in Steingrubey Park.

The appellant contends the assessment on the subject property be changed to "forestry" and assessed at $23. In support of this assertion the appellant indicated the parcel was purchased in 2004. The appellant asserted that part of Steingrubey Park identified by parcel number 10-32-317-001 has been in the Forestry Program since 1996. The appellant further noted that he purchased Lot 4 of the park containing 2.087 acres, which is contiguous to Lot 3, in December 2006. Lot 4 was identified as parcel 10-32-317-003 on a survey of the property submitted by the appellant. The appellant noted these parcels, Lots 3 and 4, have a combined area of 5 acres. The appellant requested a "Roll-over of Forestry Program". Further documentation submitted by the appellant was an application for the participation in the Illinois Forestry Development Act for parcel 10-32-317-001 dated October 24, 1996 and signed by the landowner and the Illinois Department of Natural Resources (IDNR) forester on October 25, 1996. The document indicated that approval of the forest management plan guarantees an equalized assessed valuation at 1/6 that of agricultural use for the acreage enrolled in the Forestry Development Act (FDA).

The appellant also submitted a copy of the Forest Stewardship Plan Certification for the Illinois Forestry Development Act (FDA) for parcel 10-32-317-002, the subject parcel, and parcel 10-312-317-003. The landowner's signature noting acceptance of the plan is dated August 5, 2006. The certification was not signed and dated by an IDNR District Forester noting approval nor did the document reference a plan number. The appellant, however, submitted a copy of a letter dated August 21, 2006, he received from Mark V. Brown, District Forester with IDNR, stating that he had approved the Forest Stewardship Plan and processed the certification.

The appellant also submitted a memorandum from Michael Cody, Property Tax Division, of the Illinois Department of Revenue to Chief County Assessment Officers dated January 12, 2007, identifying property that had undergone changes with regard to the Illinois Forestry Development Act (FDA). The memo noted that according to Section 10-150 of the Property Tax Code (35 ILCS 200/10-150), all acreage under a FDA plan should be considered other farmland and assessed at 1/6 of its productivity index equalized assessed value as cropland. The memo further stated that each plan number and effective date of the plan is listed below. The bottom portion of the memo identifying the plan number and the effective date of the plan was cut off from the remaining portion of the memo and not submitted by the appellant.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $17,320 was disclosed. The board of review submitted a completed copy of the Forest Stewardship Plan Certification for the subject property indicating the Plan Number 04-16-067-0614 with the signature of Mark V. Brown of the IDNR dated August 21, 2006, indicating approval of the plan by the Forester. The certification also indicated that the plan was "New". The board of review also submitted a complete copy of the aforementioned memo from Michael Cody, Property Tax Division, of the Illinois Department of Revenue to Chief County Assessment Officers dated January 12, 2007, identifying the property in the FDA. The memo indicated that Plan #04-16-067-0614 was "Newly Approved" with an effective date of August 21, 2006. The memorandum further advised the Chief County Assessment Officers in part that, "Changes in assessed value resulting from a new, amended, or cancelled plan should begin on January 1 of the assessment year immediately following the plan's effective date."

After reviewing the record and considering the evidence the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds that the evidence in the record does not support a reduction in the subject's assessment.

The appellant contends the subject's 2006 assessment should be reduced due to enrollment in the FDA. Section 10-150 of the Property Tax Code provides that:

> Property under forestry management plan. In counties with less than 3,000,000 inhabitants, any land being managed under a forestry management plan accepted by the Department of Natural Resources under the Illinois Forestry Development Act shall be considered as "other farmland" and shall be valued at 1/6 of its productivity index equalized assessed value as cropland. In counties with more than 3,000,000 inhabitants, any land totalling (*sic*) 15 acres or less for which an approved forestry management plan was in effect on or before December 31, 1985, shall be considered "other farmland". The Department of Natural Resources shall inform the Department and each chief county assessment officer of each parcel of land covered by an approved forestry management plan.

35 ILCS 200/10-150. The Board finds the subject property does not qualify for the preferential assessment provided by section 10-150 for the 2006 assessment year. The evidence disclosed that the subject property was part of Plan #04-16-067-0614 that was approved by the IDNR on August 21, 2006. The plan was new and had an effective date of August 21, 2006.

In Kassabaum v. Hopkins, 106 Ill.2d 473, 478 N.E.2d 1332, 88 Ill.Dec. 606 (1985), the court dealt with the issue of whether or not taxpayers were to be given the preferential assessment during the calendar year in which property was certified as a pollution control facility. The court held that taxpayers, who, on assessment date, had not yet attained preferential tax status because they had not yet been certified, were not entitled to such preferential assessment until the assessment date following certification. The court stated that provisions granting tax exemptions are to be strictly construed and that taxation is the rule, exemption the exception should apply to special tax treatment. Kassabaum v. Hopkins, 106 Ill.2d at 476. The court noted that real estate is assessed in the name of the owner and at the value as of January 1. Id. at 476. (See Section 9-175 and 9-185 of the Property Tax Code (35 ILCS 200/9-175 & 9-185)). The court stated that

the status of property for taxation and the liability to taxation is fixed on that date, and property subject to taxation on assessment day in any year is liable for the taxes for that year even though it may subsequently, during that year, become exempt from taxation. The court found no reason why this rule, applicable to exemptions, should not also apply to preferential tax treatment unless retroactive application plainly appears in the legislation. Kassabaum v. Hopkins, 106 Ill.2d at 477.

In this appeal the taxpayer had not yet attained the preferential assessment status provided by section 10-150 of the Property Tax Code as of January 1, 2006. The effective date of the forestry management plan was August 21, 2006. Therefore, the appellant is not entitled to the preferential assessment until the assessment date (January 1, 2007) following the certification of the Forest Stewardship Plan for the FDA.

In conclusion, the Board finds a reduction in the subject's assessment is not warranted based on this record.

APPELLANT:	**Joseph Stevenson**
DOCKET NUMBER:	**06-00016.001-F-1 thru 06-00016.005-F-1**
DATE DECIDED:	**April, 2009**
COUNTY:	**Madison**
RESULT:	**No Change**

The subject property consists of five parcels of farmland ranging in size from 19.97 to 83.29 acres.

The appellant appeared before the Property Tax Appeal Board challenging the assessment of the farmland on the respective parcels under appeal. The appeal form indicated that the appellant was challenging the farmland assessments based on productivity. The appellant explained that the basis of his appeal was the productivity index associated with some of the soils types on the tracts brought about by a change from an old soil survey to a new soil survey. He testified that he did not recall anyone checking soil samples on his property and testified he was informed by a soil technician that a spot survey was performed. He did not believe the productivity index could be increased based on a spot survey.

He also testified that when he compared the productivity of the soils of the old survey and the new survey he found there was some variation with some crops going up and some crops going down. He also noted some of the soil types were renamed but he did not know the basis for renaming the soils. He also submitted soil test reports under both the old and new soil surveys. He testified that there was no inherent natural change in the soil to produce a crop and the same amounts of fertilizer were called for to produce a crop. The appellant argued there was nothing naturally occurring to change the productivity of the soil. The appellant argued the soil tests demonstrate the productivity is still the same as it was under the old soil survey. Based on this evidence and testimony the appellant requested the farmland assessments for the subject parcels be reduced to their prior farmland assessments.

The appellant identified Appellant's Exhibit A, page 1, as the old soil survey. The appellant indicated Exhibit A, page 4, is the new soil survey. The appellant indicated Exhibit A, page 5, contained an example where the soil on the 19 acre tract, 03-1-12-10-00-000-005.001, was renamed. Exhibit B was a soil map that showed the soil type of the 19 acre tract identified as 885A, Virden-Fosterburg silt loam. Exhibit C was a soil survey showing location of parcel 03-1-12-08-00-000-003, and the location of parcels 03-1-12-04-00-000-009.003, 03-1-12-04-00-000-009 and 03-1-12-04-00-000-008 totaling approximately 155 acres. Appellant's Exhibit D was designed to show the amount of fertilizer required to produce crops under the old soil survey. Appellant's Exhibit E was designed to show the amount of fertilizer required to produce crops under the new soil survey. The point the appellant was trying to make was that similar amounts of fertilizer were required to produce similar crops using the two soil surveys.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessments of the parcels under appeal were disclosed. In response to the appeal, the board of review submitted a written statement prepared by Debbie Schmidt, Farm Evaluator with the Madison County Chief County Assessment Official. Ms. Schmidt made copies of the Sidwell

Soil Calculation Report and map showing soil codes and land use codes for each of the parcels appeal.

The Board of Review Chairman, Kerry Miller, testified that Appellant's Exhibit A, page 1, is page 161 out of an old soil survey used by Madison County prior to implementation of *Bulletin 810, Average Crop, Pasture, and Forestry Productivity Ratings for Illinois Soils*, (Bulletin 810) prepared by the University of Illinois. Miller also testified the highlights of the appellant's maps from Appellant's Exhibits A, B and C, were also taken from the old soil survey, which Madison County used prior to 2006.

Miller testified for 2006 Madison County adopted Bulletin 810 for the assessment of farmland. In support of the assessments Miller testified that the board of review submitted Soil Calculation Reports and soil maps for each parcel under appeal. Each Soil Calculation Report identifies the parcel, acres assessed, land use, soil code, soil name, net acres, productivity index (PI), adjusted PI, the 2006 equalized assessed value (EAV) per acre and the assessment. Miller testified that prior to 2006, Madison County had utilized the weighted tract methodology in assessing farmland; however, in 2006 Madison County began using the individual soil type method to assess farmland pursuant to Bulletin 810. Miller also testified that Madison County rounds assessments down when the final calculation is made. Miller identified Board of Review Exhibits A, B, C, D and E as the Soil Calculation Reports establishing the farmland assessments for each of the parcels under appeal. Miller also identified the colored soil maps as depicting the parcels.

Ms. Schmidt was called as a witness and testified that the PI, the adjusted PI and the EAV per acre are provided by the State of Illinois. She agreed that Madison County basically does the math once it is provided with these variables. She agreed that Madison County utilizes the steps of the farmland assessment guidelines provided by the Illinois Department of Revenue in calculating the assessments. She testified that the prior farmland assessments were calculated using Circular 1156, which was over 22 years old when Madison County implemented Bulletin 810, which changed the average productivity of the soils. She also indicated that bulletin 810 took into account changes in farming practices and technology in arriving at the new PI's. Ms. Schmidt also testified that Madison County utilized *Publication 122, Instructions for Farmland Assessments*, published by the Illinois Department of Revenue in assessing farmland.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports the assessments of the subject parcels.

The appellant contested the farmland assessments based on the productivity indexes assigned to the soils. Section 10-110 of the Property Tax Code (PTC) provides in part that, "[t]he equalized assessed value of a farm . . . shall be determined as described in Sections 10-115 through 10-140. . . ." 35 ILCS 200/10-110.

Section 10-115 of the PTC provides in part that:

> The Department [of Revenue] shall issue guidelines and recommendations for the valuation of farmland to achieve equitable assessment within and between counties. . . . 35 ILCS 200/10-115.

Furthermore, section 10-115 of the PTC sets forth the various components that the Department of Revenue is to certify to each chief county assessment officer on a per acre basis by soil productivity index for harvested cropland such as: gross income, production costs, net return to the land, a proposed agricultural economic value, the equalized assessed value per acre of farmland for each soil productivity index, a proposed average equalized assessed value per acre of cropland for each individual county, and a proposed average equalized assessed value per acre for all farmland in each county.

Section 10-125 of the PTC (35 ILCS 200/10-125) provides for the assessment level of farmland by type and states in part that:

> (a) Cropland shall be assessed in accordance with the equalized assessed value of its soil productivity index as certified by the Department [of Revenue] and shall be debased to take into account factors including, but not limited to, slope, drainage, ponding, flooding and field size and shape. (35 ILCS 200/10-125(a)).

The testimony and evidence provided by the Madison County Board of Review disclosed that in 2006 it was following the farmland assessment guidelines provided by the Illinois Department of Revenue in assessing farmland through the implementation of Bulletin 810. The evidence disclosed that the board of review was using the soil types set forth on soil survey maps and the PI associated with the soil type identified on the maps and the EAV per acre as certified by the Department of Revenue for each soil type in assessing the farmland. Based on this record the Board finds that the board of review correctly assessed the farmland on the subject parcels.

The Board finds the appellant did not submit any evidence that challenged the soil types, farmland classification or use, number of acres, PI, and EAV per acre used by the Madison County assessment officials in calculating the farmland assessments for each parcel under appeal.

Based on this record the Property Tax Appeal Board finds assessments of the subject parcels as established by the board of review are correct and no reductions are warranted.

APPELLANT:	**Alan Zabransky**
DOCKET NUMBER:	**06-02828.001-F-1**
DATE DECIDED:	**June, 2009**
COUNTY:	**Jo Daviess**
RESULT:	**Increase**

The subject property consists of 73.5-acres of unimproved land located in Hanover Township, Jo Daviess County.

The appellant appeared before the Property Tax Appeal Board making a legal argument that the entire subject parcel should be classified and assessed as farmland. For 2006, 7.41-acres were afforded a farmland assessment as pasture and the remaining 66.09-acres were assessed as timber land at a market value.[1] In support of this legal contention that 66.09-acres were improperly classified, the appellant relied solely upon House Joint Resolution 0095 (HJR0095) dated February 7, 2006 which provided in pertinent part:

> RESOLVED, . . . that the Wooded Land Assessment Task Force is created concerning the assessment of wooded land and property under forestry management programs; and be it further
>
> . . .
>
> RESOLVED, That the task force must submit a report to the Governor and the General Assembly by December 31, 2006 concerning its findings and recommendations; and be it further
>
> RESOLVED, That if, **during the 2005 taxable year, any parcel of wooded land was valued based upon its productivity index equalized assessed value as cropland**, then we urge the Department of Revenue to accept any similar valuation of that wooded land for the 2006 and 2007 taxable years; and be it further
>
> RESOLVED, That, for the purpose of this Resolution, **"wooded land" means any parcel of unimproved real property that: (i) does not qualify as cropland, permanent pasture, other farmland, or wasteland under Section 10-125 of the Property Tax Code; and (ii) is not managed under a forestry management plan and considered to be other farmland under Section 10-150 of the Property Tax Code**; . . . . [Emphasis added to reflect portions quoted in the appellant's brief].

At the hearing, appellant testified that he was notified of a change in assessment classification for the disputed acreage for 2006 whereby 66.09-acres were no longer deemed to be farmland, and

[1] In testimony, appellant specifically stated that he did not dispute the market value determination itself, only the classification and failure to apply House Joint Resolution 0095.

instead were classified as residential property. Appellant argued that the legislative intent was not followed in reclassifying and reassessing the subject property in 2006. Appellant contends the subject property had been valued based upon its productivity index equalized assessed value as cropland in 2005. In accordance with the terms of the resolution, appellant further argued based on an aerial photograph, the disputed property does not qualify as cropland, permanent pasture, other farmland or wasteland under Section 10-125 of the Code and, lastly, appellant asserted the property was not currently managed under a forestry management plan, thus the property should not have been reclassified in order to comply with the legislative resolution.

As additional support for the legal claim, appellant submitted a copy of a letter from the Director of the Illinois Department of Revenue (IDOR) generically addressed to Supervisor of Assessments dated May 24, 2006 and enclosing a copy of the above-referenced resolution. The Director of IDOR further wrote that as a consequence of the legislative intention, the Department would "redirect its efforts from checking compliance plans for classification of freestanding woodlands to working with the Wooded Land Assessment Task Force to create a permanent solution to the question of fair and equitable assessments of woodlands."

While appellant acknowledged that the House Joint Resolution was not a statute requiring compliance, he argued that the resolution did reflect the intent of the legislature to allow for the proper resolution of the woodland problem. Appellant further specifically testified that the disputed land is "not farmland" and it is indeed "woodland that is being used as non-farm property." Appellant further acknowledged that in 2005 and 2006, there was no forestry management plan in place for the subject parcel, although a plan has since been implemented.

In response to the board of review's documentary evidence, appellant addressed a remark by the board of review that reclassification was an ongoing process which actually began in the year 2000. Appellant claimed that in 2000 his "taxes" were cut in half, so from this he concluded the subject property was reclassified for 2000.

In conclusion, the appellant requested a change in classification to farmland for the entire parcel and thus a reduction in the assessment of the entire parcel to $352.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's assessment for farmland of $115 and for non-farmland of $55,075 was disclosed.

In support of an increase in assessment for the subject parcel, the board of review presented evidence that an error had been discovered on the GIS map depicting the boundaries of the subject property. The corrected boundaries reflect that the entire parcel is timberland such that the assessment should be changed to reflect all 73.5-acres as timberland with no pasture (Exhibit A).

As to the classification of the property, the board of review was of the opinion that the subject's use did not fall within the definition of a "farm" as found within the Property Tax Code (35 ILCS 200/1-60) which states in pertinent part:

> **When used** in connection with valuing land and buildings **for an agricultural use**, **any property used solely** for the growing and harvesting of crops; for the

> feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, **forestry**, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. [Emphasis added.]

Here, the board of review contended that the property did not meet this definition and thus it is not entitled to a preferential farmland assessment. The board of review further noted that appellant acknowledged the property was not "farmed" and there was no forestry management plan in place for the year in question.

As Exhibit C, the board of review presented directions it had received which were issued by IDOR to Chief County Assessment Officers dated May 30, 2003. The directions were geared toward achieving implementation of Bulletin 810 for 2006 and uniformly updating farmland classifications with accurate land use data, productivity index data, slope and erosion adjustments, flood debasement data, and current soil map data. The board of review representative further testified that the guidelines for Bulletin 810 were already being issued in 2000; she further testified that implementation of the guidelines were repeatedly delayed because various counties did not have access to GIS mapping, soil surveys, and other computerized equipment necessary to bring the farm/non-farm properties up-to-date. Based upon the guidelines from IDOR, if a property did not qualify as farmland, the property was to be reassessed at appropriate market value rates.

In response to the appellant's contentions regarding House Joint Resolution 0095, the board of review pointed out language within the resolution: ". . . we urge the Department of Revenue to accept any similar valuation of that wooded land for the 2006 and 2007 taxable years . . ." The board representative further testified that by the time the resolution was issued and received, Jo Daviess County had already finished up-dating the records of about half of the farm/non-farm properties in the county to verify farm and non-farm use. In light of this fact, a decision was made within the county to finish up-dating the records of Jo Daviess County to ensure that all properties were equitable and updated in anticipation of implementing Bulletin 810 in 2006. The board further asserted that with the implementation of Bulletin 810 in 2006 and new aerial photos flown in the spring of 2006, any remaining non-farm property was revalued to market value.

In Exhibit E, the board of review presented five sales of primarily vacant rural property in Hanover Township to establish the correctness of the non-farmland assessment of the subject property based on market data. The comparables ranged in size from 27.58 to 99.28-acres. One of the properties sold twice in the same year. The sales occurred from January 2003 to October 2005 for prices ranging from $84,000 to $341,550 or from $2,424 to $3,661 per acre of land.

In Exhibit F, the board of review presented eight comparable properties in Hanover Township with aerial photographs and property record cards which, like the subject, were assessed with timber acreage at $2,500 per acre/market value.

In response to the appellant's contention regarding "taxes" for 2000 having been reduced from the previous year for the subject property, the board of review representative noted that farmland values had been decreasing for about ten years, so the tax bill may have been reduced but there had been no change in the classification of the parcel between 1999 and 2000. The representative further testified that Jo Daviess County had been verifying land use and revaluing non-farm property since 2000 based upon the statutory definition of a farm and in anticipation of the implementation of Bulletin 810.

In conclusion, the board of review requested an increase in the assessment of the subject property of 73.5-acres to reflect a land assessment of $61,250 with no farmland portion.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds a change in the classification of the property to farmland for 2006 is not warranted and instead, a change to all non-farmland is warranted based on the evidence. Moreover, the Property Tax Appeal Board further finds that based on the removal of a farmland classification for 7.41-acres, an increase the subject property's assessment is warranted.

As to the classification issue, the Property Tax Appeal Board finds that the subject property is not entitled to a farmland classification and assessment. Namely, the evidence reflects 7.41-acres were improperly afforded a pasture designation, however, the corrected mapping of the parcel reveals all 73.50-acres to be non-farm timber land that should be assessed in accordance with its market value. Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

> When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming... .

Testimony revealed that the subject property has not been used as a farm. It is the use of real property that determines whether the property is to be assessed at an agricultural assessed valuation. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill. App. 3d 872, 448 N.E.2d 3 (3rd Dist. 1983). Moreover, to qualify for an agricultural assessment, the land must be farmed at least two years preceding the date of assessment. (35 ILCS 200/10-110). The testimony presented by the appellant indicated that the subject has not been used in accordance with the definitions of "farm" as set forth in Section 1-60 of the Property Tax Code (35 ILCS 200/1-60). For these reasons, the Board finds the subject property does not qualify for a farm classification and farmland assessment under the Property Tax Code.

The Board further finds that the appellant did not dispute that there was no agricultural use of the subject property, but claims the parcels should not have been reassessed due to a change in classification because of House Joint Resolution 0095 (HJR0095) reflecting legislative intent to

delay reclassification of timberland. The appellant's argument is equivalent to treating HJR0095 as if it were law or codified statutory language. Such an interpretation is technically prohibited by the Illinois Constitution.

> Article 3 of the constitution divides the powers of government into three distinctive departments,-legislative, executive and judicial. It ordains that no person, being one of these departments, shall exercise any power properly belonging to either of the others except as expressly directed or permitted in the constitution. The veto power conferred upon the Governor under section 16 of article 5 of the constitution is one of the express exceptions provided for in article 3. In the exercise of his constitutional power to approve or disapprove legislative enactments he is limited to the express authority granted.

People ex rel. Petersen v. Hughes**,** 372 Ill. 602, 606-07 (1940); see also Fergus v. Russel, 270 Ill. 304 (1915). As stated in the case of Greenfield v. Russel, 292 Ill. 392 (1920), "It must also be conceded that a state legislature has power to obtain information upon any subject upon which it has power to legislate, with a view to its enlightenment and guidance. This is essential to the performance of its legislative functions, and it has long been exercised without question." Thus, the resolution at issue mandated a report back to the legislature so that appropriate solutions could be considered, but it by no means overrode Section 1-60 of the Property Tax Code regarding the determination of the use of a parcel of land for farm or non-farm activities.

Here, there was no legislative enactment sent to the Governor for signature or veto. As such, the appellant is requesting the Property Tax Appeal Board sanction the legislature through HJR0095 to unilaterally create law that must be obeyed. In light of the constitutional division of duties, the Property Tax Appeal Board finds the statutes control, namely, the Property Tax Code (35 ILCS 200/1-1, et seq.) and not HJR0095.

Moreover, given the facts of this appeal, the Property Tax Appeal Board agrees with the board of review's interpretation of Section 1-60 of the Property Tax Code (35 ILCS 200/1-60). Where there is clear, unambiguous statutory language, the Property Tax Appeal Boards finds the requirements of the Property Tax Code have statutory authority and precedence over House Joint Resolution 0095 (HJR0095) dated February 7, 2006.

In conclusion, the Property Tax Appeal Board finds the entire parcel is subject to a non-farmland assessment and therefore, an increase in the subject's assessment is warranted to reflect 73.5-acres at a non-farm land assessment.

APPELLANT:	**Colleen Zulueta**
DOCKET NUMBER:	**06-02687.001-F-1**
DATE DECIDED:	**September, 2009**
COUNTY:	**Cumberland**
RESULT:	**Reduction**

The subject property consists of an 11.55-acre parcel that is improved with a ten year-old, one and one-half-story frame dwelling that contains 1,680 square feet of living area. Features of the home include central air conditioning, a full unfinished basement and a two-car garage.

The appellant appeared before the Property Tax Appeal Board with her attorney claiming portions of the subject parcel had been improperly classified as the basis of the appeal. The appellant did not contest the subject's improvement assessment. The appellant submitted a letter that explains her intention to "keep the 4-5 acres of cleared crop lands in hay having it harvested 1-2 times per year and the rest in trees since it maintains the slopes along the creek."

The appellant claimed approximately 3+ acres is cropped in hay and had been for many years prior to the subject's January 1, 2006 assessment date. The appellant's evidence indicated a neighbor named Steve Brandenburg baled hay on approximately 3.13 acres of the subject for many years until December 2005, when he no longer needed hay since he stopped raising livestock. The evidence then stated another farmer named Charlie Sappington agreed to harvest hay on the subject starting in 2006. The appellant submitted affidavits from Brandenburg and Sappington that indicate hay was raised on the subject continuously from 1996 through 2007. Rather than accept money for the hay crop, the appellant indicated she and the farmers had a barter arrangement, where they would perform services such as moving a shed and providing a home raised lamb (Sappington), or backhoe work, gravel hauling, grass mowing, snow plowing and other services in exchange for the hay (Brandenburg).

Regarding the timber tract on the subject parcel which includes approximately 7.41 acres, the appellant submitted *Publication 122, Instructions for Farmland Assessments*, published in September 2006 by the Illinois Department of Revenue. This document identifies the four types of farmland as cropland, permanent pasture, other farmland and wasteland. Other farmland is further defined as "woodland pasture; woodland, including woodlots, timber tracts, cutover, and deforested land; and farm building lots other than homesites." The appellant contends no forestry management plan is necessary for the 7.41 acres of timber on the subject parcel because the timber tract is contiguous to the 3+ acres of cropland used to grow and harvest hay. The appellant argued the timber tract should be classified and assessed as other farmland, as it had been in past years. The appellant claimed she did not "understand why I was classified as a farm for many years, and now I am residential." Based on this evidence, the appellant requested a reduction in the subject's assessment.

During the hearing, the board of review agreed that 3.14 acres of the subject parcel is cropland and subsequently submitted a revised 2006 assessment of the subject that incorporates this cropland, after having been ordered to do so by the Hearing Officer.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of $39,898 was disclosed. In support of the subject's assessment, the board of review submitted photographs of the subject and copies of a several publications from the Illinois Department of Revenue (IDOR). First was a page from the Illinois Real Property Appraisal Manual regarding the primary use of a parcel that includes farmland. The board of review also submitted the IDOR's *Publication 135, Preferential Assessments for Wooded Acreage*. The latter document discusses forestry management plans, conservation stewardship and transition percentage assessments.

During the hearing, the board of review's representative testified Bulletin 810 requires reassessment and classification of any land not used for farming purposes as residential land. Based on this evidence and notwithstanding the board of review's acknowledgement that 3.14 acres of the subject parcel is cropland, the board requested the remainder of the subject parcel be classified and assessed as residential land.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board finds the appellant submitted photographs and affidavits regarding approximately 3.14 acres of the subject that depict hay being cropped. The affidavits from two farmers describe the barter arrangement between them and the appellant that existed from 1996 through 2007. The farmers performed numerous services in exchange for the hay which was used to feed livestock. At the hearing, the board of review agreed that 3.14 acres of the subject should be classified and assessed as farmland. Subsequent to the hearing, the board of review submitted a revised assessment for the subject that indicated a farmland assessment of $38 for the 3.14 acres of hay.

The Board finds *Publication 122, Instructions for Farmland Assessments*, published in September 2006 by the Illinois Department of Revenue, identifies the four types of farmland as cropland, permanent pasture, other farmland and wasteland. Other farmland is further defined as "woodland pasture; woodland, including woodlots, timber tracts, cutover, and deforested land; and farm building lots other than homesites." The Board further finds Section 10-125 of the Property Tax Code (35 ILCS 200/10-125) states in part:

> (c) Other farmland shall be assessed at 1/6 of its debased productivity index equalized assessed value as cropland.

The Board finds the 7.41 acres of timber on the subject parcel are contiguous to the 3.14 acres of cropland. Based on this analysis, the Property Tax Appeal Board finds 3.14 acres of the subject parcel is farmland, one acre is a residential homesite and the 7.41-acre timber area should be classified and assessed as other farmland.

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[Items Contained in Italics Indicate
Arguments or Evidence in Opposition to the Appellant's claim]

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2009 COMMERCIAL DECISIONS

PROPERTY TAX APPEAL BOARD
Section 16-190(a) of the Property Tax Code
(35 ILCS 200/16-190(a), Illinois Compiled Statutes)
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2009 COMMERCIAL CHAPTER

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APPELLANT:	**Exxon Mobil Corporation**
DOCKET NUMBER:	**06-00276.001-C-3**
DATE DECIDED:	**December, 2009**
COUNTY:	**Will**
RESULT:	**Reduction**

The subject property consists of a 21.5-acre industrial site improved with an oil storage facility. Improvements include two bulk oil storage tanks with a total capacity of 867,500 barrels and four small pre-engineered metal buildings totaling approximately 900 square feet of building area. The property is located in Mokena, Frankfort Township, Will County.

The appellant appeared before the Property Tax Appeal Board with its attorney claiming overvaluation as the basis of the appeal. The appellant's counsel first called Craig Mann, property tax agent for the appellant, who is based in Houston, Texas. Mann described the subject as a holding facility for oil shipped via pipeline from Canada that is then shipped to Exxon Mobil's Joliet Refinery for further processing. The subject has only the pipeline as a supply source and has no loading racks to load tanker trucks for delivery to service stations, since the subject stores only bulk crude oil and not refined products like gasoline. Mann testified the company also owns the Lockport Terminal and a Des Plaines facility that have loading racks costing $2.6 million and $1.6 million, respectively. He described the small buildings as "very Spartan" and used for storage and to monitor and test the crude oil. If such tanks were to be dismantled, Mann asserted a process must be used to clean sludge out of a tank, completely clean it and then cut it up with torches. Tanks are periodically cleaned of sludge "every so many years" even if still used and they are inspected for leaks about every ten years.

In support of the overvaluation argument, the appellant submitted an appraisal of the subject property with an estimated market value of $4,775,000 as of the report's effective date of January 1, 2006. Appraiser Joseph Ryan of LaSalle Appraisal Group, was present at the hearing to provide testimony and be cross examined. Ryan holds the MAI, or Member of the Appraisal Institute, designation, and is a licensed real estate appraiser in Illinois, Michigan and Indiana. The witness testified he has appraised 15-20 oil storage facilities for the appellant, Marathon Oil, British Petroleum, Shell and Buckeye Terminals and has testified before the Property Tax Appeal Board in 75-100 hearings. Ryan was accepted as an expert in the valuation field.

The appraiser considered the cost and sales comparison approaches in determining the subject's market value. In the cost approach, Ryan determined the subject's highest and best use as improved is for continued use as a bulk oil storage facility. In estimating the subject's land value, the appraiser examined six land sales that occurred from August 2003 to March 2005 in Joliet, Mokena and University Park, Illinois. The comparables range in size from 10.486 to 138.00 acres and sold for prices ranging from $397,784 to $1,400,000, or from $10,143 to $59,166 per acre and $0.23 to $1.36 per square foot of land area. The appraiser adjusted the land sales for location, market conditions between the sale date and appraisal date and site size. After considering the adjustments, Ryan chose $1.00 per square foot as the basis for the subject, resulting in a land value estimate of $936,104, or $950,000 rounded.

In estimating a value for the subject's improvements, the appraiser consulted the Marshall Swift Valuation Manual. Regarding the small buildings, the appraiser considered them to be Class X excellent condition. He used a base cost of $50.00 per square foot and incorporated area, height, story and local multipliers, resulting in $71.00 per square foot. After applying this rate to the 926 square feet of the four small buildings and allowing 14% depreciation, the appraiser determined a replacement cost new of $68,839. He valued the two oil storage tanks, built in 1972 and 1979, at $4,701,282 and $1,643,668. After deducting depreciation of $2,820,769 and $986,201, respectively, the storage tanks had a total depreciated cost of $2,537,980. Site improvements, including containment dikes around the storage tanks, had a depreciated value of $900,000. Based on this analysis, the appraiser estimated the subject's value by the cost approach at $4,446,975 or $4,500,000, rounded.

In the sales comparison approach, the appraiser examined 19 comparable sales located in Illinois, Indiana, Ohio, Missouri, Wisconsin, Michigan, Iowa and Oregon. Six comparables are located in Illinois, with another in East Chicago, Indiana. Ryan considered location, barrel capacity, age, supply source, loading racks, land size and additional improvements. The comparables ranged in barrel capacity from 130,000 to 1,092,675. All but two had various combinations of bays and arms in their loading racks. The subject has no loading rack. Twelve comparables were supplied solely by pipeline, four were supplied by pipeline or barge, two were supplied solely by barge and one was supplied by rail and barge. The comparables were situated on sites ranging in size from 8.77 to 160 acres. The comparables sold from December 1996 to December 2005 for prices ranging from $500,000 to $6,700,000 or from $2.75 to $13.22 per barrel. The comparables included buildings that ranged from 1,200 to 120,000 square feet of building area. All sales were between oil companies, as they are the logical users of such facilities. The appraiser made no adjustments for time of sale because market conditions were stable during the sale period and "supply and demand factors that generally apply to real estate markets do not have the same bearing on these properties." He did, however, adjust the comparable sales for location, size, age/condition, supply source and land. After making these adjustments, Ryan used a unit value of $5.50 per barrel, which resulted in a value for the subject by the sales comparison approach of $4,771,250, or $4,775,000, rounded.

Continuing his testimony, Ryan described each of the 19 comparable sales, noting the characteristics of each. He testified he would not take an average of all the sales he considered because that would not take into account size, location, age, supply source, loading racks, or land size. In his reconciliation, Ryan relied most heavily on the sales comparison approach. He testified he did not perform an income approach because facilities like the subject are usually owner occupied and are not leased. Ryan also acknowledged that his comparable sales 4 through 12 were one transaction where a company called Premcore was getting out of the bulk oil storage business and sold the facilities to Equiva. Ryan had appraised a Premcore storage facility in Blue Island, Illinois. He asserted that when a bulk oil storage facility sells, it often includes pipelines and existing storage contracts.

During cross examination, Ryan was questioned extensively regarding the 19 comparable sales in his appraisal. Several had been appraised by Ryan for other clients. The witness agreed he could not know with certainty the condition of the pipelines or storage tanks because he is not an engineer, but relied on data he had gathered from oil industry personnel he had consulted during this and other appraisal assignments. However, he spoke with a party to each of the sales

transactions and requested an opinion of condition on them at the time of sale. However, he asserted that the comparables were still in use at time of sale and "were to API (American Petroleum Institute) standards which is (sic) the standard for the industry." The API periodically tests the integrity of oil storage tanks. Ryan was questioned regarding why he did not subtract depreciation estimates from the comparable sales in determining a value estimate for the subject. He responded that the actual life of a storage tank's superstructure is not as important as the condition of the tank's lining. Because of this, he chose not to extract depreciation from the comparables due to the speculative nature regarding tank condition. The witness asserted that since all storage tanks must meet API standards, buyers of oil storage properties would be well aware of tank condition before they purchase them. He acknowledged that smaller facilities have a higher per barrel sale price than larger properties.

The board of review then questioned Ryan regarding a third tank on the subject property. The witness responded that this tank was a 5,000 gallon "slop" tank and was decommissioned. For this reason, Ryan felt the slop tank had no "contributory value to the whole." Regarding his estimate of the subject's land value, the witness agreed he employed the four tests of highest and best use analysis: whether a use is physically possible, legally permissible, economically viable and maximally productive. Because storage tanks were on the subject property, industrial use was physically possible. Zoning narrowed potential uses of the subject site to I-3, Intensive industrial. He opined that, since the subject had been used for oil storage since 1972, it would be so for the foreseeable future and so did not give significant weight to alternative uses.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of $2,430,221 was disclosed. The subject has an estimated market value of $7,295,770, as reflected by its assessment and Will County's 2006 three-year median level of assessments of 33.31%.

In support of the subject's assessment, the board of review submitted a letter prepared by the township assessor, property record cards and a grid analysis of five vacant land sales located three blocks to four miles from the subject. The board of review submitted no appraisal or sales of oil storage properties like the subject. The assessor claimed the subject's improvement assessment had not been increased since a 2003 decision by the board of review to lower it to $1,182,207. The assessor's letter also claimed the subject's land assessment falls below the range of the board of review's vacant land sales.

The board of review called Kevin Burns, deputy assessor of Frankfort Township to testify. At this point, the appellant objected to Burns' testimony because Burns was not the preparer of the board's evidence and was not employed by the assessor's office at the time the evidence was prepared. As his basis for the objection, the appellant cited Section 1910.67(l) of the Official Rules of the Property Tax Appeal Board, which states:

> Appraisal testimony offered to prove the valuation asserted may only be given by a preparer of the documented appraisal whose signature appears thereon. 86 Ill.Adm.Code 1910.67(l)

The Hearing Officer reserved ruling on the appellant's objection and allowed Burns' testimony to be taken. The Board finds the record depicts the board of review's evidence was prepared in the

ordinary course of business. Therefore, the Property Tax Appeal Board overrules the appellant's objection.

The board of review's vacant land comparables range in size from 390,298 to 968,252 square feet of land area and sold between August 2004 and May 2006 for prices ranging from $2,000,000 and $7,454,000 or from $4.95 to $9.43 per square foot of land area. Burns opined "that our land sales are more relevant in terms of location and more recent sales relative to what the appraisal that was submitted by the appellant."

In cross examination, the appellant asked Burns if he had verified any of the land sales, to which the witness replied he had not. Burns acknowledged the board of review's land sale #1 was to a church. He was not sure if comparable #2 is zoned commercial, but acknowledged the legal description indicates the property was subdivided. The witness said he was not sure if comparable #3 was zoned commercial. Burns agreed the board of review's comparable #4 is improved with a retail establishment. Burns also agreed the board of review's comparable #5 involved a sale to St. Xavier University. Finally, the witness acknowledged he was not aware that the British Petroleum oil storage facility adjacent to the subject had a 2006 land assessment of $3.00 per square foot.

In rebuttal, the appellant asserted the board of review submitted only unverified land sales, none of which appears to be zoned or used for industrial purposes like the subject.

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 property'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). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellant submitted an appraisal of the subject property with an estimated market value of $4,775,000. Appraiser Joseph Ryan, who prepared the report, was present at the hearing to provide testimony regarding his methodology and to be cross examined. The board of review submitted no appraisal or other market data on comparable properties improved with bulk oil storage facilities like the subject, but instead submitted five vacant land sales, none of which has industrial zoning or use. The board of review contends the subject's improvement assessment had not been increased since a 2003 decision by the board of review to lower it to $1,182,207. The assessor's letter also claimed the subject's land assessment falls below the range of the board of review's vacant land sales.

The Property Tax Appeal Board finds the best evidence of the subject's market value is found in the appellant's appraisal, prepared by Joseph Ryan, who testified he holds the designation of Member of the Appraisal Institute, is a licensed real estate appraiser, has appraised 15-20 oil storage facilities like the subject and additionally, had appraised several of the comparables he used in his sales comparison approach. The appraisal included a cost approach and a sales comparison approach wherein the appraiser considered 19 sales of bulk oil storage facilities

located in various states. Six comparables were located in Illinois and one near the subject in northwest Indiana. The appraiser was extensively cross-examined regarding various aspects of the comparables along with his personal knowledge of the oil storage industry in general. The Board finds his responses adequately supported his report. The Board finds Mann's testimony revealed the subject is basically a temporary holding facility, receiving crude oil through a pipeline from Canada. Oil is then shipped by pipeline to the appellant's Joliet refinery. The subject does not store refined products like gasoline or motor oils and for this reason does not have a loading rack like most oil storage operations. Ryan testified the only buyers of properties like the subject would be other oil companies.

The Board finds the vacant land sales submitted in support of the subject's assessment as improved by the board of review do not overcome Ryan's appraisal or his supporting testimony. The board of review's comparables were similar in land area to the subject and were located in Frankfort Township. However, the record disclosed none of the comparables were zoned for intensive industrial use like the subject. One of the comparables was improved with a retail business. The board of review's witness acknowledged a similar oil storage property adjacent to the subject had a land assessment below the range of the board of review's comparables, but had not been considered by the assessor in his letter in support of the subject's assessment. In Showplace Theatre Company v. Property Tax Appeal Board, 145 Ill.App.3d 774 (2nd Dist. 1986), the Appellate Court affirmed the PTAB's decision in this market value appeal, finding that assessments are based on real property consisting of both land and improvements even though Showplace only appealed the land assessment. In the instant appeal, the subject parcel consists of a 21.5-acre industrial parcel improved with a bulk oil storage facility built in 1972. Therefore, the Board finds it inappropriate to consider only the subject's land value in an overvaluation appeal of an improved parcel, as argued by the board of review. The Board finds the subject's estimated market value of $7,295,770 as reflected by its assessment is excessive and a reduction is warranted.

Based on this analysis, the Property Tax Appeal Board finds the subject had a market value of $4,775,000, as found in the appellant's appraisal. Since market value has been established, the 2006 Will County three-year median level of assessments of 33.31% shall apply.

APPELLANT:	**Holiday Inn – Crystal Lake**
DOCKET NUMBER:	**04-01353.001-C-2 thru 04-01353.002-C-2**
DATE DECIDED:	**March, 2009**
COUNTY:	**McHenry**
RESULT:	**Reduction**

The subject property consists of two parcels totaling 817,491 square feet, or 18.767 acres. The site is improved with a part one-story and part six-story, masonry constructed, full service hotel, featuring meeting and banquet rooms and a bar and restaurant facilities, with a gross building area of 155,863 square feet and 197 guest rooms. The facility was constructed in 1989, with renovation occurring in 2001. Amenities include an indoor swimming pool, a spa, game room and an asphalt parking lot for approximately 500 cars. The subject is located in Crystal Lake, Algonquin Township, McHenry County.

Through its attorney, the appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a summary appraisal with an effective date of January 1, 2004. The appraiser utilized all three traditional approaches in estimating a value for the subject of $12,650,000. The appellant's appraiser, Martin Siegel, was present at the hearing and was called to testify regarding the methods and techniques he employed in preparing the report.

Siegel testified he holds the MAI, or Member of the Appraisal Institute designation, that he has 14 years experience in commercial appraisal work and that he has performed appraisals of 10 to 12 hotel properties. Initially, Siegel stated he had misunderstood information received from the property owner regarding the number of parcels and total land area of the subject. Siegel testified he originally thought a third parcel containing approximately 3.57 acres, or 146,797 square feet, was excess land. Siegel clarified this issue during the hearing, testifying that the subject contains a total land area of 817,491 square feet, or 18.767 acres. At this point, the intervenor's counsel challenged the reliability of Siegel's appraisal and made a motion that Siegel's testimony regarding any change in the subject's land area be stricken from the record. The Hearing Officer reserved ruling on the point and allowed the testimony. The appellant's attorney responded that Siegel had stated in his report on page 12 that "The site area and building square footage were taken from information supplied by the client. We assume this information to be correct. Should it be found that the provided information is incorrect, we reserve the right to amend this report accordingly". For this reason, the Property Tax Appeal Board finds that Siegel's correction at the hearing of his original estimate of the number of parcels under appeal and the corresponding land area measurement will be considered. The Board's decision shall be based on the weight of the evidence. The Board finds the subject property is comprised of two parcels, 19-10-200-044 and 19-10-200-033, totaling 18.767 acres, or 817,491 square feet.

Siegel then testified he was aware the subject sold in December 2003, just prior to the assessment date of January 1, 2004. The sale was between related parties as a result of a merger of two subsidiaries and, after reviewing the Real Estate Transfer Declaration and contacting a representative of the property owner, Siegel determined this sale was not an arm's length transaction. For these reasons, he placed no weight on this sale in his report.

Siegel then testified the subject is the only full service hotel in the subject's market area. He consulted the STAR Report, published by Smith Travel Research, a leading publication in the hotel industry to obtain operating statistics of competitive properties in the subject's market. This report provides data on occupancy, Average Daily Rates (ADR), and revenue per available room (RevPAR).

Under the cost approach, Siegel examined sales of four properties to determine the subject's land value. The comparables were located in Crystal Lake and Algonquin, range in size from 40,050 to 517,650 square feet and sold between August 2002 and August 2004 for prices ranging from $200,000 to $3,785,000 or from $4.51 to $6.62 per square foot of land area. Based on these sales, Siegel reconciled to a value of the subject's large parcel of $5.00 per square foot and the second parcel of $5.50 per square foot, resulting in a total value for the subject's land of $4,160,000.

Regarding the subject's improvements, Siegel relied on the Marshall Valuation Service. He broke down the subject into three sections; the hotel, the pool enclosure and the partially finished basement. After estimating the cost new of these areas and adding $250,000 for paving, signage, lighting, etc., and entrepreneurial profit of 12%, or $1,595,116, Siegel determined the subject's reproduction cost was $14,887,749. Regarding depreciation, he estimated the subject had an effective age of 12 years and a useful life of 50 years, resulting in physical depreciation of 25%, using the age-life method. Siegel testified the subject had no functional obsolescence, but determined the property suffered 10% external or economic obsolescence. He based this on an oversupply of hotel rooms in the subject's market area due to the construction of two new hotels, the close proximity of five competing hotels, as well as recessionary impact of the economy, which had curtailed business travel and leisure spending. Based on this analysis, Siegel subtracted 35% total depreciation, or $5,210,712, resulting in a depreciated cost of the subject's improvements of $9,677,037. He then added back $2,382,040 for furniture, fixtures and equipment (FF&E) and the land value of $4,160,000 to derive a total going concern value of $16,220,000. Siegel testified it is appropriate to deduct personal property and intangible business value from this total, resulting in a fee simple interest of the subject real estate by the cost approach of $12,585,000.

Siegel then discussed the income approach to value. He examined actual operating statistics of the subject for 2001, 2002 and 2003, demonstrating the ADR had dropped from $97.88 in 2001 to $85.82 in 2003 and occupancy had declined from 66.6% in 2001 to 61.9% in 2003, resulting in a decline in RevPAR from $65.19 in 2001 to $52.12 in 2003. In his market analysis, starting on page 24 of the appraisal, Siegel described how he consulted the *Korpacz Real Estate Investor Survey* (Korpacz) for the third quarter of 2004 and the STAR Report, published by Smith Travel Research. He also included a chart on page 27 from *The Pulse Report, Hotel and Motel Association of IL,* detailing occupancy rates and ADR's for the Chicago Metropolitan hotel market, including The Chicago North submarket, into which the subject falls. Siegel noted "Hardest hit were the Chicago Northwest submarket, and the Mid-Priced categories."

Siegel's report then examined the competitors to the subject hotel, which were mostly limited service hotels located in "close proximity to the Crystal Lake area" with room prices "reasonably close" to the subject. These competitors have a total of 542 rooms, and combined with reduced

demand for hotel rooms in the subject's market area due to a recession in the travel industry, have "had a negative effect on overall occupancy in the market." Based on his research and these factors, Siegel concluded the subject would have an ADR of $87.50 with occupancy of 64%, resulting in a RevPAR of $56.00. The latter figure, multiplied by the number of days in a year, resulted in room revenue of $4,016,680. Siegel demonstrated on page 53 of his report that food and beverage revenue for the subject had declined from $2,990,496 in 2001 to $2,592,834 for 2003. He stabilized this revenue at $2,700,000.

Siegel then discussed expenses. He consulted the *HOST Report*, also published by Smith Travel Research, as well as operating expenses for the subject. Siegel indicated the subject maintains four primary revenue departments: rooms, food and beverage, telephone and other. Historically, room expenses at the subject runs between 20% and 23% of room revenue. The 2003 HOST report shows the average for full service hotels was 27%. Siegel used the subject's actual figure of 23%. Food and beverage expenses at the subject have run between 56% and 66% of food and beverage revenue. The 2003 HOST report shows the average expense for this category at 76.1%. Siegel estimated this expense for the subject at 65% of food and beverage revenue. Regarding telephone expense, the subject had ranged between 38% and 72% for the past three years. Siegel noted the HOST report shows the average telephone expense for full service hotel properties is 74.1%. Since most guests now use cell phones, he stabilized this expense at 70% of associated revenue. Undistributed and Other expenses for the subject averaged 18% to 26% of total revenue for the past three years. The HOST report indicated 24.6% for this expense and Siegel stabilized the expense for the subject at 24% of total revenue.

Regarding management and franchise fees, Siegel indicated the subject has had management fees of 3% to 4% of gross revenues. He noted that nationally, this fee ranges from 1.0% to 4.0%. He estimated that a management fee of 2.0% of gross revenues was appropriate for the subject. Regarding franchise fees, Siegel found the subject pays 3% to 4%. Nationally, franchise fees run from 2.1% to 3.5% with an average of 2.8%. However, he stated this average is low because of "a large proportion of properties which pay no franchise fee." For this reason, Siegel found a franchise fee of 4% was appropriate for the subject.

Siegel next examined fixed expenses of Insurance and Replacement Reserves. He noted the HOST report shows the average insurance expense for full service hotels was 1.3% of total revenues. He stabilized this expense at 1%, $72,017. He noted that replacement reserves are a budget allocation, by which dollars are set aside each year to pay for future capital expenditures such as HVAC units, parking lot resurfacing, roof repair, etc. The Korpacz and HOST reports indicate these items average 4.0% and 1.9%, respectively. Siegel found 2% of total revenue was appropriate for this expense.

Next, Siegel considered a market-derived capitalization rate based on a review of published surveys and forecasts. He consulted the *Semi-Annual National Full Service Hotel Market Survey*, published by Korpacz. This source indicated that "going-in" overall capitalization rates for full service hotels ranged from 7.5% to 12.00%, averaging 9.88%. For this reason, the appraiser relied on the Band of Investment Technique.

The appraiser determined that, based on the subject's location, age, size, overall condition and design, a mortgage in the amount of 70% of total value, with an interest rate of 7.5%, a loan term

of 5 years and a 20-year amortization, was appropriate. This resulted in a mortgage constant of 9.67%. Remaining capital typically comes from an equity investor. Siegel consulted Korpacz, determining that an annual equity return of 12% was sufficient to induce investment. These components resulted in an overall rate of 10.50%, rounded. Next, the appraiser determined the property tax load factor, since property taxes were not included in stabilized expense estimates. The load factor, comprised of the assessment ratio of 33.33%, a 1.07 equalization factor and a tax rate of 7.5869%, came to 0.0271, or 2.71%. When added to the base capitalization rate, this resulted in a loaded capitalization rate of 13.21%. Capitalization of the stabilized net operating income of $2,044,892 at 13.21% produced a going concern value of $15,480,000. Siegel deducted $1,475,000 for personal property and $2,160,000 for intangible business value, then added excess land value of $810,000, resulting in an indicated value for the subject by the income approach of $12,655,000.

Siegel testified that, after realizing the third parcel he originally considered was not excess land, he determined it would be inappropriate to include an adjustment for the excess land and the equalization factor and that it would also be necessary to adjust the going concern value as well. Siegel testified the going concern value should be increased by $220,000 to $15,700,000. Subtraction of the personal property and intangible business value figures detailed above then resulted in a corrected value estimate by the income approach of $12,065,000.

Regarding the sales comparison approach, Siegel examined five sales of full service hotel properties within the Chicago market. Siegel reiterated the importance of using full service hotels as comparables because they offer food and beverage service, as well as banquet and meeting spaces like the subject. The comparables were located in Northbrook, Mundelein, Skokie and Arlington Heights, Illinois. Sales no. 2 and 3 were Holiday Inns like the subject. Siegel testified there were no sales of full service hotels in McHenry County. The comparables sold between November 1999 and May 2004 for prices ranging from $4,255,000 to $11,064,254 or from $17,367 to $47,222 per unit. The appraiser made adjustments to the comparables for sale date, location, condition and other factors. After adjustments, the comparables had per unit sales prices of $58,000 to $62,000. Based on this analysis, he selected $60,000 per unit for the subject, which, when multiplied by the subject's 197 rooms, resulted in a value for the subject by the sales comparison approach of $11,820,000.

In concluding his testimony, Siegel stated he placed most weight on the income approach because of the income producing nature of the subject property, with secondary emphasis on the sales comparison approach. The appraiser noted his revisions to the income approach and sales comparison approach due to the excess land issue and reiterated the final estimate of value by the income approach was $12,065,000.

Siegel was cross examined by Jan Hervert, member of the board of review. Hervert questioned the appraiser regarding the use and locations of the land comparables used in the cost approach. Siegel acknowledged one sale was of land used for farming, two sales were in industrial or business park locations and that one sale was less than an acre in size. Hervert recalled Siegel's original consideration of a third parcel as excess land as being sufficient to invalidate the appraisal and asked that the entire appraisal report be excluded from consideration by the Property Tax Appeal Board. The Hearing Officer denied the request.

Hervert questioned Siegel further regarding the cost approach. Siegel acknowledged he meant to state he used the term replacement cost, not reproduction cost, in his appraisal. Hervert then asked the witness why he included a subtraction for intangible business value in the cost approach. Siegel responded he thought there was clearly some intangible value in the development of a full service hotel when "external economic obsolescence is a viable deduction." Finally, Hervert asked the appraiser if overall capitalization rates in the range of 7% to 9% were more typical in the market, to which Siegel replied "For hotels, no."

Siegel was then cross examined by the intervenor. After clarifying some issues regarding the correct land size of the subject of 18.767 acres, the intervenor asked the appraiser if there was an error in the total square footage of approximately 17,000 square feet of the subject building if the partial basement is included, to which Siegel agreed. The intervenor then asked the witness if this error would result in a lower estimated replacement cost for the building, to which Siegel also agreed. The intervenor then questioned Siegel regarding his classification of the subject building as a class C, average quality structure. Siegel acknowledged he characterized the subject as having steel framing with concrete floors. The intervenor asked the appraiser if this is more typical of a class B structure, rather than class C, to which Siegel disagreed. The intervenor next questioned the witness regarding the Real Estate Transfer Declaration documenting the subject's December 2003 sale. Siegel agreed both parties to the transaction had the same phone number and address. He testified he had contacted one of the attorneys involved in the sale who indicated it was a transfer between related parties and was a merger as well. Notwithstanding these points, the intervenor asked Siegel if the answers to several other questions on the transfer declaration were marked "yes", including one question as to whether the parties agreed the net consideration for real property was "A fair reflection of the market value on the sale date of the property", to which the appraiser agreed. Siegel agreed the net consideration on the sale was greater than his appraised value of the subject, but disagreed that the sale price represented the subject's actual value.

The intervenor then questioned Siegel regarding his income approach. Questions included why Siegel used a franchise fee of 4%, when he testified the franchise fee for the years he examined ranged from 3% to 4%. Siegel stood by his use of the 4% figure. The intervenor also asked the appraiser if his original claim of approximately three acres of excess land would affect the sales comparison approach. Siegel replied that he based his estimate on a per room basis, rather than a per square foot basis, so the point is irrelevant.

On redirect examination, Siegel testified regarding the sale of the subject, noting that it was not exposed to the market and thus was not an open market transaction. Siegel acknowledged his characterization of the subject's 3 acre parcel was incorrect and that it should be removed from the sales comparison and income approaches. Finally, Siegel testified the best method to value the subject was the income approach because it is a full service hotel and reiterated his contention that the final value of $12,065,000 was appropriate.

At this point, the board of review renewed its motion to strike the appellant's appraisal, which was denied by the Hearing Officer.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of $4,500,000 was disclosed. The subject has an estimated market

value of $13,513,514, as reflected by its assessment and McHenry County's 2004 three-year median level of assessments of 33.30%.

The intervenor requested the subject's 2004 assessment be increased to reflect a market value of $15,500,000, based on an appraisal performed by Neil Renzi, who holds the MAI designation from the Appraisal Institute. Renzi was called as a witness and testified he has been appraising real estate since 1969 and that he has appraised approximately 50 hotel properties. Renzi was tendered and accepted as an expert.

Renzi first defined market value as "the most probable price a property should bring in a competitive open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming that the price is not affected by undue stimulus." He also defined real estate as "All interests, benefits and rights inherent in the ownership of physical real estate along with the rights with which the ownership of real estate is endowed." Referring to the subject's sale on December 4, 2003 for $19,400,000, Renzi noted an allocation on the Real Estate Transfer Declaration of $1,671,359 for personal property, resulting in a price for the real estate of $17,728,641. The witness opined that this net sale price represented market value because the parties to the transaction indicated on the transfer declaration that it reflected market value.

Renzi opined the highest and best use of the subject property would be commercial, consistent with its zoning and that the existing hotel "would be a good proposed use on that site." In his cost approach, Renzi examined four sales and one sale offering to estimate a value for the subject's land. Three of the sales and the offering were in Crystal Lake and one was in Lake in the Hills. The comparables range in size from 143,312 to 1,001,880 square feet. Comparables 1 through 4 sold between November 2002 and December 2004 for prices ranging from $1,505,480 to $6,010,000 or from $5.49 to $10.50 per square foot of land area. Comparable 5, the sale offering, had an asking price of $999,000 or $6.81 per square foot. Renzi adjusted the comparables for differences when compared to the subject and estimated the subject's land value at $5.50 to $6.00 per square foot, or $4,750,000 rounded.

Regarding the subject's improvements, Renzi testified he consulted the Marshall Valuation Service Cost Manual and considered the subject to be a class B structure of average to good quality. He based this on the subject's steel framing with concrete floors and fireproofing and determined a base replacement cost of $135.00 per square foot. He made various adjustments to reflect sprinklers, and applied certain multipliers that included multi-story, perimeter, current cost, local area and comparative cost multipliers. This resulted in an adjusted replacement cost new of $133.00 per square foot or $19,791,996. The witness estimated physical deterioration at 30% and external obsolescence at 15%, deriving total accrued depreciation of $8,906,398. To the depreciated value of the improvements, Renzi added entrepreneurial profit of 8%, or $870,848, based on his experience and judgment, and a depreciated value of the site improvements of $100,000, also based on his judgment. After adding back the land value, he estimated a total value for the subject by the cost approach of $16,600,000.

Under the sales comparison approach, Renzi acknowledged there were no other full service hotels in the subject's area and selected five comparables located in Schaumburg, Rosemont, Vernon Hills, Crystal Lake and Hoffman Estates, Illinois. He testified it was important to

examine properties that were similar in age when compared to the subject, but only comparable 2, the Rosemont Suites in Rosemont, was a full service hotel like the subject. Renzi testified his comparables 3, 4 and 5 required substantial upward adjustments because they were limited service hotels that lacked many of the subject's amenities. The five comparables sold between August 1999 and December 2003 for prices ranging from $2,750,000 to $42,950,000 or from $42,610 to $131,655 per room, net of FF&E (furniture, fixtures and equipment). The comparables were adjusted for such factors as contribution of the FF&E component, number of rooms, age, overall location, amenities and condition, as well as "the inclusion of good-will within the sales prices." Based on his adjusted comparables, Renzi concluded an applicable unit value of $85,000 per room, which, when multiplied by the subject's 197 rooms, yielded a value estimate for the subject of $16,745,000. He then determined a franchise fee and allocated management fee for the subject of $412,800 were appropriate, which he capitalized at 25%, resulting in an indicated going concern adjustment of $1,651,200. Once this adjustment was subtracted from the combined market value of the real estate and going concern estimate of $16,745,000, Renzi determined an estimated market value of the subject by the sales comparison approach of $15,100,000.

Under the income approach, Renzi first described the steps in the income analysis. Then he analyzed five competing hotels located in Crystal Lake, Algonquin and Elgin. He interviewed hotel staff of these properties regarding historic daily room rates, occupancy rates, amenities, level of renovation, etc. The appraiser also consulted *The Host Study – 2004*, compiled by Smith Travel Research, the *Smith Travel Accommodations Report* (STAR) and the *Korpacz Real Estate Investor Survey - First Quarter 2004.*
Renzi placed primary emphasis on *The Host Study - 2004.* He used the subject's actual historical performance to provide the primary basis by which he determined the subject's stabilized operations. After consulting The Host Study – 2004 and the subject's occupancy levels for 2001, 2002 and 2003, Renzi stabilized the subject's occupancy at 64%. In determining an average daily rate (ADR) for the subject, the appraiser analyzed the quoted rates for the five competing hotels listed above, consisting of a Comfort Inn, two Country Inn and Suites properties, a Holiday Inn Express and a Holiday Inn & Suites.

Renzi testified that he reviewed the *Korpacz Survey*, but relied more heavily on historical data from his own files and experience in appraising hotel properties. However, Renzi acknowledged he also relied on income information regarding the subject from Siegel's appraisal. Based on these data, he concluded a daily room rate for the subject of $88.00, which was less than the three-year average for the subject of $91.54. Renzi then multiplied the number of rooms times 365 days, times 64% occupancy, times the ADR of $88.00, which developed room revenue of $4,050,000, rounded. The appraiser then examined other sources of revenue for the subject property, such as food and beverages, telephone and miscellaneous minor departments for 2001, 2002 and 2003. Based on this analysis Renzi concluded a total stabilized gross revenue for the subject of $7,242,000, or $36,761 per room.

Regarding expenses, Renzi first examined the subject's historical expenses, including labor costs for various departments. He reviewed *The Host Study – 2004*, which indicated an average departmental expense of 42.8% for full service hotels in the east north central sub-market, in which the subject is located. He then stabilized this expense at $13,604 per room, or $2,680,000.

Renzi then examined administrative and general expenses, citing the subject's 2001, 2002 and 2003 actual expenses for this category. He stabilized the subject's expense at $2,500 per room, or $493,000. Additional expenses included sales and marketing, which the appraiser stabilized at $2,500 per room, or $433,000, after determining the subject's historical performance differed from the *HOST Study* average of $2,834 per room for full service hotels. Regarding utilities, Renzi stabilized this expense for the subject at $1,800 per room or $355,000. For operations and maintenance expense, the appraiser found the subject averaged $1,759 per room over the three years mentioned above and that the HOST Study indicated $2,148 per room. He stabilized this expense at $1,750 per room or $345,000. Regarding a franchise fee, Renzi testified the *HOST Study* found full service hotels in the east north central sub-market had such fees of approximately 4.5% of stabilized total revenues. He therefore used $326,000 for this expense. For management expense, Renzi claimed 3% of collected revenues, or $217,000, was appropriate for the subject. For miscellaneous expenses, Renzi estimated $250 per room, or $50,000 per year, rounded. The witness estimated Insurance expense at $39,000 and Replacement reserves at $30,000. After deducting the above expenses, Renzi estimated the subject's Net Operating Income (NOI) at $2,214,000, before allowing for FF&E. The appraiser estimated FF&E at $12,000 per room for 197 rooms, or $2,364,000. Figuring a 10% return on investment plus a 10% return of investment, Renzi deducted $472,800 for FF&E, resulting in NOI from the real estate of $1,741,200.

Regarding determination of an overall capitalization rate, Renzi's appraisal claimed "informed lenders, brokers and investors" informed him that a 75% loan to value mortgage and a 25% equity contribution were appropriate combined with a 6.5% mortgage rate at 25 years amortization and a five-year call provision. Renzi testified he consulted First Chicago Bank, LaSalle Bank and a private bank to obtain this mortgage information, but did not include specific data from these sources in his appraisal report. Renzi calculated an overall rate of 8.58%, to which he added a tax load factor of 2.5%, resulting in a "loaded" capitalization rate of 11.08%. Employing these data, the appraiser estimated the subject's market value by the income approach at $15,700,000.

In reconciling the three approaches to value, Renzi emphasized the income and sales comparison approaches in estimating the subject's market value at $15,500,000.

During cross examination, Renzi agreed that 70% of the hotel appraisals he performed were for taxing districts, the City of Chicago and the County of Cook. He also acknowledged all the comparable hotel sales in his appraisal of the subject, except one, were limited service hotels. Renzi also acknowledged the Real Estate Transfer Declaration documenting the subject's December 2003 sale indicated the subject was exposed to the market for "zero" months. Renzi further acknowledged the difference between his NOI for the subject of $2,214,000 (before FF&E) and Siegel's was $169,108. Renzi agreed his report did not quote any published periodicals or sources in deriving his capitalization rate, nor did he include in his addenda, quotes he obtained from the lenders he referred to in his testimony.

In redirect examination, Renzi testified he relied on comparable sales of hotels that were more similar in age to the subject, even though all but one were not full service hotels. Renzi acknowledged Siegel's appraisal used $144,000 for reserves for replacement, while Renzi used

$30,000 for this item and that the difference between the two figures would result in lower NOI in Siegel's approach.

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 property'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). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board will first consider relevance of the December, 2003 sale of the subject for $19,400,000. The Board notes the sale was between related parties as a result of a merger of two subsidiaries. After reviewing the transfer declaration and contacting a representative of the property owner, Siegel determined this sale was not an arm's length transaction. The Board also notes Renzi admitted under cross examination that the transfer declaration indicated the subject was not exposed to the market. The Board finds the Illinois Supreme Court, in Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428, (1970), found that a contemporaneous sale of property between parties dealing *at arm's-length* is a relevant factor in determining the correctness of an assessment and is practically conclusive on the issue of whether an assessment is reflective of market value (emphasis added). The Board further finds Property Assessment Valuation, a handbook for assessing officials published by the International Association of Assessing Officers, states on page 21 that:

> Market value is the most probable price expressed in terms of money that a property would bring *if exposed for sale in the open market in an arm's-length transaction* between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used (emphasis added).

The Board finds that based on the facts in the instant appeal, the December, 2003 sale of the subject was between related parties and was not exposed to the market. For these reasons, the sale was not an arm's-length transaction and cannot be relied upon as a valid indicator of market value for the subject as of its January 1, 2004 assessment date. The Board therefore accords this sale no weight.

The Board finds the appellant and the intervenor submitted appraisals into the record and both appraisers testified regarding their respective reports. Neither appraiser gave significant weight to the cost approach. Siegel acknowledged he had originally considered a third subject parcel as excess land. However in testimony, he corrected this error, stating it had no effect on his income approach because he used a per room basis of valuation, rather than a per square foot basis.

In his income approach, Siegel relied on several sources commonly used in valuing hotel properties. These included The *Korpacz Real Estate Investor Survey* (Korpacz) for the third quarter of 2004, The 2003 *HOST Report*, published by Smith Travel Research, the *STAR Report*, also published by Smith Travel Research, and *The Pulse Report*, *Hotel and Motel Association of*

IL, detailing occupancy rates and ADR's for the Chicago Metropolitan hotel market, including The Chicago North submarket, into which the subject falls. The Board finds Siegel's reliance on these sources is appropriate and supports his income approach. Renzi, on the other hand**,** testified that while he reviewed the *Korpacz Survey*, he relied more heavily on historical data from his own files and his experience in appraising hotel properties. The Board finds that, notwithstanding Renzi's considerable experience, Siegel's references to, and reliance on published sources within the real estate valuation field in general, and the hotel segment in particular, lend more credence to Siegel's income approach. Additionally, the Board finds Siegel calculated his allowance for replacement reserves as a percentage of income, following the *HOST Report*. Regarding selection of a capitalization rate, Siegel's appraisal cited Korpacz, which indicated the average capitalization rate for hotels like the subject was 9.88%. Siegel testified his use of 10.5% was appropriate because the subject is the only full service hotel in its area, must compete with numerous limited service hotels in its neighborhood and is distant from areas of significant development. Further, the Board finds that when determining his capitalization rate, Siegel consulted the *Semi-Annual National Full Service Hotel Market Survey*, published by Korpacz, whereas Renzi relied on "informed lenders, brokers and investors" but did not include supporting data from these sources in his appraisal report. Finally, the Board finds sources such as the *Semi-Annual National Full Service Hotel Market Survey* are more indicative of the actual full service hotel market than the undocumented appraisal references and testimony submitted by Renzi.

Regarding the sales comparison approach, the Board finds Siegel examined five sales of full service hotel properties within the Chicago market. Siegel testified it was important to use full service hotels as comparables because they offer food and beverage services, as well as banquet and meeting spaces like the subject. The comparables were located in Northbrook, Mundelein, Skokie and Arlington Heights, Illinois. Sales 2 and 3 were Holiday Inns like the subject. Siegel testified there were no sales of full service hotels in McHenry County. Renzi, on the other hand, included only one full service hotel, which is located close to O'Hare International Airport, in his sales comparison approach. In addition, he acknowledged he had to make significant adjustments to four comparables because they were limited service hotels, which demonstrates their high degree of dissimilarity when compared to the subject. Renzi justified his selection of comparables by testifying they were more similar in age when compared to the subject, which he considered an important factor.

The Board finds both appraisers relied most heavily on the income approach, supported by the sales comparison approach. The Board finds Siegel's income approach was logical and systematic, was well supported by reliable industry sources and further, that his testimony regarding this approach was credible and confident. Renzi relied more heavily on his experience, which is considerable, and his contacts with lenders, brokers, and the like. However, Renzi failed to document these sources and support them adequately within his report and by his testimony. Regarding the sales comparison approaches in both appraisals, the Board finds all of Siegel's comparable sales were full service hotels, with two comparables being Holiday Inn's like the subject. Conversely, Renzi's comparable sales, with one exception, were limited service hotels, which are inferior in design and amenities when compared to the subject and required significant adjustments for these and other reasons. Based on the foregoing analysis, the Property Tax Appeal Board finds the best evidence in the record of the subject's market value is found in Siegel's appraisal and that the appellant has met its burden of proving overvaluation by

a preponderance of the evidence. Therefore, the Board finds the subject's market value as of its assessment date of January 1, 2004 was $12,065,000. Since market value has been established, McHenry County's 2004 three-year median level of assessments of 33.30% shall apply.

APPELLANT:	**Anthony Karakas**
DOCKET NUMBER:	**06-01944.001-C-1**
DATE DECIDED:	**May, 2009**
COUNTY:	**Sangamon**
RESULT:	**Reduction**

The subject property consists of a one-story commercial building of frame construction that was built in approximately 1930. The building has 172,800 square feet of building with a 1,000 square foot office. The building is operated as a self storage facility and is located Capital Township, Sangamon County, Illinois.

The appellant appeared before the Property Tax Appeal Board contending the subject's assessment is not reflective of its fair market value. In support of this argument, the appellant submitted a Real Estate Transfer Declaration, a real estate sales contract, and a settlement statement. The Real Estate Transfer Declaration shows the appellant purchased the subject property for $1,320,000 in March 2005. The document also indicates the sale price included $600,000 of personal property, resulting in a net sale price of $720,000. An addendum to the Real Estate Transfer Declaration (PTAX-203-A) lists $5,000 for office equipment and $595,000 goodwill (business value) totaling the $600,000 of personal property. Page 2 of the sales contract specifically lists the subject's purchase price of $1,325,000, which was allocated as $720,000 for the land and building; $5,000 for equipment; and $600,000 for goodwill. The settlement statement lists the subject's March 2005 sale price of $1,320,000, but no deduction for personal property was listed. The documents submitted by the appellant indicate the buyer and seller were unrelated and the subject property was advertised for sale or sold using a real estate agent.

The appellant testified the subject property was listed for sale through the Multiple Listing Service and local paper for at least six months prior to purchase. The appellant testified the subject's sale price, personal property and business value (goodwill) was negotiated between both parties legal counsel over five months. The appellant testified the subject's final sale price for the real estate and goodwill was based on an analysis of the operating business value using the subject's income and operating expenses from 2001 to 2004. The analysis was prepared by a Certified Public Accountant (CPA), which estimated the subject's business value to be $640,000. The appellant testified he purchased a large wood frame unheated warehouse that was used as a munitions depot during World War II, but is now used as a self storage facility for recreational vehicles, cars, and boats. In addition, there are larger vendor storage areas ranging in size from 600 to 1,000 square feet and individual mini storage garage size units. There is no ongoing commercial manufacturing activity within the subject property like the comparable submitted by the board of review.

The appellant described the subject property as being in "decrepit" condition due to a lack of maintenance, noting a leaking roof, the replacement of the sprinkler system, and cracking and decaying concrete loading docks. The appellant also testified regarding the subject's low ceiling heights, the low clearance between the various sections of the building, and the close proximity of the wooden piers that support the building, which reduces the amount of useable area.

Finally, the appellant offered various definitions of "goodwill", which provides in summary that the excess of the purchase price of a company over its book value which represents the value of goodwill as an intangible asset for accounting purposes; an intangible asset of a company that includes factors such as reputation, contacts, and expertise, for which a buyer of the company may have to pay a premium; and an intangible asset valued according to the advantage or reputation a business has acquired (over and above its tangible assets).

Under cross-examination, Karakas testified the CPA used the subject's actual income derived from leases to calculate the business value at approximately $640,000. Karakas testified the bank had an appraisal prepared of the subject property to secure the loan amount, but he has not viewed nor possesses the report.

Barry Taft, a local real estate appraiser, was called as a witness to address the evidence submitted by the board of review. The parties stipulated regarding Taft's professional qualifications to provide testimony in this appeal. Taft testified the suggested comparable sales submitted by the board of review are dissimilar when compared to the subject due to their smaller size and newer age. More importantly, Taft testified the comparables are superior to the subject in quality of construction and overall condition. Photographs of the comparables utilized by the board of review were submitted by the appellant at the hearing. Taft explained the subject property is an old frame constructed building that is in poor to fair condition unlike the comparables submitted by the board of review. Taft next attempted to provide testimony in connection with three suggested comparable sales and a discounted cash flow analysis of the subject property. After objection, the Property Tax Appeal Board barred this evidence from the record. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states:

> Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in guise of rebuttal evidence. (86 Ill.Admin.Code §1910.66(c)).

Pursuant to Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board, the Board finds it cannot consider this new evidence. Appellant's counsel made an offer of proof regarding the rebuttal submission.

Under cross-examination, Taft agreed the comparables submitted by the board of review could be adjusted for differences when compared to the subject. After reviewing the Real Estate Transfer Declaration, Taft agreed he did not perform independent calculations, investigate or verify the $600,000 allocated for personal property and goodwill. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review presented its "Board of Review Notes on Appeal" wherein the subject property's final assessment of $296,059 was disclosed. The subject's assessment reflects an estimated market value of $889,066 using Sangamon County’s 2006 three-year median level of assessment of 33.30%.

In support of the subject's assessment, the board of review submitted nine suggested comparable sales. The evidence was prepared by the Capital Township Assessor. The comparables consist

of steel frame or masonry constructed warehouses located throughout Springfield, Illinois. The buildings were built from 1956 to 1984 and range in size from 30,000 to 96,316 square feet of building area. Their land sizes or features were not disclosed. They sold from February 1999 to April 2007 for prices ranging from $600,000 to $3,500,000 or from $13.33 to $43.71 per square foot of building area including land.

In order to account for any potential value differences due to location or land to building ratio, the assessor deducted the comparables estimated land values from their sale prices to develop a residual building value for each sale. The deduction amounts were based on each comparables' estimated land value as reflected by their land assessments. As a result, the comparable sales had residual or adjusted building sale prices ranging from $460,000 to $3,375,000 or from $11.67 to $42.15 per square foot of building area excluding land. The assessor calculated that the subject's improvement assessment of $255,971 reflects an estimated market value of $739,728 or $4.28 per square foot of building excluding land, which falls well below the range established by the comparable sales on a per square foot basis.

The township assessor testified he agreed all the comparable sales utilized are superior to the subject. However, the assessor argued the subject's assessed valuation is one-half the amount on a per square foot basis than the lowest per square sale price of the comparables. The assessor also testified there were no sales within Capital Township of buildings as large as the subject property. Even though the comparables are superior to the subject, the assessor testified that since the subject property's estimated market value on a per square foot basis falls well under the range established by the comparable sales the only conclusion that can be drawn is that its assessed valuation is correct. With respect to the goodwill business value of $640,000, the assessor argued the CPA capitalized income that is attributable to the real estate, not personal property. Based on this evidence, the board of review requested confirmation of the subject's assessed valuation.

Under cross-examination, the assessor testified clear ceiling heights are considered when assessing warehouses. The assessor agreed all the comparables are superior to the subject in ceiling height. Since the CPA capitalized income attributable to the real estate, the assessor did not consider the $600,000 deduction for personal property from the subject's sale price to be valid. However, the assessor considered the subject sale to be an arm's-length transaction. He agreed the subject's transaction was a leased fee transaction due to hundreds a rental agreements that were in place at the time of sale resulting in a stabilized income stream.

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 property’s assessment is warranted.

The appellant argued the subject property is overvalued. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant has overcome this burden.

The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the seller 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 evidence in this record indicates the subject's transaction was a voluntary sale where the seller was ready, willing, and able to sell but not compelled to do so, and the buyer was ready, willing and able to buy but not forced to do so. The Board finds the subject's sale price of $1,320,000 was negotiated, including the value of personal property and ongoing goodwill business value, by unrelated parties involved in the transaction, which further supports the arm's-length nature of the subject's leased fee transaction. The Board further finds the deduction for personal property and ongoing business value of $600,000 is well supported by the evidence and testimony in this record. Based on this analysis, the Board finds the best evidence of the subject's fair market value is its March 2005 net sale price of $720,000.

The Property Tax Appeal Board gave diminished weight to the comparable sales submitted by the board of review. Notwithstanding the lack of descriptive information regarding the comparable sales for comparison to the subject, all the comparables are of superior construction materials; are considerably newer in age; and are smaller in size when compared to the subject. Additionally, four comparables sold from 1999 to 2002, which are considered less indicative of the subject's fair market value as of its January 1, 2006, assessment date.

Based on this analysis, the Property Tax Appeal Board finds the appellant has proven that the subject property is overvalued by a preponderance of the evidence. Since fair market has been established, Sangamon County's 2006 three-year median level of assessment of 33.30% shall apply.

APPELLANT:	**Lakefront Healthcare Center, Inc.**
DOCKET NUMBER:	**03-22550.001-C-3 thru 03-22550.002-C-3**
DATE DECIDED:	**May, 2009**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of a 32-year-old, three-story, masonry constructed, 99-bed nursing home containing 17,810 square feet of above grade building area on two parcels totaling 15,000 square feet of land. The appellant argued that the fair market value of the subject is not accurately reflected in its assessed value.

In support of this market value argument, the appellant submitted a complete, self-contained appraisal of the subject with an effective date of January 1, 2002 and an estimated market value of $3,600,000.

At hearing, the appellant's witness was Malka Mermelstein, the owner of the subject property. She testified she is an Illinois Licensed nursing home administrator and has owned the subject property since 1985. She stated the facility is licensed by the State of Illinois Department of Public Health and holds a Medicare Certification from the Federal Government. Ms. Mermelstein testified the State performs a yearly licensure and certification review and, if there is a violation, a return review.

Ms. Mermelstein described the property as a four-story, including basement. She stated the residents live on the three top floors with 16 rooms per floor. Each room holds two residents for a total of 33 beds per floor, or a 99 bed facility. She further testified that on each floor there was a three-bed room. Ms. Mermelstein testified that the State requires 80 square feet per patient; however, the subject was grandfathered in with this requirement and allowed to have less space per patient. She stated that each room contained a small bathroom with a toilet and sink and each floor had two large bathrooms, one for ladies and one for men, which contained a tub, shower, sink and toilet. Ms. Mermelstein testified that the facility provided all furniture and that each patient has a bed, night table, chair, closet and two drawers underneath. In addition, all the furniture and equipment in the other rooms were also provided by the facility.

As to the common areas, Ms. Mermelstein testified that there was a small area on each floor with a television where some of the residents ate. In addition, each floor had a nursing station. The kitchen was located on the lower floor in the basement along with the dining room, equipment room, activity room, physical therapy room, and offices.

Ms. Mermelstein testified the property was well maintained and in good condition. She stated the property is located in East Rogers Park on a good street, Sheridan Road. She opined that the neighborhood near the property was not a good neighborhood. Ms. Mermelstein testified that there are approximately five or six nursing homes on Sheridan Road in East Rogers Park. She opined the other nursing homes were larger in size and, because they received more income, could maintain their facilities better, but that the nursing care for the subject was superior to those facilities. Ms. Mermelstein said that there was a great deal of competition with the other,

fancier facilities and that she had trouble filling beds. She then described the demographics of the residents.

Ms. Mermelstein testified that the State set the capital rate and the support rate that a resident would pay per day, but that she set the rate for nursing care. She stated the facility had a good nursing rate. She further testified to the rates set by the State, the occupancy, and the revenue of the facility during 2002 and 2003.

On cross-examination by the board of review, Ms. Mermelstein reiterated that the payment received for patients was made up of three parts: nursing; capital; and support. She again stated that the nursing component was the only component that the subject property could affect by giving more or less services. She testified that the capital and support rates included costs for the environment; how much you pay for real estate taxes and maintenance of the building. She further testified that there was no special equipment that was attached to the building.

On cross-examination by the intervenor, Ms. Mermelstein could not recall ordering an appraisal on the subject property. She was presented with the appraisal and vaguely recognized it. Ms. Mermelstein then contradicted herself by thoroughly describing the number of comparables used in the sales comparison approach to value within the appraisal. She acknowledged the appraisal stated that the subject property was a good bed-count size and agreed with this statement. She then changed her mind and stated she was no authority on the subject.

The appellant's next witness was the appraiser, John Moody. Mr. Moody testified that he is employed by Midwest Appraisal Company. He testified he has been working there since 1983. Prior to that, he worked at the Cook County Assessor's Office and at several appraisal firms. He indicated that he is a state-certified appraiser in Illinois and holds the designation of a Certified Assessment Evaluator. Mr. Moody testified that he has appeared as an expert witness before in the court system and in Property Tax Appeal Board matters. Mr. Moody testified he has appraised approximately 18 properties per year in the last five years, of which 5 were nursing homes. He testified he was also a general partner in a company that owned a nursing home. Moody was admitted as an expert in the field of property valuation without objection of the remaining parties.

The appellant's appraisal gave an estimate of market value as of the effective date of January 1, 2003 of $1,950,000. Moody corrected an error in the certification page of the appraisal and testified that he did, in fact, inspect the property with an associate, Mary Wagner. Moody testified that Ms. Wagner conducted a complete interior inspection while he conducted an exterior inspection of the property and the neighborhood. The appraisal identifies and fully describes the subject property's improvements.

Moody testified that the subject property is a 15,000 square foot, irregularly-shaped parcel of land with 100 feet of frontage on Sheridan Road. He stated the improvement is a three-story and basement, 99-bed nursing home containing approximately 17,810 square feet of above grade building area. The aggregate total size of the building is 25,628 square feet and the facility contains 48 rooms. Moody testified the entrance to the subject property, on Sheridan Road, is below grade. He stated this below grade area houses the administrative office, therapy room, activity room, laundry room, living room, dining room, kitchen, mechanical room, and storage

area. Moody testified the three above grade floor have typical layouts for a nursing home with 26 rooms per floor and 33 beds. The description of these floors by the appraiser was similar to the description given by the previous witness, Ms. Mermelstein. He stated the improvement has an actual age of 32 year, an effective age of 25 years and was in average to better-than-average condition.

Moody testified that there are nine nursing homes in the subject's neighborhood, including the subject. The bed count for these facilities ranged from 99 to 328 beds for a total of 1,663 beds. He testified that the occupancy rates for these nine homes ranged from 42% to 94% with the average at 77%. Moody opined that there was an over supply of nursing homes in the area.

The appraisal indicated that the highest and best use of the subject, as vacant, was for multi-family housing, including nursing home, and that as improved, it highest and best use would be its current use as a nursing home.

The appellant's appraiser developed the three traditional approaches to value in estimating the subject's market value. The cost approach indicated a value of $1,930,000, rounded, while the income approach indicated a value of $1,900,000, rounded. The sales comparison approach indicated a value of $2,030,000, rounded. The appraiser concluded a market value of $1,950,000 for the subject property as of January 1, 2003.

The initial step under the cost approach was to estimate the value of the site at $525,000, or $35.00 per square foot. In doing so, Moody testified he considered four land sales that sold from December 2000 to August 2002 that ranged in size from 7,100 to 47,250 square feet and in sale prices from $24.65 to $60.00 per square foot. He testified that he did not include sales from the City of Evanston, located directly north of the subject, for several reasons: (1) there were a sufficient number of sales in East Rogers Park; and (2) Evanston has a higher value then East Rogers Park. Moody testified to the adjustments he made to the comparable land sales.

Using the Marshall-Beck Building Valuation Computerized System, Moody estimated the replacement cost new to be $2,712,468 or $105.84 per square foot of building area, including basement area. After miscellaneous improvements the total cost new was calculated at $2,811,968. Moody testified he did not include any entrepreneurial profit because the subject is a special use building, built for a specific use and opined including this profit would not reasonable. In establishing a rate of depreciation, Moody testified he utilized the age-life method to arrive at total depreciation from all causes of 50% to arrive at the depreciated value of the improvements at $1,405,984. Adding the land value resulted in a final value estimate of $1,930,000, rounded.

Under the income approach, Moody testified he utilized the operating statements for the subject property from 2000, 2001 and 2002 and then stabilized them after a review of other nursing homes in the Chicagoland area. The appraisal notes the average daily rates for each patient type and that these rates are within the range of rates charged at competing nursing homes in Rogers Park. The appraisal looks to the rates paid per patient type/per day and the services provided to these patients to develop an estimate of the income per day. The appraisal then addresses vacancy. The appraisal analyzes the subject's vacancy rate of 70% and reviewed the vacancy rates of the nursing homes in Rogers Park to stabilize the vacancy rate at 74%; above the

subject's current vacancy rate but below the average for the area as a whole. After including ancillary income, Moody estimated the gross income at $2,875,000.

The appraisal noted that operating expenses for the subject property ranged from 58.7% to 67.9% of the gross income. Moody looked to a survey of 10 nursing homes in the Chicagoland Area showing a range of 49.1% to 81.6% of gross income with an average of 63.1%. After analysis of this data, operating expenses were estimated at 63% or $1,800,000. General and administrative expenses include the administrator's and administrative personnel's salaries and miscellaneous expenses not related to operations. The appraisal stabilizes the salaries at 5% of gross income. Moody analyzed the subject's general and administrative expenses and the survey of 10 nursing homes in the Chicagoland Area. The subject's expenses were in-line with the 10 nursing homes reviewed and the appraisal stabilized this expense at 15.5% or $450,000. Subtracting all the expenses, the gross operating income was estimated at $625,000. Moody opined that his estimation of operating income was reasonable, well-supported and not aggressive.

The appraisal notes that an allowance is necessary in order to fund major repairs and redecorating expenses in the future. This reserve was estimated at $.20 per square foot or $5,000.

Moody then estimated deductions for the presence of furniture, fixtures, and equipment which are considered personal property. Moody testified to the differences in the return on and return of personal property. He testified he estimated the cost of furnishings to be between $4,000 and $7,500 per room and chose $5,000 per room for the subject. He stated there are 99 beds which indicated a total cost of $495,000. Moody testified he then applied an 8% return on this investment for a total of $40,000 for the return on personal property. The appraisal notes that this rate of return was estimated based on a review of current interest rates and rates of return on investment vehicles. The return of personal property was estimated by using the cost of $495,000 and dividing that by the useful life of the furniture, which Moody opined was 12 years, to arrive at a total of $40,000, rounded.

Moody then discussed the business value intrinsic to a nursing home. He testified that a portion of the gross revenue is attributable to and created by something other than the brick and mortar and the beds and chairs; this is defined as business value. Moody testified that he estimated 7% of the gross revenue, or $200,000 per year, to be the business value for the subject. He arrived at this estimate, according to his testimony, based on several factors: (1), his own experience of having run a nursing home, (2), statements as to management and nursing homes in *The Encyclopedia of Real Estate Appraisal* (3rd Ed.), and (3), the *Uniform Standards of Professional Appraisal Practice* (USPAP). Moody stated that USPAP does not allow misleading valuations and that if he attributed all or none of the income to the business value, the appraisal would be misleading. *The Encyclopedia of Real Estate Appraisal* address nursing home business value by stating

> "[t]he owner-operator expects a business profit for running the nursing home, and a return on his investment in the facility ... in the income approach to value, this compensation or business profit must be segregated from the entire net income earned by the facility so that only a real estate net income remains ...."

In addition, Moody reviewed the gross revenue of $5,000 per bed per month. He testified he then reviewed the rental rates for apartments in the East Rogers Park neighborhood and determined the beds in the subject property more closely compared to studio or efficiency apartments which ranged in rent from $350 to $500 per month. He opined that the difference between the gross revenue of the subject per bed and the rent of an efficiency apartment would be from the services provided at the nursing home. Moody testified that without estimating business value, the income approach would be significantly higher than the cost approach and the cost approach typically indicates the upper range in value.

After all these deductions, Moody arrived at a net operating income of $340,000. Using the band of investment method, Moody estimated the capitalization rate at 10.67% and a loaded capitalization rate of 17.89%. Moody testified he applied this overall CAP rate to the net operating income to estimate the market value for the subject under this approach at $1,900,000, rounded.

The final method developed was the sales comparison approach. Moody testified he first generated a report form CoStar Comps, a data source, on health-care facilities and established a selling price range of $87.44 to $105.92 per square foot. He examined six sales. The properties are all located in Chicago or the Chicagoland Area. Moody's testimony corrected an error in comparable #5's size and price per square foot. The six properties range in bed count from 51 to 328 beds; in building size from 14,364 to 176,627 and sold from February 2000 to January 2003 for prices ranging from $20,000 to $33,333 per bed, or from $33.97 to $121.65 per square foot of building area, including land. The properties ranged in age from seven to 49 years and in land to building ratio from 0.40:2 to 7.92:1. Moody testified he made overall adjustments for the comparability of the sale properties. He estimated a value for the subject property of $27,000 per bed or $106.23 per square foot of building area, including land for a total value of $2,722,500. Moody testified the price per square foot was above the range indicated by his initial data survey.

Moody then made a deduction for business value. He testified he used the $200,000 arrived at for business value in the income approach and capitalized that value at 40%, a rate higher than would be applied for income. He opined that income was highly speculative; if business is good then income is high. The appraisal notes a high capitalization rate is needed due to the high risk involved in the business value. Moody testified that there is no specific market data to support the 40% capitalization rate. After capitalizing the income, the final deduction for business value was $500,000 or $5,050 per bed. Moody then addressed the personal property. Using the $495,000 value arrived at under the income approach, Moody estimated a 60% depreciation. The appraisal estimated a depreciated value of personal property at $198,000 or $2,000 per bed.

After these deductions, Moody came to a final estimate for the subject property under the sales comparison approach of $20,500 per bed, or $2,030,000, rounded.

In reconciling the various approaches, Moody testified he gave consideration to all the approaches to value. The sales comparison approach and income approach were given substantial consideration and the cost approach received moderate consideration. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2003 to be $1,950,000.

Under cross-examination, Moody was presented with Intervenor's Exhibits #2 through #5, which are database printouts for the sales of comparables #1, #2, #3 and #6 in Moody's sales comparison approach. Moody acknowledged these sales were part of bulk sales. For comparable sales #1, #2, and #6, Moody testified these sales were part of the same bulk sale. He agreed that the appraisal does not indicate that these sales were a bulk sale. Moody was questioned in regards to the bulk sale involving comparables #1, #2 and #6 and the additional properties in that sale. He testified he did not recall what properties were included in the bulk sales, but if they were in the Chicagoland Area, they should have appeared on the first data search. The intervenor established that two of these sales were in the Chicagoland Area and sold at a higher price per square foot then sales #1, #2, and #6.

As to the land sales, the appraisal notes that a larger parcel will typically sell for a lower unit value than a smaller parcel. Moody agreed with this statement and testified that his smallest land sale sold for the highest unit price. He acknowledged that a larger parcel can be more valuable on a per square foot basis if the parcel is located in densely developed area. He also testified that the Rogers Park area was fully developed. Moody stated that land sale #1 was located in West Rogers Park, sale #2 is located in Uptown, and sale #4 is located at the eastern edge of West Rogers Park.

Moody was then asked questions in regards to the difference between entrepreneurial profit and a general contractor's profit in the cost approach. In the income approach, Moody testified he utilized the subject's actual income and expenses and stabilized these figures. He opined that the appraisal includes market information to support the final stabilized amounts.

Moody testified the he estimated income attributed to the business value at $200,000. In response to questions, Moody clarified that the $200,000 was deducted from the income to arrive at a net operating income of $340,000 and this amount was then capitalized by 17.89%. In the sales comparison approach, Moody testified he capitalized the $200,000 in business value by 40%.

Under cross examination by the board of review, Moody testified that his highest and best use analysis for the subject as vacant included multi-family development which includes a nursing home. He also acknowledged that he would not build a nursing home on a vacant lot in Rogers Park, but that zoning for multi-family would allow for a nursing home. Moody testified he was not aware that the subject was a kosher home at the time of the appraisal and could not confirm if any of the comparables in the sales comparison approach were kosher homes. In later testimony Moody stated he did not know if the fact the subject was a kosher facility would have any effect on the market value.

On redirect, Moody testified that land sales #1 and #4 are located within the subject's area, the northeast section of Chicago. He opined that the value of land in the Uptown neighborhood is higher than that of Rogers Park. Moody reaffirmed that he researched the market to stabilize the income and expenses in the income approach to value.

As to comparable #3 in the sales comparison approach, Moody testified he spoke with parties to the sale and opined that the sale prices for each property in this bulk sale were based on appraisals. He also testified that the sale prices per square footage were below the estimated

market value per square foot for the subject. Moody testified that a bulk sale would not automatically discount the sale as a comparable.

As to the business value for the subject, Moody testified that he used a higher capitalization rate than that applied to the remainder of the income because, in his opinion, the income stream is very risky and subject to many outside variables. Moody stated the lower the cap rate the higher the value. He testified he utilized a capitalization rate of 40% for the business value.

The board of review submitted "Board of Review-Notes on Appeal" that reflect the subject's total assessment of $1,072,168 yielding a market value of $2,821,495 or $28,500 per bed using the Cook County Real Property Classification Ordinance for Class 5A property of 38%. In support of this market value, the notes included CoStar Comps printouts for four suggested comparables. The suggested comparables have an unadjusted sales range from $28,369 to $62,222 per bed. No adjustments were made to these properties and the printouts indicate the "information obtained from sources deemed reliable but not guaranteed". As a result of its analysis, the board requested confirmation of the subject's assessments. At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions.

In support of the intervenor's position, the intervenor submitted a complete, summary appraisal of the subject with an effective date of January 1, 2003 and an estimated market value of $3,000,000. The appraiser is James A. Gibbons. Mr. Gibbons was the intervenor's first witness in this appeal. Mr. Gibbons testified that he has been a state certified, real estate appraiser for approximately 25 years and also holds the designation of MAI. Gibbons is licensed in six states, including Illinois. He stated he completed coursework in regards to valuing nursing homes one and one-half years prior to his appraisal of the subject. Gibbons has performed approximately 4,000 appraisals. Gibbons was admitted as an expert in the field of property valuation without objection of the remaining parties.

Gibbons testified he performed an external inspection of the subject in March 2006 and prior to this hearing. He stated the subject property is located on the northeast side of the City of Chicago in an older, mostly improved, and densely populated area. Gibbons opined that the subject property's highest and best use would be continuation of its present use. In addition, Gibbons developed the three traditional approaches to value in estimating the subject’s market value.

The first method developed was the cost approach. The initial step under the cost approach was to estimate the value of the land. Gibbons testified he reviewed four land sales. The properties sold from June 2000 to May 2002 for prices ranging from $40.27 to $90.00 per square foot. Gibbons testified he tried to keep the properties located as closely to the subject as possible with sale #1 being one block north and sales #2 and #3 less than one mile away. After adjustments, Gibbons estimated the subject land at $65.00 per square foot or $975,000.

Using the Marshall Valuation Service, Gibbons estimated the replacement cost new to be $2,722,458. Gibbons testified he applied an entrepreneurial profit of 15% because this would reflect the incentive or the reward for an entrepreneurial developer to undertake the project. He testified he estimated the 15% based on the marketplace range of 10% to 20%. Depreciation of 50% was estimated by using the age-life method. This resulted in a depreciated cost of the

building improvements of $1,638,539. Adding the land value resulted in a final value estimate of market value for the subject of $ $2,615,000, rounded.

Under the income approach, Gibbons testified he utilized two methods. In the first method, Gibbons analyzed actual leases of four comparable nursing homes on a net basis. Gibbons testified he had information on these four leases located within his files. These properties are located in the south, far south and southwest suburbs of Chicago. The properties ranged in rent from $3,500 to $5,045 per bed on an absolute net basis. Gibbons testified, after adjustments, he estimated the rent for the subject property at $4,500 per bed. He then testified he applied a vacancy and collection factor of 10% based on vacancy rates for long termed leased commercial properties. Gibbons estimated management and leasing fees, based on the market, at 6% and reserves for replacement at $.50 per square foot for a total net operating income of $364,079. In determining the appropriate capitalization rate, Gibbons reviewed a survey by Korpacz & Associates and utilized the band of investments method. He arrived at a rate of 10.25%. The net operating income was then capitalized by this rate to reflect a market value estimate under this method of the income approach of $3,550,000, rounded.

In the second method under the income approach, Gibbons analyzed the historic data for the subject to develop an income based on its revenue stream as a nursing home. Gibbons testified he reviewed the Midwest Appraisal as well as actual operation information located on the Illinois Department of Public Health's website. In the appraisal, Gibbons stabilized occupancy at 72% which comprised Medicaid, Medicare, private and veteran patients. The appraisal stabilized the demographics of the patients as well as the amount of income generated by each demographic to arrive at a total patient revenue of $2,850,360. Other income was stabilized at $7,500 for a gross stabilized income of $2,857,860.

Gibbons testified he then estimated expenses two ways. The first looked to actual historical expenses for the subject as contained in the Midwest Appraisal and the second looked to expenses of other nursing homes that he has previously appraised. Gibbons stabilized expenses at 80% or $2,286,288 and then made a deduction for reserves of $.50 per square foot for an effective net income of $588,758.

Gibbons testified that he looked at the return on the personal property under the second method, which was a review of other nursing homes. This analysis was not conducted under the historic expense review method, Gibbons testified, because that method viewed the income on an absolute net basis for the real estate only. He testified that the personality at the subject contributes to the operation of the facility and assists in generating the income for the subject. Gibbons stated he had to separate out the personality of the nursing home from the real estate. In doing so, he stated he had to extract a return on the investment amount, or the depreciated value of the property, and then set up a reserve amount which would be necessary to replace the property. Gibbons estimated personality at $5,000 per bed. After calculations for depreciation and rate of return, the return on investment was estimated at $24,750 and the return of investment at $42,194. Once these amounts are deducted, the estimated net operating income is $491,814. Gibbons testified he did not deduct for business value because he opined this value was included within the expenses for officer's salaries and within the management expenses as if this were a passive investment. The net operating income was then capitalized by a loaded rate of 16.25% to reflect a market value estimate under this method of the income approach of

$3,025,000, rounded. The values arrived at under the methods were then reconciled for a final value under the cost approach of $3,100,000.

The final method developed was the sales comparison approach. Under this approach, Gibbons utilized four suggested sales comparables. The properties ranged in size from 91 to 328 beds. They sold from August 2000 to November 2002 for prices ranging from 2,900,000 to $8,824,000 or from $26,902 to $42,568 per bed. Gibbons testified that sale #2 was an exercise of an option and included $1,312,000 in personal property. He stated the appraisal notes subsequent sales of comparables #2 and #4 in 2005 and 2006, respectively, for increased values. After making adjustments, Gibbons determined a value for the subject of $30,000 per bed or $2,970,000.

In reconciling the various approaches, Gibbons testified he gave significant weight to the income and sales comparison approaches to value and less weight to the cost approach. Gibbon's testimony indicated a final market value estimate of $3,000,000 as of January 1, 2003.

Under cross-examination, Gibbons testified that he utilized sales and data prior to or as of January 1, 2003 and he did not consider any data, other than the assessment figures and in establishing a load factor for the capitalization rate, subsequent to January 1, 2003. Gibbons acknowledged that as of January 1, 2003, the tax rates available would be for 2001 or, perhaps, 2002, but that he used the 2003 tax rate. He testified that if he would have used the 2002 tax rate, the tax load factor would have been different and the value under the second method of the income approach by using the 2002 rate would have been $2,879,953, or $2,880,000, rounded.

In regards to the land sales, Gibbons testified that he made downward adjustments to the two properties located in Evanston based on those two specific sales. He acknowledged that the subject's zoning would be more restrictive than that of sale #2. He also testified he did not make any significant adjustments to the land sales for size differences and agreed that sales #1 and #3 were smaller than the subject; with one being 40% smaller. For sale #1, Gibbons testified this sale was an assemblage purchase. It was noted that the other properties in the assemblage sold for an amount significantly less than the sale used by Gibbons.

Gibbons stated he utilized Marshall Valuation Service to estimate the replacement cost for the subject. He testified that this service includes overhead or contractor's profit within the cost breakouts. Gibbons then opined that an expectation of a profit for building an improvement and then selling it is the incentive to build and that is why he included an entrepreneurial profit in the cost approach. He acknowledged that, of the improved sales, he did not know if any of the properties were built by a developer and sold for a profit.

Gibbons testified he gave more weight to method 2 within the income approach, but that both methods were considered. He acknowledged that the leased comparables analyzed for method 1 were not located within Chicago and that three of the leases were entered into prior to 1990. As to the value for personal property, Gibbons testified that he estimated this value at $5,350 per bed. He further testified that he arrived at the percentages for the return on and return of the investment based on 2003 rates and not what was in effect when the leases went into effect.

However, for method 2, Gibbons testified he valued the personal property at $5,000 per bed. He attempted to explain the difference in values between the two methods for both the personal property amounts and the different factors for the return on and return of the investment.

On further questioning in regards to method 2 in the income approach, Gibbons testified that the actual income of the subject was 70% but he stabilized this rate at 73%. Gibbons was then questioned as to why he estimated the occupancy higher than the actual occupancy for the subject when the comparables showed lower occupancy rates. Gibbons opined that the lower occupancy rates for the comparables were what was reported for that particular year and do not correlate to what the subject's occupancy rate should be. Gibbons also acknowledged the expense ratios for the comparable properties all predated 2000 and the expenses were increasing on an annual basis, with the exception of one comparable.

In regards to the capitalization rate, Gibbons testified that the Korpacz survey did not include transactions involving nursing homes. Gibbons was asked about specific studies, and stated he is not aware of any studies or surveys that report capitalization rates for nursing home type properties.

As to business value, Gibbons opined that if an appropriate amount is in the expenses for management, the investment is a passive one and it's not appropriate to make a separate deduction for business value.

Gibbons was questioned about statements in the appraisal indicating that the cost approach generally sets the high end of the value, but that the cost approach in this instance set the low end of the range. Gibbons disagreed this indicated that the other approaches included non-real estate items. He testified that depreciation was estimated at 50% and that this makes the cost approach less reliable.

As to the sales comparison approach, Gibbons testified sale #4 had a subsequent sale but that he did not know if the property was still used as a nursing home or has been torn down. He reiterated that sale #2 was sold pursuant to an option from the tenant. Gibbons testified that sale #3 had an occupancy rate of 100% at the time of sale, but that he did not make any specific adjustments for this. He testified that this sale, along with sale #4, did not have personal property included in the sale and no adjustments were made for this.

The appellant called Mr. Joseph Ryan as a rebuttal witness. Ryan testified he currently is president of a real estate appraisal firm and has been working in assessment or appraisal field since 1980. The parties stipulated as to Ryan's experience and expertise and he was admitted as an expert in the field of property valuation.

Ryan opined that there are unique problems or situations with appraising a nursing home. He stated that the income from a nursing home is derived from more than the real estate; services are also provided. Ryan opined that nursing homes are not built on a speculative basis, meaning they are not built by an investor who then finds a tenant or buyer to take over the property. He stated the real estate and business are integrated and that the income generated from the non-real estate sources has to be separated out to arrive at the income generated from the real estate.

Ryan testified he reviewed: the Gibbons appraisal; nursing home appraisals of properties in the area; previous PTAB decisions; and materials related to business aspects of nursing homes to arrive at an opinion that the Gibbons appraisal includes the business value and overstates the value of the real estate. He arrived at this opinion from reviewing several industry sources and the fact that they attribute 15% to 25% of the net operating income to the business value. He testified some sources have this figure as high as 60% or 70%. Ryan stated he did not see any adjustments for business value in the Gibbons appraisal.

Ryan testified he reviewed the net operating income estimated by Gibbons and compared this value to apartment buildings in the area. He stated that the net operating income of apartment buildings in the area is significantly less than that of the net operating income arrived at by Gibbons. Ryan opined that this disparity showed that Gibbons capitalized income from both the real estate and the business.

Ryan also looked at the final conclusion of value arrived by Gibbons and stated the $174.05 per square foot was higher than five sales of apartment buildings in the area that sold from $50.00 and $100.00 per square foot. He opined that if proper deductions for the business value were made by Gibbons, the conclusion of value would more closely mirror apartment's net operating income and sale prices on a per square foot basis. Ryan's final opinion was that the appraisal overstated the value of the real estate.

Under cross examination, Ryan testified he did not perform an inspection of the subject property, but then stated he made only an exterior inspection. He was informed that the subject property has a finished lower level and that the square footage for this area was utilized by both the appellant's and the intervenor's appraisers to arrive at an estimate of value. Ryan testified that in apartments, the basement would not be included to arrive at a value and opined that he did not utilize the lower level square footage of the subject to have more comparability to apartment buildings.

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. *Property Tax Appeal Board Rule* 1910.63(e). 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. *Property Tax Appeal Board Rule* 1910.65(c).

Having considered the evidence presented, the PTAB concludes that the appellant has satisfied this burden and that a reduction is warranted.

In determining the fair market value of the subject property, the PTAB closely examined the parties' two appraisal reports. The PTAB accords little weight to the board of review's evidence for the report lacked the preparer's testimony to explain the methodology used therein. Moreover, the PTAB found: missing analytical components, limited property data, and limited analysis.

That having been said, the PTAB then looks to the remaining evidence that comprises; Ms. Merkelstein's testimony; the Moody appraisal and testimony submitted by the appellant; the Gibbons appraisal and testimony submitted by the intervenor(s); and the testimony of the appellant's review appraiser, Ryan. Each appraiser, who also testified in this proceeding, considered the three traditional approaches to value to arrive at a final conclusion of value.

The PTAB gives less weight to the intervenor's appraisal due to several flaws in each approach. In the cost approach, Gibbons included entrepreneurial profit of 15% to the replacement cost of the improvement. The PTAB finds persuasive the testimony of Moody and Ryan that a nursing home is not a property that would be built on a speculative basis. Moreover, Gibbons testified, of the improved sales analyzed in the sales comparison approach, he was unaware of any that were built by a developer and sold for a profit. But, knowing this, Gibbons still included an entrepreneurial profit that increased the estimate of value under the cost approach.

In Gibbon's first method under the income approach to value, the leased comparables were not located within Chicago and three of the four leases were entered into prior to 1990. In addition, he did not extract business value from this because he estimated the value on an absolute net basis and, in his opinion, this value would not include the business. In the second method, Gibbons testified that business value was included in the expenses reported for the officers' salaries and within the management expenses. However, Ms. Mermelstein, as the owner, is involved in the day to day running of the nursing home. The PTAB finds that the management of the nursing home is exclusive of the ownership of the nursing home and the income from management should be separate from the profit expected as the owner. *The Encyclopedia of Real Estate Appraisal* addresses nursing home business value by stating

> "[t]he owner-operator expects a business profit for running the nursing home, and a return on his investment in the facility ... in the income approach to value, this compensation or business profit must be segregated from the entire net income earned by the facility so that only a real estate net income remains ...."

Gibbons may have accounted for the fact the subject property was managed by an owner-operator, however, he did not account for the owner's expectations of the return on the investment of owning the nursing home.

In the sales comparison approach to value, Gibbons deducted personal property from sales that made note of such property; however, he did not account for any business value involved in the sale the comparables and made no adjustments based on this value. Gibbons recognized the higher occupancy of some of the sales, but made no significant adjustments for this.

Therefore, the PTAB finds the best evidence of market value for the subject property to be the appraisal submitted by Moody. As stated previously, Moody considered the three approaches to value to arrive at a conclusion of market value for the subject.

The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979). In Willow Hill Grain, Inc. v. Property Tax Appeal Board, the Court held that of the three primary methods of evaluating property for

purposes of real estate taxes, the preferred method is the sales comparison approach. 187 Ill.App.3d 9 (5th Dist. 1989). In the instant appeal, the PTAB gives less weight to this approach.

In the sales comparison approach, Moody presented six comparable sales. However, four of these sales were part of bulk sales. Bulk sales include multiple properties purchased at the same time for one price. After the sale, the parties to the transaction can assign individual values to each property sold. The PTAB finds that little weight should be given to these sales, as Moody failed to establish that the individual sales used as comparables within the bulk sales were at their actual market values. In addition, once Moody arrived at a market value for both the business and the real estate under this approach, he extracted the business value by capitalizing the business value within the income approach by 40%. Moody testified that he chose this rate based on the high risk involved in managing a nursing home and that there was not market evidence to support the rate. The PTAB finds the application of this rate is speculative. Therefore, based on these reasons, the PTAB, while giving minimal weight to the sales comparison approach, will give primary consideration to the cost and income approaches to value as estimated by Moody.

In the cost approach, Moody properly excludes entrepreneurial profit in developing a replacement cost new for the subject improvement. In the income approach to value, Moody looks to the subject's income and stabilizes this income based on an analysis of other nursing homes within the market. He made deductions for the return on and the return of the personal property. Finally, Moody extracted the business value from the gross revenue. Moody did this based on several factors and then tested his conclusion by reviewing rental rates for studio and efficiency apartments in the area. The PTAB finds Moody's reasoning that a room within a nursing home is similar to an efficiency apartment persuasive.

Based upon this evidence, the PTAB finds the fair market value of the subject property as of January 1, 2003 was $1,930,000. Since the market value of the subject has been established, the Cook County Real Property Classification Ordinance level of assessments for Cook County Class 5A property of 38% will apply. In applying this level of assessment to the subject, the total assessed value is $733,400 while the subject's current total assessed value is above this amount. Therefore, the PTAB finds that a reduction is warranted.

APPELLANT:	**Juan & Nila Machado**
DOCKET NUMBER:	**06-28097.001-C-1**
DATE DECIDED:	**October, 2009**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property consists of a 3,750 square foot parcel improved with a one-story, class 5-17, 96-year-old, masonry constructed, commercial storefront building containing 3,750 square feet of building area and located in Lake View Township, Cook County.

The appellants, through counsel, appeared before the Property Tax Appeal Board claiming unequal treatment in the assessment process of the improvement as the basis of the appeal. In support of this argument, the appellants submitted assessment information and descriptive data on three, class 5-17, commercial buildings located within the same market area as the subject. The improvements range in size from 1,800 to 5,125 square feet of building area and range in age from 29 to 128 years. The lots range in size from 3,750 to 14,300 square feet. The three suggested comparables have improvement assessments that range from $13.00 to $52.41 per square foot of building area. The subject's improvement assessment is $108,435 or $28.92 per square foot of building area. In addition, the appellants submitted a one-page brief, a photograph of the subject, Cook County Assessor's Internet Database sheets for the subject and the suggested comparables as well as a copy of the board of review's decision. Based on the evidence presented, the appellants requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of $149,760, which reflects a market value of $394,105 or $105.09 per square foot of building area, utilizing the Cook County Real Property Assessment Classification Ordinance level of assessment of 38% for Class 5a property, such as the subject. As evidence, the board of review submitted descriptive information on seven properties that sold from November 1998 through March 2004 for prices that ranged from $295,000 to $1,050,000 or from $89.39 to $283.78 per square foot. The seven suggested comparables are improved with one-story, masonry constructed, commercial storefront buildings that range: in age from 38 to 89 years, in lot size from 3,123 to 12,502 square feet, in improvement size from 3,000 to 4,000 square feet of building area and located within the same commercial area as the subject.

At the hearing, the board's representative indicated that the board of review would rest on the written evidence submissions. Based on this analysis, 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 appellants' argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review V. Property Tax Appeal Board, 131 Ill.2d 1 (1989). The evidence must

demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the evidence, the Board finds the appellants have not overcome this burden.

The appellants provided evidence arguing unequal treatment in the assessment process of the improvement as the basis of the appeal. The appellants submitted assessment information and descriptive data on three, class 5-17, commercial buildings located within the same market area as the subject. The Board finds these properties similar to the subject in location, design and classification. However, the Board also finds these properties to be significantly smaller or larger in size of building area as compared to the subject. In addition, the appellants' comparables two and three differ from the subject in age as well as lot size. After considering the differences in the appellants' suggested comparables when compared to the subject, the Board finds the evidence is insufficient to effect a change in the subject's assessment.

The Board further finds the board of review's market analysis supports the subject's current assessment. The board submitted information on seven properties that sold for prices ranging from $89.39 to $283.78 per square foot. The subject's current assessment reflects a market value of $105.09 per square foot which is supported by these sales.

As a result of this analysis, the Property Tax Appeal Board finds the appellants have failed to adequately demonstrate that the subject improvement was inequitably assessed by clear and convincing evidence and a reduction is not warranted.

APPELLANT:	**Sears Roebuck & Company**
DOCKET NUMBER:	**02-28639.001-C-3 thru 02-28639.002-C-3, 03-24928.001-C-3 thru 03-24928.002-C-3, & 04-25461.001-C-3 thru 04-25461.001-C-3**
DATE DECIDED:	**April, 2009**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of two parcels of land improved with a part one-story and part two-story, single-tenant anchor department store of masonry construction attached to a regional shopping mall as well as a detached, stand-alone, auto service center. The land comprises 1,069,790 square feet of area. The retail store contains 306,250 square feet with a sales area of 197,000 square feet. This store was constructed in 1966 with a second floor expansion in 1972. The auto service center contains a part one-story and part two-story building. It contains 52,532 square feet of area and was constructed in 1966. The entire property contains 358,782 square feet of building area. In addition to the building improvements, there is approximately 700,000 square feet of asphalt paving used for parking and driveway areas.

At the commencement of this hearing, the PTAB dealt with several procedural matters relating to verbal motions made by the parties. First, intervenor, school district #215, moved to exclude witnesses, whereupon the board of review and remaining intervenors had no objections. However, the appellant's objections lay in the argument that a review appraiser should be present during the opposing parties' appraisers' testimony to assist in formulating questions for cross examination most especially due to the summary format of several parties' evidence submissions. Upon due consideration, the PTAB denied intervenor's motion to exclude witnesses; therefore, both the appellant's and the intervenor's review appraisers were not excluded from any portion of these proceedings.

Secondly, the appellant moved to strike appraisals submitted by the board of review as well as the city of Calumet City due to the absence of the preparer's testimony. The board of review and the intervenors objected to said motion. The PTAB denied appellant's motion to strike.

In addition, the parties jointly stipulated to the expert qualifications of the appraisers and prospective witnesses in this matter: Gary Battuello, James Gibbons, Michael Kelly, and John Pogacnik. Therefore, these four witnesses were accepted as expert witnesses at the hearing.

Furthermore, the PTAB finds that these appeals involve common issues of law and fact and a consolidation of the appeals would not prejudice the rights of the parties. Therefore, pursuant to Section 1910.78 of the *rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78),* the PTAB consolidated the above appeals.

As to the basis of this appeal, the appellant argued that the fair market value of the subject is not accurately reflected in its assessed value.

The appellant's first witness was Jay Mason, Director of Property Tax with CBIZ Accounting, Tax & Advisory Services. Mr. Mason testified to his prior experience as the Vice President of Property Taxes and Real Estate with the May Company that contained a nationwide portfolio of $175,000,000. He also stated that he was not directly involved in real estate negotiations at the May Company. He was offered as an expert in real estate perspectives from the early 1980's through 2005. The board of review objected to such an offer. Upon due consideration of the parties' positions, the PTAB sustained the board of review's objection.

As to the overvaluation argument, the appellant's pleadings included a copy of a full, narrative appraisal undertaken by appraiser, Michael Kelly. The Kelly appraisal addressed the three traditional approaches to value, while opining an estimated market value of $10,100,000. He testified that his market value estimate would not change from 2002 through 2004 because the market for anchor department stores had not changed significantly over these tax years.

Kelly testified that he undertook an interior and exterior inspection of the subject, several times. He described the subject's site as containing 24.56 acres of land. The subject property is improved with a part one-story and part two-story, masonry, commercial retail buildings with a combined area of 358,782 square feet. The main structure was used as a single-tenant, anchor department store in a regional shopping mall and contained 306,250 square feet of area, while the second building was used as an auto, tire, and battery service facility containing 52,532 square feet of area. He stated that the buildings had an effective age of 35 years with a remaining economic life of 5 years, but that the improvements were adequately maintained and in good condition. In addition, he indicated that the two-level anchor store suffers from a lack of ingress and egress on its upper level into the mall.

As to the highest and best use analysis, Kelly testified that the property's highest and best use as if vacant was its present use as a commercial, retail structure, while its highest and best use as improved was its current use as an anchor-type, commercial retail facility. Furthermore, he explained that this subject property's market area is really the retail market on a national or regional basis due to the fact that this property is an anchor department store. In addition, Kelly expounded on a detailed description of the characteristics distinguishing regional malls, super-regional malls, strip centers, and community centers.

The Kelly appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of $9,160,000, rounded; the income approach reflected a value of $10,275,000, rounded; and the sales comparison approach indicated a value of $10,045,000, rounded. In reconciling these approaches to value, Kelly placed main reliance on both the income and sales comparison approaches to reflect his final value of $10,100,000 for the subject.

The first method developed was the cost approach. The initial step under the cost approach was to estimate the value of the site and in doing so Kelly undertook two analyses from market indicators. First, he used six suggested land sales of local sites that ranged in size from 119,267 to 674,309 square feet and in price from $2.24 to $6.63 per square foot. Second, Kelly also derived an indication of the contributory value of the land as an anchor store site based on applying typical ground rent terms of 1.0% of store retail sales. His appraisal stated that in deriving the land value, consideration must be given the effect on land value caused by the

economics of an entire shopping center including anchor stores and mall portion. Kelly then capitalized the sales to indicate a land value under this method of $4.84 per square foot. Upon consideration of both sources of data, if the subject site were vacant and available to be developed to its highest and best use, the market value of the land would be $6.00 per square foot and he then applied that to the subject's land size indicating a land value of $6,420,000, rounded.

Using the Marshall Swift Valuation Service, Kelly estimated a replacement cost new of both buildings as well as the site improvements for a total of $27,382,000, or $76.32 per square foot. This appraiser employed two methods in developing depreciation. In the first method, after inspecting the subject property, Kelly employed the age-life method to estimate physical depreciation at 88%. Thereafter, Kelly utilized the market sales present in the appraisal's sales comparison approach to extract the land value as well as the contributory value of the land to the sale value as an anchor department store. This was done by stabilizing the retail sales for each sale property and multiplying by 1% to obtain the indicated ground rent, which was then capitalized by 9% to indicate the contributory land value. Next, Kelly subtracted the land value from the total sale price with the remainder as the residual of the sale price imputable to the improvements. After developing the replacement cost new for each of the comparables' improvements, the building residual was deducted to obtain an estimate of the total accrued depreciation for each sale comparable. The accrued depreciation was divided by the reproduction cost new to indicate the total percentage of depreciation from all causes. This total depreciation was then divided by each improvement's respective age to arrive at an annual rate of depreciation.

This analysis indicated that the properties from 19 to 26 years in age experienced depreciation rates from 3.3% to 4.3% per year with a total depreciation from 74.6% to 95.2%. Further, physical depreciation was deducted from the indicated total depreciation from all causes, to obtain the functional and/or economic obsolescence for each of the sale comparables that ranged from 20.8% to 40.2%. Moreover, the sale comparables contained stabilized retail sales levels of approximately $120 to $180 per square foot, while Kelly stabilized the subject's sales at $130 per square foot. Therefore, functional/economic obsolescence was estimated at 5% for total depreciation at 93%.

In the second method, Kelly abstracted total depreciation based upon the subject's ability to generate net rent. In turn, he compared this to the subject's land value and cost new to determine if the income is sufficient to support an acquisition cost. The subject's land value less the physically depreciated building value was multiplied by the market required rate of return of 11% to estimate a market required net income of $1,067,642. Deducting the subject's stabilized net income of $1,130,163 resulted in a deficient income of $62,521. Further, the appraisal indicated a total depreciation from all causes by using the physical depreciation of $24,096,160 and dividing by the cost new of $27,382,000, which resulted in a total percentage of depreciation at 88%. Upon reviewing the two methods used to abstract depreciation, Kelly estimated that the subject suffered from 90% total depreciation. Applying this percentage to the replacement cost new resulted in a depreciated value of the improvements at $2,738,200. Adding the land value of $6,420,000 reflected a final estimate of value under the cost approach of $9,160,000, rounded.

The next developed approach was the income approach. Kelly obtained and analyzed leases in two categories: rental comparables that are structured on a pre-set per square foot rental rate as

well as rental comparables that are structured on a percentage of retail store sales. A total of 18 leases were considered from both categories. In Category I, 16 leases were reviewed with properties that ranged: in age from 1 to 33 years; in building size from 62,692 to 180,729 square feet; and in net rental rates from $2.74 to $6.83 per square foot. In addition to these rental comparables, Kelly consulted The Dollars & Cents of Shopping Centers, 2002, published by the Urban Land Institute, which is a compilation of statistics of the shopping center industry in the United States. The statistics relating to national chain department stores indicated that regional shopping centers reflected: median sales per square foot of $163.20, a median percentage of rent at 1.88%, median rent at $3.07 per square foot, and a percentage of sales at 1.9%. A review of rental comparables reflected net rents based on a percentage of retail sales ranging from 1.0% to 3.0% of sales. In Category II, Kelly reviewed 2 leases that indicated percentage levels also ranging from 1.0% to 3.0% of sales. The appraisal indicated that while the retail sales on a per square foot basis will vary from one department store location to another, the rental rate as a percentage of sales does not show significant variation from one area to another.

Kelly testified that comparing nationwide leases of anchor department stores gleans a percentage of sales that various anchors are paying in rent. He stated that his 16 rental comparables demonstrated an average of 2.5% of retail sales, which supported the data reflected in The Dollars & Cents of Shopping Centers survey of anchors stores across the country. Therefore, even though there are higher sales per square foot in San Francisco or New York City, there is still the relationship of rent to sales from 2.5% or 3.0%.

Furthermore, in viewing the retail market, Kelly explained how big box stores differed from the subject's anchor store. Specifically, he noted that that big box stores not only vary in size and adjacent tenant mix, but also in markets. He elaborated that due to the disparity in market over time big box stores will show lower capitalization rates and higher prices per square foot when they sell in comparison to anchor department stores, which are actually the traffic generators in any regional or super-regional mall. He indicated that historically anchors pay lower rents related to their actual sales, and as a result, anchor stores sell for a lesser amount per square foot than a free-standing big box store.

Reviewing the data in totality, Kelly chose a market rent of $3.50 per square foot, triple net, which was applied to the subject's 358,782 square feet of building area to indicate potential gross income for the subject of $1,255,737. Less a vacancy and collection loss of 10% indicated an effective net annual income of $1,130,163. Kelly used various methods to estimate a capitalization rate for the subject of 11.0%. Abstracting an overall rate from sales comparables indicated a range from 9.6% to 15.7%, while using the band of investment method reflected an overall rate of 10.2%. The Korpacz Real Estate Investor Survey, First Quarter, 2002, reflected a range for institutional-grade national strip centers including multi-tenant shopping centers from 8.5% to 12.0%. Capitalizing the subject's annual income by 11.0% produced a value estimate under the income approach of $10,275,000, rounded.

Under the sales comparison approach to value, Kelly utilized five suggested comparables that are single-tenant, anchor department stores located in regional malls located throughout Illinois. Kelly testified that because there is a national market for the subject property, adjustments could be made to the properties to account for location. The properties sold from November, 1994, through October, 1999, for prices that ranged from $15.86 to $39.53 per square foot before

adjustments. The improvements ranged in size from 84,747 to 175,012 square feet of building area and in age from 19 to 26 years. The properties' retail sales per square foot ranged from $120.00 to $180.00 per square foot. Kelly testified that stabilized retail sales were undertaken for each comparable at the time of its sale and explained his methodology. He stated that this was done based upon taking into consideration what the actual sales were of the other anchors in that respective mall and in some cases, also what the sales were for the particular store depending on whether they appeared to be in line with a typical anchor. Based upon this, Kelly indicated that he calculated what the weighted average sales were for the anchors in each of these malls on a stabilized basis. After making adjustments, Kelly considered a unit value of $28.00 per square foot to be appropriate for the subject.

Moreover, he developed a sales multiplier utilizing each sale comparable by dividing the sales price per square foot by the retail sales per square foot. In undertaking this analysis, the suggested comparables were selling from 0.17 to 0.23 times stabilized retail sales. The appraisal indicated that the subject's multiplier would be near the middle of this range due to its older age and design. This analysis indicated a retail sales multiplier for the subject of 0.21 with the subject's retail sales per square foot at $130.00 equaling a value for the subject of $27.30 per square foot. Therefore, Kelly estimated a market value for the subject of $28.00 per square foot or $10,045,000, rounded.

Under examination, Kelly testified: that he had personally verified each sale transactions' data; that the comparables' communities were smaller than the subject's; that only three properties were located in Cook County; that the building sizes were smaller than the subject's improvement; and that improved sale #5 was adjusted to include proposed renovation costs. As to sales #1, #2 and #5, Kelly responded credibly articulating the background of each sale. He disclosed that the initial anchor store in each matter had sought bankruptcy relief and had initially sold the store. Thereafter, each property was subsequently sold again and Kelly stated that this subsequent sale transaction was personally verified and included in his appraisal report.

As to the subject's market, Kelly stated that these sales were of anchor department stores available at the time he undertook the subject's appraisal. He also indicated that he recognized that there had been sales of freestanding stores or shopping centers, but that those are not the same market as an anchor department store. Further, he stated that the subject's market was nationwide and that adjustments were made prior to opining a market value for the subject.

Kelly stated that his estimate of market value for the subject in tax year 2002 at $10,100,000 was slightly lower than his estimate in tax year 1999 at $11,000,000. In explanation, he indicated that the 1999 average weighted sales of all of the subject's fellow anchors was about $176.00 per square foot, while in 2002 there was a decrease to $149.00 per square foot. He continued by stating that this decrease converts to a slightly lower rent, which when capitalized reflects a slightly lower value. In addition, while the retail sales multiplier in the sales approach was the same in both triennial assessment periods at .21, he stated that the slightly lower stabilized sales at $130.00 converted to a slightly lower value estimate for tax year 2002.

In reconciling the three approaches to value, Kelly accorded minimal weight to the cost approach due to the subject's age, configuration and calculation of large amounts of depreciation. In contrast, substantial consideration was accorded the income and sales comparison approaches.

Therefore, he testified that his market value estimate for the subject of $10,100,000 is applicable to tax years 2002 through 2004 for the market for this type of anchor property had not changed during that time period.

In rebuttal, the intervenors called James Gibbons to testify regarding his assignment as a review appraiser of the appellant's evidence. Having previously been accepted as an expert witness, Gibbons testified that he has previously conducted a total of 12 appraisals of anchor stores from 1999 through 2008.

As to the subject, he stated that an anchor store is typically one half the size of the subject property. He also indicated that there had not been significant growth in the subject's area and/or the customer base for the subject's mall. He stated that there were inherent inefficiencies in the subject's store and auto center's two-story design, which is not normally found in super-regional or regional malls.

As to Kelly's appraisal, Gibbons stated: that his development of the highest and best use was sufficient; that Kelly developed a typical cost approach, but believed that the development of the effective age and remaining economic life was unsupported; that in the income approach Gibbons called into question whether there had been any ancillary income from licensing agreements relating to a dentist, optometrist, portrait studio or auto center; that he did not believe that the market supported a capitalization rate of 11%; that he did not believe that Kelly's improved sale comparables were appropriate due to their location and/or community; that Kelly's sale #3 reflected a different highest and best use because the improvement was purchased for conversion into an office building; and that Kelly's sale #5 reflected the application of projected costs as opposed to actual costs of renovation.

Under examination regarding the subject property, Gibbons was confused as to whether there had been major renovation undertaken in the subject's mall, the subject's store and/or the auto center. Further, he was personally unaware of whether sales at the ancillary services within the store were included in the store's retail sales. In addition, he stated that a two-story, 52,000 auto center was larger than typically found in the market, which is generally about 15,000 square feet in size. Gibbons indicated that an anchor department store lacks comparability to a freestanding building. Moreover, he stated that failure to disclose the details regarding the purchase of a company and allocation of a purchase price to real estate would be misleading to an appraisal's reader and a possible USPAP violation.

At the conclusion of the appellant's case-in-chief, the Assistant State's Attorney on behalf of the Cook County Board of Review moved for a directed verdict. In response, the appellant's attorney noted that there was an absence of evidence and testimony to support the board of review's estimate of value at $18,900,000. Counsel indicated that the appellant's expert opined a value at $10,100,000, while the intervenor's expert opined a value at $15,500,000, both below the board of review's valuation. Upon consideration of the parties' positions, the PTAB denied the motion.

The board of review timely submitted "Board of Review Notes on Appeal" wherein the subject's final assessment of $7,208,004 was disclosed indicating a market value of $18,968,432 applying the ordinance level of assessment at 38% for class 5a property as designated by Cook County

Real Property Assessment Classification Ordinance. The evidence includes a cover memorandum and market analysis prepared by Jeffrey Hortsch submitted with an effective date of January 1, 2002 and a market value of $19,025,000. The analysis provided limited data and explanation, while addressing two of the three traditional approaches to value. However, Mr. Hortsch was not presented to testify regarding either his qualifications or the methodology used in his appraisal.
In two of three tax years at issue, School District #157 and/or the City of Calumet City as intervenors submitted an appraisal prepared by Kevin Byrnes with an effective date of January 1, 2003 and a market value estimate of $21,430,000. However, Mr. Byrnes was not presented to testify regarding either his qualifications or the methodology used in his appraisal.

Intervenor, School District #215, submitted an appraisal for property tax years 2003 and 2004 prepared by John Pogacnik of Price Associates, who holds the designation of Member of the Appraisal Institute (MAI). The appraisal has an effective date of January 1, 2002 and a market value estimate of $15,500,000 for the subject, which is less than the current market value attributed to the subject by the county at $18,968,432. Pogacnik testified that he had conducted approximately 6 to 10 appraisals of anchor stores during the prior nine years, while his appraisal report of the subject was in compliance with the Uniform Standards of Professional Appraisal Practice (hereinafter USPAP). Nevertheless, he was questioned regarding his signature page that reflected initials after his signature, thereby elicited varying responses. His final answer, after several attempts, was that the initials after his signature were most likely for accounting purposes, but could have been signed by a secretary.

The Pogacnik appraisal addressed the three traditional approaches to value, while opining an estimated market value of $15,500,000 for the tax years 2003 and 2004. Pogacnik's appraisal reflects the adoption of descriptive data regarding the subject taken from the Kelly appraisal. He undertook a personal inspection of the subject on June 3, 2004, which consisted of an exterior inspection along with an interior inspection of the areas open to the public. However, under examination, Pogacnik's testimony revealed that he was less than familiar with the subject's design and/or ingress or egress into the subject's mall.

As to the subject's area, Pogacnik stated that the subject was sited in a little regional mall with average area income, but with population statistics slightly below average according to his research. He indicated that the subject was built in 1966, while the subject's site had been converted in 1993 and 1994 from an outdoor mall to an enclosed mall. He stated that the mall's improvements were of average to above average condition with a land-to-building ratio of 2.98:1. Furthermore, he indicated that the anchor store and the tire, battery and auto store were both considered large by comparison to the market.

As to the highest and best use analysis, Pogacnik testified that the property's highest and best use, as if vacant, was the development of a commercial facility with retail use, while its highest and best use, as improved, was its current use as an anchor-type, commercial retail facility, which was maximally productive.

The Pogacnik appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of $16,200,000, rounded; the income approach reflected a value of $15,200,000, rounded; and the sales comparison

approach indicated a value of $15,500,000, rounded. In reconciling these approaches to value, he placed main reliance on the sales comparison approach to reflect his final value estimate of $15,500,000 for the subject. Further, he testified that his value estimate would not vary significantly from tax year 2003 to tax year 2004 because market conditions were stable within the subject's market area.

The first method developed was the cost approach. The initial step under the cost approach was to estimate the value of the site. Pogacnik used five suggested land sales that ranged in size from 262,493 to 674,309 square feet and in price from $2.42 to $6.63 per square foot. Based upon the subject's size, location and amenities, the appraiser attributed a land value of $5.00 per square foot to the subject's land size indicating a value of $5,350,000, rounded.

Using the Marshall Swift Valuation Service, Pogacnik estimated a replacement cost new base value of $51.92 per square foot, while then factoring in the auto service center build-out and different features in an analysis to reflect a final indicated value of $67.60 per square foot or $24,253,663. He stated that the subject's site improvements were minimal including approximately 700,000 square feet of asphalt paved parking. The appraisal indicated that surface parking lots cost between $2.75 and $3.75 per square foot, which is why he chose an average thereof at $3.25 per square foot or $2,275,000. Based on the age-life method, he opined the depreciated value of the site improvements at $840,000, rounded. He estimated entrepreneurial profit at 5% or $1,540,817. Further, he opined that the subject's total economic life was 40 years with an effective age at 25 years resulting in accrued depreciation of 63%. Pogacnik stated that the subject exhibited moderate physical deterioration that is generally attributable to the aging process and the subject's high foot traffic retail use. He indicated that there was no external obsolescence, but that the subject suffered from a degree of functional obsolescence due to its age and constant changes in building design and layout necessary for image-conscious retailers to remain competitive.

Applying this depreciation percentage to the replacement cost new resulted in a depreciated value of the improvements at $9,992,650. Adding the land and site improvements value reflected a final estimate of value under the cost approach of $16,200,000, rounded.

As to the income approach, Pogacnik concurred with the Kelly position that anchor store leases fall into two categories: rental comparables that are structured on a pre-set per square foot rental rate as well as rental comparables that are structured on a percentage of retail store sales. Pogacnik considered five leases on a pre-set per square foot basis reflecting a range of rates from $5.85 to $8.74 per square foot. Thereby, he estimated a market rent of $6.00 per square foot on an absolute net basis for the subject. Under examination, he testified that none of the rental properties were anchor department stores located within a regional or super-regional mall. Rental #2 was a smaller, two-tenant, freestanding building, while the remaining rentals were significantly smaller and younger department stores.

Less a vacancy and collection loss of 12% indicated an effective gross income of $1,894,369. Deducting expenses of $238,228 indicated a net operating income of $1,656,141. Pogacnik relied upon data from a Price Waterhouse Coopers survey conducted in the Fourth Quarter of 2001 to conclude a 9.5% overall capitalization rate. Thereafter, he applied a partial tax load to

obtain a loaded capitalization rate of 10.9%. Capitalizing the subject's annual income produced a value estimate under the income approach of $15,200,000, rounded.

Under the sales comparison approach to value, Pogacnik utilized four single-user properties with one exception. The properties sold from January, 1997, through December, 2001, for prices that ranged from $30.18 to $104.85 per square foot before adjustments. The improvements ranged in size from 36,000 to 109,332 square feet of building area and in age from 2 to 34 years. Pogacnik's data indicated: that sale #1 was a fully leased property by Kohl's Department Stores at the time of purchase; that subsequent to the purchase of sale #2, the property became an owner-occupied Best Buy Store; and that sale #4 was occupied by two retail tenants at sale time, a Best Buy Store as well as a Michael's Store, a craft supply business. The appraiser's narrative of adjustments; however, indicated that sale #4 was a single-user, retail building. After making narrative adjustments, Pogacnik considered a unit value of $44.00 per square foot to be appropriate for the subject estimating a market value for the subject of $15,800,000, rounded.

Under examination, Pogacnik testified: that his improved sales were not anchor department stores sited in either super-regional or regional malls; that sale #1 and sale #2 were in Lake and DuPage counties; that sale #3 and #4 were in Cook County as is the subject property; and that he was unaware of the effective tax rate in Lake and DuPage counties. Regarding the specific sales, he stated that sale #1 was a one-year old, free-standing structure; while sale #2 related to a free-standing retail building which was one tenth the size of the subject while he undertook a limited verification of the sale's financing. He stated that sale #3 was semi-attached to a community strip mall and was vacant at sale time requiring retrofitting. He indicated that sale #4 was another free-standing building not located within a mall, but was utilized as a multi-tenant location at sale time.
In reconciling the three approaches to value, Pogacnik accorded minimal weight to the income approach with primary consideration accorded to the sales comparison approach. He indicated that the cost approach was used as a secondary indication of value even though market participants do not rely on the cost approach in valuations of properties such as the subject due to its degree of functional obsolescence in the structure's age and constant change in construction design and layout. Most emphasis was accorded the sales comparison approach for a final value estimate of $15,500,000 for the subject.

In rebuttal, the appellant called as its review appraiser, Gary Battuello, who is also accorded the MAI designation. Having previously been accepted as an expert witness, he briefly testified that he has conducted approximately 60 to 75 appraisals of anchor department stores. Battuello stated that the subject property was an extremely large, anchor department store in a traditional-mix shopping center with a fee simple interest.

He further stated that his assignment was to undertake a desk review of the evidence submitted by the board of review as well as both intervenors in this tax appeal. In summary, Battuello stated that the Pogacnik appraisal: lacked items in the addenda; misnamed the intended user; included contradictory land area application varying from the subject's two parcels to usage, at times, of only one parcel's area; absence of a market description for the subject's area; absence of the subject property's description; a possible USPAP violation in relation to the appraiser's lack of signature; inconsistent application of adjustments to suggested comparables; inappropriate and

unexplained data on suggested comparables; as well as varying property rights involved in the improved sales comparables.

Battuello also elaborated on the inconsistencies and/or inadequacies present in the Byrnes' appraisal as well as the board of review's evidence submission indicating that the value conclusions therein would neither be reasonable nor reliable.

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 PTAB further finds a reduction in the subject's assessment is warranted.

When overvaluation is the basis of the appeal, the value of the property must be proved by a preponderance of the evidence. *86 Ill.Admin.Code 1910.63(e).* 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 finds that the appellant did meet its burden and that a reduction is warranted.

Under a 'de novo' standard of review, within this appeal was various evidence submissions as well as testimony of numerous experts in the field of real estate appraisal. These experts expounded on either their work product or were called upon to rebut and review the validity and reasonableness of other evidence submitted by the parties.

In determining the fair market value of the subject property for tax years 2002 through 2004, representing one triennial assessment period, the PTAB closely examined the parties' four appraisal reports. The PTAB accords little weight to the board of review's evidence as well as the intervenors, the City of Calumet City and/or School District #157's, evidence submission. The Hortsch and Byrnes reports, respectively, lacked the preparer's testimony concerning his qualifications and to explain the methodology and data used in each report.

The PTAB then looks to the remaining evidence that comprises the Kelly appraisal and testimony submitted by the appellant as well as the Pogacnik appraisal and testimony submitted by the remaining intervenor. The PTAB further finds that the remaining intervenor's evidence reflects a market value opinion of $15,500,000, which is less than the current market value of $18,968,432 as determined by application of the class 5a level of assessment to the properties' current total assessment proffered by the county.

The PTAB finds that the best evidence of market value was the appraisal and supporting testimony of the appellant's appraiser, Kelly. In totality, this appraisal developed the three traditional approaches of value to estimate market value. Overall, the PTAB accorded most weight to the appellant's evidence due to: the extensive experience of the appraiser in appraising anchor department stores on a nationwide basis; the credibility of testimony elicited from this expert; his personal inspection of the subject property and his knowledge of its environs; the personal verification of data relating to rental and sales comparables; the usage of appropriate adjustments to suggested comparables; and the development of a retail sales multiplier in the sales approach to value.

Specifically, Kelly placed less validity on the cost approach to value due to the subject property's age, size and configuration. This position is confirmed by the testimony of the remaining appraisal experts. He indicated that main consideration was given to the income and sale comparison approaches to value. In his income approach, Kelly viewed 18 leases of rental comparables obtained on a nationwide basis of anchor department stores gleaning not only descriptive data, but also rental data and a percentage of sales that various anchors are paying in rent. In contrast, the intervenor's appraiser, Pogacnik, testified to using leases of properties that were not anchor department stores in regional malls.

Further, Kelly referred to market data reflected in recognized, nationwide surveys. He testified that while retail sales per square foot may vary from one department store location to another, rental rates as a percentage of sales are without significant variation from one area to another. Kelly utilized various methods to estimate a capitalization rate for the subject of 11%. This rate was supported by market data as well as Pogacnik's usage of 10.9% in the development of the intervenor's income approach to value. Kelly opined a market value of $10,275,000, rounded, under the income approach to value.

In Kelly's sales approach, he utilized five properties that were single-tenant, anchor department stores in regional malls located throughout Illinois. He disclosed that the anchor stores related to sale #1, #2 and #5 had filed for bankruptcy relief and then sold the properties. Kelly stated that the subsequent sales transaction is reflected in his appraisal, while explaining the details regarding each sale which he had personally verified with a party to the transaction. He testified credibly regarding his adjustments to these anchor properties. He also elaborated on his calculation of stabilized retail sales for each comparable at the time of its sale. Moreover, he developed a sales multiplier utilizing each sale comparable. Kelly used sales of anchor department store sales available within the market as comparables, while, in contrast, the intervenor's evidence reflected the usage of improved sales of freestanding, big box properties and/or multi-tenant, big box properties. The testimony of Kelly as well as both review appraisers, Gibbons and Battuello, indicated that a tenant of appraisal theory is that anchor department stores reflect a different market than the one available to freestanding, big box stores. Kelly opined a market value estimate of $10,045,000, rounded, under this approach to value. In reconciling all approaches to value, Kelly's final value for the subject was $10,100,000 without signification variation for tax years 2002 through 2004.

Moreover, the PTAB accorded less weight to the intervenor's evidence due to either evasive responses and/or responses that were less than credible from its appraiser. Further the PTAB found the intervenor's evidence less than persuasive due to a disparity in: the appraiser's lack of experience in appraising anchor department stores; the absence of items allegedly placed in the addenda; the misnaming of the appraiser's intended user; the application of contradictory land area for the subject in the appraisal; the absence of a market description for the subject's area; his testimony indicating a sole reliance upon the appellant's appraisal data in the absence of the subject property's description; a possible USPAP violation in relation to the appraiser's lack of actual signature; the inconsistent application of adjustments to suggested comparables; the inappropriate and/or unexplained data on suggested comparables; the lack of anchor department stores as rental or improved sale comparables; as well as the varying property rights involved in the improved sale comparables.

On the basis of this analysis, the Property Tax Appeal Board finds that the subject had a fair market value of $10,100,000 for tax years 2002 through 2004. Since fair market value has been established, the ordinance level of assessment for Cook County as reflected in the Cook County Real Property Assessment Classification Ordinance for class 5a property of 38% shall apply.

APPELLANT:	**The Alton Partnership**
DOCKET NUMBER:	**06-00226.001-C-3**
DATE DECIDED:	**December, 2009**
COUNTY:	**Madison**
RESULT:	**Reduction**

The subject property consists of a two-story hotel with 137 rooms, an atrium, indoor swimming pool, whirlpool, sauna, fitness center, kitchen, restaurant, lounge, offices, meeting/banquet rooms and laundry facilities. The subject has 87,624 square feet of building area and was built in 1982. The improvements are located on an irregular shaped parcel with 4.223 acres in Alton, Alton Township, Madison County. The property is commonly known as the Alton Holiday Inn.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by J. Edward Salisbury of Salisbury and Associates, Inc., Taylorville, Illinois. Salisbury was called as a witness on behalf of the appellant. Salisbury is a State Certified Real Estate Appraiser and has had his own appraisal company since 1991. He has been in the real estate appraisal field in excess of 30 years and has the Certified Assessment Evaluator (CAE) designation with the International Association of Assessing Officers (IAAO) and is a senior instructor with the IAAO.

Salisbury described the subject as a full service hotel, which is a hotel that offers typical hotel rooms, a restaurant, a lounge and meeting rooms. He testified that in the 1960's and 1970's there were a large number of full service hotels built on a statewide basis. He further indicated that these types of hotels are more expensive to operate and have several different revenue sources. The witness explained that the restaurants and lounges in many instances show a negative return. The appraiser testified that when appraising a full service hotel, like the subject, he always attempts to find full services hotels as comparables. When appraising limited service hotels he tries to use limited service hotels as comparables.

Salisbury testified that he could not find any sales of full service hotels in Madison County or St. Clair County that he could use in his report. He testified that for the past 15 years he knew of only two full service hotels that were built outside of the Chicago metro area in downstate Illinois. He testified that there have been hundreds of limited service hotels that have been built. Salisbury attributed the reason for that being that the cost to operate a full service hotel greatly exceeds the cost to operate a limited service hotel.

In appraising the subject property Salisbury developed the income and sales comparison approaches to value. He did not develop the cost approach due to so few new full service hotels being built in this decade and there were no sales that could be used to calculate the appropriate depreciation. Additionally, the age of the subject made the cost approach less meaningful.

Salisbury determined commercial development was the highest and best use of the subject site as vacant. The appellant's appraiser determined the highest and best use as improved is for continued use as a full service hotel. The witness also determined a marketing period for the subject property was 9 to 12 months.

The first approach developed by Salisbury was the income approach to value. Salisbury reviewed the income and expense information for the subject for 2001 to 2004. Salisbury determined the subject had an average daily rate (ADR) of $85 per room and the rooms available per year of 50,005 (137 rooms X 365 days) resulting in a potential gross income of $4,250,425. Salisbury testified the subject had an occupancy rate of 55% to 62.88% but he used 65% to arrive at an effective gross income of $2,762,776. The appraiser next estimated the other income attributable to the subject property. His report indicated that other income represented for the four years he reviewed ranged from 22.27% to 24.64% of total income and room revenue represented 76% of total income. Salisbury stabilized other income at 24%, which calculated to be $872,456. Adding the components the appraiser estimated a total effective gross income to be $3,635,232. Salisbury testified the four year operating history of the subject indicated that expense ratios ranged from 78% to 89.9%. He testified that expense ratios for full service hotels exceed expense ratios for limited service hotels because of the costs of maintenance, repairs and utility costs for the areas associated with the restaurant, bar and meeting rooms. Salisbury ultimately estimated an expense ratio of 83% of effective gross income or $3,017,243. The appraiser also used industry guidelines to determine the reserves for replacement of 4% of effective gross income or $145,409. The appraiser also made a deduction of $95,900 for income attributable to personal property. The resulting net operating income was calculated to be $376,680.

The final step under the income approach was to estimate the capitalization rate. The appraiser indicated in his report that market data in his work files indicate overall capitalization rates (OAR) range from 8.5% to 13%. Salisbury also reviewed two publications that track capitalization rates for hotel properties. *Korpacz Real Estate Investor Survey* showed an average of 9.88% in the first quarter of 2004 and average of 9.47% in the first quarter of 2005. *Hospitality Perspectives* published by US Realty Consultants, Inc., for the spring of 2004 showed an average of 9.5%. Salisbury selected a capitalization rate of 10% to which he added 2.57% for an effective tax rate resulting in an overall capitalization rate of 12.57%. Capitalizing the net operating income of $376,680 resulted in an estimated market value of $3,000,000 under the income approach to value.

The next approach developed by Salisbury was the sales comparison approach. In the sales comparison approach the appraiser utilized five sales, an option to purchase and a listing. The comparables were located throughout Illinois in the cities of Moline, Peoria, Mt. Vernon, Freeport, Bloomington and Danville. The comparables were built from 1960 to 1984 with option 1 having additions in 1991 and 1996. The appraiser described comparable 1 as a limited service hotel and the remaining properties as full service hotels. Each hotel had one or two swimming pools. The comparables had from 90 to 286 rooms. The sales occurred from February 1998 to July 2003 for total prices ranging from $2,500,000 to $7,000,000. The appraiser indicated that sales 3, 4 and 5 included personal property included in the sales prices in the amounts of $1,350,000, $900,000 and $645,000, respectively. After making the deductions for personal property the appraiser indicated the comparables sold for prices ranging from $1,600,000 to $6,975,000 or from $9,840 to $24,388 per room. With respect to the option, the appraiser explained that the owner and the lessee entered into a lease agreement in January 2002 that included an option to purchase for a price of $2,075,000 including personal property valued at $655,000 resulting in a value for the real estate of $1,420,000 or $10,840 per room. The listing,

located in Moline, was placed on the market in October 2005 for a price of $4,500,000 or $20,833 per room. The appraiser made qualitative adjustments to the comparables for such factors as date of sale, location, age and condition. He concluded comparable 1 and the listing were equivalent to the subject, comparable 2 required a negative adjustment and the remaining comparables required positive adjustments. Based on this data the appraiser concluded the subject property had an indicated value under the sales comparison approach of $22,000 per room resulting in a total indicated value of $3,000,000.

In reconciling the two approaches to value, the appraiser used both approaches and estimated the subject property had a market value of $3,000,000 as of January 1, 2005.

On cross-examination Salisbury agreed there was a typographical error on page 45 of his report calculating the reserves for replacement. The correct amount for the effective gross income is $3,635,232 and total amount of $145,409 is correct. Salisbury also agreed that the capitalization rates in the publications he used would have included property taxes as expenses. He testified he considered that in determining the capitalization rate for the subject property. Salisbury agreed that his comparable 4 was located in Freeport in Northern Illinois approximately 25 to 30 miles from Rockford. Prior to the sale this property had been foreclosed. The witness acknowledged that this property was not doing well. With respect to the option, Salisbury testified he checked a couple of years after the contract had been signed and the option to purchase had not been exercised. He further testified that to his knowledge the listing has not yet sold.

Salisbury estimated the value of the furniture, fixtures and equipment (FF&E) at the subject to be $10,000 per room based on cost manuals and hotel services. With a full service hotel, the value of the FF&E includes the restaurant and lounge, meeting room table and chairs, and kitchen equipment. Salisbury testified that in the sale of a full service hotel the transaction includes everything (all furniture and equipment). Salisbury concluded the subject had $95,900 of return on its FF&E. Under the income approach the $95,900 is deducted as income attributable to personal property.

Salisbury was of the opinion the subject was in a poor location. He considered the subject a destination location for a hotel, which is one that people use because of something occurring at the city where the property is located, such as a business meeting. It is not a hotel that is located on an Interstate Highway as a stopping point to another location. He explained that no one would go through Alton to go on to St. Louis. Salisbury concluded that the subject is the only full service hotel in Alton.

Salisbury was of the opinion that the full service hotel having a restaurant, lounge and meeting rooms is a detriment. He was of the opinion that limited service hotels would sell for more on a per room basis than a full service hotel. He explained that during the last 15 years the number of limited service hotels constructed outside the Chicago area exceeds the number of full service hotels. The reason being is the cost to operate a full service hotel is detrimental, it is difficult for the owners to make enough money to pay the extra costs associated with a full service hotel such as utilities and labor costs.

Salisbury also testified that hotels are totally driven by income so he places more reliance on the income approach than the sales comparison approach. He agreed that he relied most on the

income approach in this assignment using the actual income and expenses associated with the subject property.

Salisbury concluded the subject had 137 rooms based on information from management. Salisbury explained he prepared the appraisal at the end of 2005 and was of the opinion the value would not have changed as of January 1, 2006. Salisbury agreed that the sales that occurred in 1998, sales 2 and 4, were dated. He disagreed that it would have been better to use limited service hotels.

Salisbury testified that full service hotels almost always have a higher expense ratio than limiter service hotels due to the additional features such as banquet rooms, restaurants, bars and lounges. Salisbury also testified that he was not aware of any full service hotels that have been constructed in Madison County in the last 10 years. This indicates to him that investors do not consider full service hotels are as good an investment as limited service hotels.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $1,637,850 was disclosed. The subject's assessment reflects a market value of approximately $4,913,550. In support of its contention of the correct market value for the subject property, the board of review submitted a narrative appraisal prepared by Barry T. Loman. Loman estimated the subject had a market value of $4,500,000 as of January 1, 2006. Loman was called as a witness on behalf of the board of review.

Loman testified he as staff appraiser for the Madison County Supervisor of Assessments and has an independent appraisal company. He has been an appraiser for 32 years. He is a certified general real estate appraiser with the State of Illinois and has the Senior Residential Appraiser (SRA) designation with the Appraisal Institute.

Loman testified that he has appraised approximately 25 hotels for the county and clients prior to the appraisal of the subject property. Loman appraised the subject property as of January 1, 2006. He identified Board of Review Exhibit 1 as the appraisal he prepared. Loman acknowledge an error on page 26 of his report concerning the room count. He determined the subject had 136 rooms based on what a manager told him. He also acknowledge a couple of errors on page 40 concerning "+" signs and misnaming a resale.

In estimating the market value of the subject property Loman developed the three approaches to value. In doing research for the appraisal Loman testified there was recorded a transfer of the property from LaSalle Bank, National Association, by Trustee's Deed to Alton Partnership on July 29, 2002. There was a mortgage in the amount of $4,100,000 dated July 24, 2002, with Geneva Mortgage Corp. indentified as the lender and Alton Partnership as the borrower. The mortgage was modified in March 2007 to the amount of $4,285,000 with a maturity date of April 1, 2010. The mortgage modification was included in the addendum and at page 2 stated the loan agreement was modified to allow the borrower to borrow an additional $185,000 and the revised balance was $3,620,738.74. Loman testified, based upon his experience, that the typical loan to value ratio would be 65%. Doing the math resulted in a total value of $5.570 million. He also testified that he was informed by the onsite manager that approximately $2,000,000 had been put into the property in 2001 or 2002.

The first approach to value developed by Loman was the cost approach. He initially estimated the land value using four vacant land sales located along Homer Adams Parkway in Alton. The parcels ranged in size from 29,969 to 1,052,258 square feet of land area. The sales occurred from June 2003 to April 2005 for prices ranging from $100,000 to $2,506,000 or from $2.38 to $6.35 per square foot of land area. Based on this data, placing most emphasis on sales 3 and 4 due to size, Loman estimated the subject parcel had an indicated value of $3.50 per square foot or $643,300.

In estimating the replacement cost new of the improvements Loman used the Marshall Valuation Service. The appraiser classified the subject building as an average Class C commercial building with a base cost of $108.09 per square foot of building area. To this he made an adjustment for sprinklers, story height, floor area perimeter, local cost multiplier and a comparative cost multiplier resulting in a replacement cost of $115.36 per square foot of building area or $10,108,305. To this the appraiser added for rock, asphalt, concrete, the swimming pool, canopies, a utility building and light poles resulting in total costs of $10,477,666. The appraiser also added 10% for entrepreneurial profit resulting in a total replacement cost new of $11,525,433.

Loman then calculated physical depreciation to be 62.5% or $7,203,306 using the age life method wherein he estimated the subject had an effective age of 25 years and an economic life of 40 years. The appraiser determined the subject suffered from no functional or external obsolescence. Deducting depreciation and adding the land value resulted in an estimated value under the cost approach of $4,965,000.

The next approach developed by the appraiser was the sales comparison approach. The appraiser used 8 sales located in the Madison County communities of Pontoon Beach, Edwardsville, Troy and Collinsville. The comparables were improved with two-story or three-story hotels that ranged in size from 25,245 to 64,451 square feet of building area. These properties contained from 58 to 105 rooms and the buildings ranged in age from 5 to 24 years old. Each comparable had a swimming pool, six comparables had an elevator and five comparables had a sprinkler system. None of the comparables had a restaurant, lounge or lobby as does the subject property. The sales occurred from April 2003 to July 2006 for prices ranging from $1,319,000 to $3,050,000 or from $22,741 to $43,846 per room. The appraiser noted that average sales price was $35,000 per room. The appraiser placed most emphasis on the adjusted values for comparables 6 and 7. Loman estimated the subject property had an indicated value under the sales comparison approach of $32,000 per room or $4,352,000.

Loman testified his comparable sales 4 and 7 were also the subject of resale. An analysis of comparable 4 indicated an annual rate of appreciation of 1.2% while sale 7 indicated an annual rate of appreciation of 11.6%.

The final approach to value developed by Loman was the income approach to value. Loman utilized the income data for the subject contained in Salisbury's appraisal and surveyed the local market to determine the daily room rate to calculate the potential gross income. He estimated the subject had a daily room rate of $85, the same as Salisbury, which he multiplied by 136 rooms and by 365 days to arrive at a potential gross income of $4,219,400. He estimated the subject would have an occupancy rate of 65%, the same as Salisbury, to arrive at an effective gross

income of $2,742,610. Loman estimated other income to be $825,245, using the same percentage figure as Salisbury, to arrive at a total income of $3,567,855. To determine expenses, Loman then reviewed three comparables located in Mitchell (Best Western Camelot), Pontoon Beach (Sunrise Inn and Suites) and Edwardsville (Comfort Inn) that had expenses ranging from 67.5% to 75.9%. Loman estimated the subject would have expenses of 75% of effective gross income or $2,675,891. Deducting expenses resulted in a net operating income of $891,964. Loman estimated a deduction for reserves was 5% of effective gross income or $137,131. The appraiser also estimated the deduction for the income attributable to the personalty to be $260,699 using the Marshall Valuation FF&E estimate of 20% of building costs and a discount rate of .128953. Loman arrived at a net operating income attributable to the real estate of $494,134.

The final step under the income approach was to estimate the capitalization rate applicable to the subject property. Using the mortgage equity technique the appraiser arrived at an overall rate of 11.80%. Using investor surveys Loman arrived at a rate of 9.59%. The market abstracted overall rate was estimated to be 10.98% using the sale of a Comfort Inn in Edwardsville and a sale of a Sunrise Inn and Suites located in Pontoon Beach. Loman concluded the overall rate to be 10.5%. Capitalizing the net income resulted in an estimate of under the income approach of $4,706,000.

In reconciling the three approaches to value, Loman gave least credence to the cost approach and most weight to the sales comparison approach and the income approach to arrive at a value estimate of $4,500,000 as of January 1, 2006.

Loman testified he contacted a person from the Coal Valley Assessor's office and questioned them about Salisbury's comparable sale 1, a Hampton Inn located in Moline. He noted this comparable had a room rate lower than the subject. He was informed that this property had been known as a La Quinta, a Motel 6, an Econo Lodge and is now an America's Best Hotel. He did not believe this was a good comparable. With respect to sale 2 located in Peoria, Loman was of the opinion the sale in October 1998 was remote in time from the valuation data at issue and he was informed there was a lot of competition with other hotels in the area. He also testified that Salisbury had conflicting data with respect to the room count on this comparable. With respect to Salisbury sale 4 located in Freeport, Loman noted this property sold in February 1998. With respect to Salibury's comparable 5, Loman testified that it sold again on December 31, 2003. Loman was also of the opinion that the national survey Salisbury used to calculate the capitalization rate would have included taxes as an expense. He was of the opinion that if a person would then add an effective tax rate they would in effect be "double dipping".

Under cross-examination Loman testified he does not have access to the entire *Korpacz* survey, so he could not analyze the hotel industry. Loman recognized the distinction between a full service hotel and a limited service hotel and agreed with Salisbury's characterization of the differences. He also agreed that no full service hotels had been built in Madison County in the last 10 years while seven or eight limited service hotels have been constructed during this same period. Loman indicated his comparable 3, a Comfort Inn, had a banquet room, making this property something greater than a limited service hotel but something less than a full service hotel. Loman explained that with respect to this comparable a good portion was razed in 1994, leaving only the office and lobby, all the lodging rooms were subsequently reconstructed.

Loman stated the other comparable sales he used were limited service hotels. He agree that where he calculated the expense ratio using three comparables, 1 and 2 were limited service hotels while comparable three had banquet facilities and had the highest expense ratio.

Loman also agreed that his comparable sale 6 was the only one that had a similar number of rooms as the subject property and the others had half the number of rooms as the subject. Loman also indicated the subject has two parcels but the entire assessment was placed on the parcel under appeal.

The next witness called on behalf of the board of review was Kerry Miller, Chairman of the Madison County Board of Review. Miller testified that based on Loman's appraisal the total assessment should be reduced to $1,499,990 to reflect a market value of $4,500,000. Miller also explained that even though the subject is composed of two parcels, Madison County uses what is called Breaker Assessment C so that one parcel carries a zero value and its says on the legal description "Breaker Assessment C". This is done rather than try to apportion the value between the two parcels. He testified that the tax bill for the parcel under appeal provides that the value includes acreage assessment for the adjoining parcel.

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 the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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). The Board finds the evidence in the record demonstrates the subject's assessment is excessive.

The subject property has a total assessment of $1,637,850, which reflects a market value of approximately $4,913,550. The appellant submitted an appraisal prepared by Salisbury estimating the subject had a market value of $3,000,000 as of January 1, 2005. The board of review submitted an appraisal prepared by Loman estimating the subject property had a market value of $4,500,000 as of January 1, 2006. Both appraisers' estimates of value are below the market value as reflected by the subject's total assessment.

Of the two appraisers only Loman developed the cost approach to value. The Board finds his estimate of land value of $643,300, developed using four comparable land sales, is the only estimate of land value in the record. The Board finds the subject's land assessment should be reduced to reflect Loman's estimate of land value.

Although Loman developed an estimate of value for the improvements under the cost approach, he ultimately gave the conclusion less weight due to the difficulty in estimating accrued depreciation. Additionally, Loman determined the subject suffered from no functional or external obsolescence. However, both Salisbury and Loman agreed that no full service hotels had been constructed in Madison County during the last ten years, which would indicate the subject suffers from some form of functional or external obsolescence. Loman also indicated within the reconciliation portion of his appraisal that "this approach to value has limited reliability as an indicator of market value. As a result the Board gives the conclusion derived under this method little weight.

Both appraisers utilized the sales comparison approach. Salisbury, with the exception of comparable 1, utilized full service hotels as comparable sales while Loman utilized limited service hotels as comparables. Loman's sales were generally superior in location and date of sale than the sales used by Salisbury. However, Salisbury's sales were more similar to the subject in use as full service hotels and room count. Two of Salisbury's sales, 2 and 4, were dated occurring in 1998, eight years prior to the assessment date at issue, and one of these sales was involved in a foreclosure. Salisbury's sale 5 was significantly older than the subject property being built in 1960 compared to the subject's date of construction in 1985. Because of these factors the Board finds that significant upward adjustments would be needed to these sales. Salisbury's comparable sale 1 was a limited service hotel, which should be given less weight. Salisbury's option 1 was of an older hotel constructed originally in 1975 and was the result of an agreement with the owner and the lessee. The Board gives this sale less weight. The Board finds the two best full service comparables sales in the record were Salisbury's comparable 3 and listing 1. These were similar to the subject in age but both had higher room counts. These comparables were located in Mount Vernon and Moline and sold or were listed for prices of $23,941 and $20,833 per room. Upward adjustments to these prices appear to be needed for size and/or location.

Loman's comparable sales were of limited service hotels that were, with the exception of comparable 7, considerably smaller than the subject in building area. In room count, only comparable sale 6 was similar to the subject. Additionally, six of the comparables used by Loman were 5 to 12 years old, only two were similar to the subject in age. These comparables sold for prices ranging from $22,741 to $43,846 per room. Comparable sale 6, most similar to the subject in both age and room count sold for a price of $29,048 per room. Due to the fact that these comparables were limited service hotels, the Board finds a downward adjustment to the prices would be warranted.

After considering these sales, and giving most emphasis to Salisbury's comparable sale 3 and his listing and Loman's comparable sale 6, the Board finds the subject property has an indicated market value of $26,500 per room for a total market value of $3,630,000, rounded, based on the subject having 137 rooms.

Both appraisers developed the income approach to value. The Board finds the appraisers agreed on the average daily room rate of $85, the occupancy rate of 65% and the proportion of miscellaneous income. In fact, the appraisers were in near agreement with respect to effective gross income with Salisbury at $3,635,232 and Loman at $3,567,855. The Board finds that the

subject has an effective gross income of $3,635,232 as calculated by Salisbury. The appraisers disagreed with respect to the operating expenses. Using historical data for the subject, Salisbury estimated an expense ratio of 83% of effective gross income or $3,017,243. Salisbury explained that expense ratios for full service hotels exceed expense ratios for limited service hotels because of the costs of maintenance, repairs and utility costs for the areas associated with the restaurant, bar and meeting rooms. Loman estimated an expense ratio of 75% of effective gross income or $2,675,891 using three comparables, two of which were limited service hotels. One comparable had a banquet room, more similar to the subject, and had the highest expense ratio of the three comparables used by Loman, which seems to corroborate Salisbury's testimony regarding higher expenses for full service hotels. Based on this record the Board finds Salisbury's estimated expense ratio is better supported. The Board also finds better support is Salisbury's calculation of reserves and income attributable to FF&E. Based on this analysis the Board finds the subject had a net operating income of $376,680 as calculated by Salisbury.

The appraisers disagreed on the applicable capitalization rate. Salisbury reviewed two publications that track capitalization rates for hotel properties. *Korpacz Real Estate Investor Survey* showed an average of 9.88% in the first quarter of 2004 and average of 9.47% in the first quarter of 2005. *Hospitality Perspectives* published by US Realty Consultants, Inc., for the spring of 2004 showed an average of 9.5%. Salisbury selected a capitalization rate of 10% to which he added 2.57% for an effective tax rate resulting in an overall capitalization rate of 12.57%. There is some issue with respect to overstating the capitalization rate due to the expensing of real estate taxes in the publications used by Salisbury. Loman used three techniques in arriving at his estimated capitalization rate. Using the mortgage equity technique Loman arrived at an overall rate of 11.80%. Using investor surveys Loman arrived at a rate of 9.59%. The market abstracted overall rate was estimated to be 10.98% using the sale of a Comfort Inn in Edwardsville and a sale of a Sunrise Inn and Suites located in Pontoon Beach. Addtionally, Loman's estimated capitalization rate was more reflective of the assessment date at issue than was Salisbury's. Loman concluded the overall rate to be 10.5%. After considering both reports, the Board finds that a capitalization rate of 10.5% is better supported. Capitalizing the net income of $376,680 by 10.5% results in an estimated value under the income approach of $3,590,000, rounded.

After considering the indicated value of $3,630,000 using the comparable sales and the indicated value of $3,590,000 using the income approach, the Property Tax Appeal Board finds the subject property had a market value of $3,600,000 as of January 1, 2006, and further finds the subject's total assessment should be reduced to $1,200,000.

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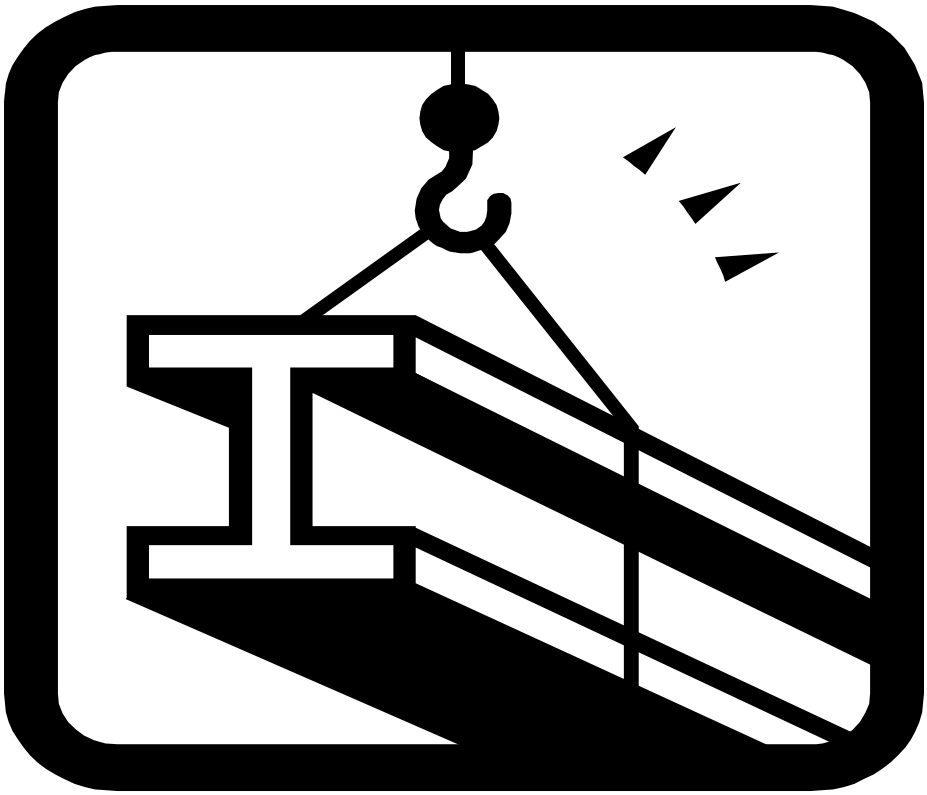
[Items Contained in Italics Indicate
Arguments or Evidence in Opposition to the Appellant's claim]

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2009 INDUSTRIAL DECISIONS



PROPERTY TAX APPEAL BOARD
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2009 INDUSTRIAL CHAPTER

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APPELLANT:	**Borbor 1014**
DOCKET NUMBER:	**06-28927.001-I-1 thru 06-28927.004-I-1**
DATE DECIDED:	**March, 2009**
COUNTY:	**Cook**
RESULT:	**No Change**

The subject property contains four vacant land parcels comprising 11,495 square feet. The subject also contains a trailer thereon which is construed as personal property.

As to the merits of this appeal, the appellant argued that the fair market value of the subject is not accurately reflected in its assessed value as the basis for this appeal.

The appellant's pleadings include a summary appraisal report conducted by Richard J. Layman and Brian T. McNamara of Brian T. McNamara & Associates, Ltd. This appraisal reflects an effective date of January 1, 2006 and a market value opinion of $165,000 for the subject property. However, the appellant chose not to call either appraiser as an expert witness at this hearing. The appraisal states that an inspection of the subject was undertaken on December 14, 2006 and that the highest and best use, as vacant and as improved, of the subject was for development of the land into commercial and/or residential structures.

The appraisal stated that via prior agreement with the client, the appraisers did not use the cost or income approaches to value. Under the sales comparison approach to value, the appraisers utilized six suggested comparables that sold from January, 2004, through August, 2006, for prices that ranged from $85,000 to $430,000, or from $3.88 to $15.74 per square foot. The properties' sites range in size from 15,625 to 29,250 square feet. The appraisal further indicated that the appraiser gave consideration to various differences in the properties in determining a value per square for the land and the building; however, this appraiser earlier indicated that the subject was void of an improvement other than a trailer which was considered personal property. Under this approach to value, the appraisers estimated the subject's market value to be $165,000 or $14.50 per square foot.

As to the history of these sales, the appellant's appraisal noted that Sale #1 occurred in February, 2004, for $35,000 as well as a subsequent sale in November, 2004, for an unknown value. However, the appraisal data is contradictory for the appraiser's grid analysis reflected that Sale #1 occurred in January, 2004 for $85,000. As to Sale #2, the appraisal stated that the property sold in January, 2004, for $85,000 and that there was a subsequent sale in August, 2004, for $425,000. However, the appraiser's grid analysis reflected a sale in September, 2005, for $135,000. As to Sale #3, the appraisal noted the utilization of a sale in September, 2005, for $135,000 with a prior sale in June, 2005, for an unknown amount, while the appraiser's grid analysis reflected a sale in November, 2005, for $100,000. As to Sale #6, the appraisal stated that the property sold in August, 2006, for $430,000, while the next sentence indicated two additional deed transfers: in August, 2006, for $215,000 and in September, 2005, for $140,000. There was neither supportive documentation for each sale or expert testimony from one of the appraisers to explain the aforementioned contradictions and/or discrepancies.

The appellant's appraisal also indicated that there was a deed transfer for the subject property in August, 2004, for $655,000 without further explanation.

Furthermore, at hearing, the appellant's attorney offered without objection from the board of review's representative, Appellant's Hearing Exhibit #1. This Exhibit is an affidavit from Ben Borbor. The affiant states that the subject property is owned by him for a number of years and that in 2004 he reallocated his assets and refinanced some of his properties. He also stated that this was not an open market transfer and that there was no change in ownership. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment was disclosed as $63,222 yielding a market value of $287,372 or $25.00 per square foot for tax year 2006. As to the subject, the cover memorandum asserted that the subject is vacant commercial land.

In support of the subject's market value, an initial grid of raw sales data was submitted for five commercial properties of either a single parcel or multiple parcels. The five properties sold in an unadjusted range from $54,500 to $400,000, or from $17.60 to $40.00 per square foot. The data further indicated that the properties sold from March, 2004, to June, 2005, and ranged in size from 3,125 to 13,500 square feet of land. The second grid analysis compared the subject's four parcels to six other parcels located on Western Avenue in Chicago, as is the subject property. These properties are all accorded the same property classification of vacant land by the assessor, as is the subject. The properties range in size from 1,947 to 9,167 square feet with a unit price of $25.00 per square foot, as is the subject property.

Furthermore, at hearing, the board of review's representative submitted Board of Review's Hearing Exhibit #1 without objection from the appellant's attorney. This Exhibit is a copy from the Cook County Recorder of Deeds Office of the deed transfer for the subject property. It is identified by document #0423226177, executed on July 22, 2004, and recorded on August 19, 2004 in the amount of $655,000. The appellant's attorney argued that the Exhibit identified the document type as a trustee's deed; however, the attorney had no personal knowledge of the details regarding this transaction. 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.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. *86 Ill.Admin.Code 1910.63(e).* 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 finds that the appellant has not met the burden of demonstrating that the subject is overvalued and that a reduction is not warranted.

The PTAB finds that the appellant's appraisal contained contradictions and/or discrepancies that were neither explained within the confines of the summary report nor with supporting testimony.

Further, the PTAB finds that the appellant failed to adequately explain the nature of the transfer deed in July, 2004, in the amount of $655,000 for the subject property and that the submitted affidavit is summarily self-serving absent a detailed explanation of this deed transfer.

Lastly, the PTAB finds that the board of review submitted a grid analysis reflecting similarly situated vacant parcels all containing a unit price of $25.00, as is the subject property. The PTAB accorded no weight to the appellant's first grid analysis for it reflected raw data without adjustments to the range of values.

On the basis of this analysis, the PTAB finds that the subject property's fair market value is supported by the evidence in the record; and therefore, no reduction is warranted.

APPELLANT:	**Buckeye Pipeline Co.**
DOCKET NUMBER:	**06-00120.001-C-2**
DATE DECIDED:	**August, 2009**
COUNTY:	**Peoria**
RESULT:	**No Change**

(Please note, the Property Tax Appeal Board recognizes this case was filed as a commercial appeal, however the evidence and context of this decision primarily relates to industrial property.)

The subject property consists of an 80.92-acre parcel, part of which is improved with seven oil storage tanks containing approximately 13,965 square feet of building area, 1,638 square feet of office space, 6,600 square feet of warehouse and truck terminal and a 2,520 square foot garage. The subject is located in Chillicothe, Medina Township, Peoria County.

Through its attorney, the appellant appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. The appellant's petition indicates it seeks a reduction in the subject's improvement assessment, but no reduction in the land assessment was specified. In support of the overvaluation argument, the appellant submitted a copy of the Real Estate Transfer Declaration documenting the subject's July 31, 2001 sale for $2,423,225. The declaration indicates the subject was not advertised for sale or sold using a real estate agent.

The appellant called as its witness Robert W. McQuellon, Jr., to testify regarding certain aspects of the subject's use. The witness testified he has a real estate broker's license and has been active in tax appeal and evaluation work since 1986. He is not currently a licensed general real estate appraiser. He opined the subject's land assessment is excessive, that 20-25 acres of the subject land should be considered a primary site for the oil terminal operation valued at $0.15 to $0.30 per square foot and that the residual land, approximately 60% to 65%, is farm ground used for crop production. The witness also opined the depreciation of the subject's improvements has not been properly accounted for because of the board of review's application of equalization factors, which he claimed are based primarily on sales of residential property. The witness testified the subject's computer assisted mass appraisal (CAMA) card indicates all of the land is considered primary use with a value of $10,000 per acre. The witness claimed this is not correct, considering the farm use of a substantial portion of the subject's land. Based on this evidence, the appellant requested the subject's improvement assessment be reduced to $352,040. The appellant did not specify on its petition a reduced land assessment.

On cross examination, the board of review asked the appellant's witness how he was compensated for his involvement in this appeal. The witness responded that his fee is contingent "on a percentage of the savings" resulting from a successful appeal also received a flat fee for his services. The witness was then asked what evidence had been submitted that the subject's 2006 assessment is excessive, based on its 2001 sale. The witness reiterated his opinion that the subject's $10,000 per acre land value is incorrect regarding the portion in farm use and should "be about 60 (sic) or about 35% of that." The witness was then asked by the board of review regarding the subject's zoning. He responded it was zoned industrial.

The witness was then cross examined regarding the CAMA card. He was asked what information he presented to address equalization of the subject's assessment, which is not noted on the CAMA card. The witness responded he had not provided information other than his testimony and that he had not provided any data to support his contention the subject had suffered depreciation based on the market for structures similar to the subject. The witness reiterated his contention that much of the subject is being farmed, that he had visited the subject several times since 2003, but that the appellant had not submitted crop information regarding the subject. Finally, the witness was asked if the appellant had submitted any sales information regarding properties similar to the subject, to which he responded no.

The board of review submitted its "Board of Review Notes on Appeal", wherein the subject property's total assessment of $942,320 was disclosed. The subject has an estimated market value of $2,839,168, as reflected by its assessment and Peoria County's 2006 three-year median level of assessments of 33.19%.

In support of the subject's assessment, the board of review submitted information on one comparable sale. The comparable described in an accompanying letter "involved the appellant's company and was purchased in 1999 for $437,125 and resold to Buckeye Terminal in 2004 for $1,750,000." The board of review argued the sale and resale of this similar comparable property indicates "there has been a market increase in the oil and gas industry over the years." Finally, the board of review contends the subject's assessment experienced "just under a 4% increase since its purchase in 2001." The board of review contends the industrial sale submitted by the board demonstrates appreciation in the value of industrial properties.

During the hearing, the board of review's chairman testified "I would have liked to have seen other than just an aerial photo some type of proof that the land has been farmed since that period of time." The chairman also stated "I would also like to have seen some sales of farmland in that area – in that general area. Just to substantiate, you know, a value of acreage that is not prime land." In closing, the board of review argued the appellant submitted no evidence to support any claim of depreciation in the value of the subject's land or improvements since the 2001 sale and no evidence that a portion of the subject is being farmed.

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 Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted. The appellant argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value 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). After analyzing the market evidence submitted, the Board finds the appellant has failed to overcome this burden.

The Board finds the appellant contends the subject is overvalued based on its 2001 sale for $2,423,225. Neither party submitted any evidence that this sale was not an arm's length transaction. However, the Board finds this sale occurred too long before the subject's January 1, 2006 assessment date to be a reliable indicator of the subject's value. The board of review submitted evidence of a sale of similar industrial property. According to the board of review, the

comparable "involved the appellant's company and was purchased in 1999 for $437,125 and resold to Buckeye Terminal in 2004 for $1,750,000." The board of review argued the sale and resale of this similar comparable property indicates "there has been a market increase in the oil and gas industry over the years." Again, the appellant submitted no evidence nor did he provide any credible testimony that the subject had lost value due to depreciation of the improvements or loss of land value through sales data of similar farm tracts. There was also no evidence provided that documented the subject's farm use per Section 10-110 of the Property Tax Code (35 ILCS 200/10-110).

The Board notes the appellant requested no reduction in the subject's land assessment on the petition, but did request a reduction in the improvement assessment. At the hearing, the appellant argued the subject's land assessment was excessive, based on its witness's testimony that 60% to 65% of it was being farmed. While the appellant's witness testified he had visited the subject property on several occasions and observed crops growing, the appellant submitted no photographs, crop income data, or other evidence to document such farm use. The appellant's witness was also unsure of exactly how many acres were being farmed. The Board notes Section 16-180 of the Property Tax Code, reiterated in Section 1910.50(a) of the Official Rules of the Property Tax Appeal Board, states "Each appeal shall be limited to the grounds listed in the petition filed with the Property Tax Appeal Board" (35 ILCS 200/16-180). Since the appellant's petition requested no reduction in the subject's land assessment, the Board gives the land reduction argument little weight, in addition to the lack of substantive evidence of farming activity for two years preceding subject's January 1, 2006 assessment date.

In conclusion, the Board finds the appellant has failed to demonstrate overvaluation by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.

APPELLANT:	**Ford Motor Company**
DOCKET NUMBER:	**03-27560-I-3, 04-24629-I-3 & 05-26563-I-3**
DATE DECIDED:	**December, 2009**
COUNTY:	**Cook**
RESULT:	**Reduction**

The subject property consists of five parcels containing 94.415 acres improved with a manufacturing industrial complex containing a total of 2,556,804 square feet of building area used as an automobile assembly plant. The buildings were constructed in stages from 1924 to 2003.

The main industrial plant was constructed from 1924 to 1999 and contains a total building area of 2,169,679 square feet and is primarily a one-story building. The building is of wood and steel frame construction, with a poured concrete foundation and exterior walls of concrete knee walls and insulated metal panel construction. The industrial and warehouse areas for this building have clear ceiling heights ranging from 10 to 26 feet, the building is protected by a sprinkler system, there are 62 truck docks, 2 interior rail docks, two 4,000 pound capacity passenger elevators, one 2,500 pound capacity freight elevator, and 49 cranes ranging in capacity from .25 to 10 tons.

The second building is the body shop with 214,310 square feet of building area that was constructed in 1994 with an addition in 2003 of approximately 100,000 square feet. This building is primarily one story and is of steel frame construction with concrete knee walls and insulated metal panels. The building has a clear ceiling height of 35 feet. The building is protected by a sprinkler system with features that include 14 exterior truck height docks and one 20,000 pound capacity freight elevator.

The subject is also improved with various auxiliary buildings that range in size from 340 to 25,000 square feet for a total building area of 87,755 square feet. There is a 27,245 square foot steel frame and metal panel tube for a conveyor and walkway that connects the two main buildings. Also located on the subject property are 66 storage tanks that range in size from 6,000 to 400,000 gallons. Site improvements include 1,800,000 square feet of asphalt and concrete paving, 15,000 linear feet of rail siding and 15,000 linear feet of chain-link fencing.

The property is located in Chicago, Hyde Park Township, Cook County. The 2003, 2004 and 2005 appeals were consolidated.

Terrence McCormick

The appellant called as its first witness real estate appraiser Terrence McCormick, a co-owner and principal of McCormick & Wagner, LLC. McCormick has been a real estate appraiser since 1979. He has the Member of the Appraisal Institute (MAI) designation from the Appraisal Institute and is an Illinois State Certified General Real Estate Appraiser. McCormick identified Appellant's Exhibit 1 as the appraisal of the subject property he prepared for Ford Motor Company. The exhibit contains four pages providing a summary of his qualifications as an

appraiser. McCormick has appraised in excess of 1,000 industrial properties with approximately 100 being industrial manufacturing plants of over half a million square feet. He was assisted in the appraisal by his business partner, John Wagner.

McCormick conducted full interior and exterior inspections of the subject property on October 29, 2002 and December 19, 2003. McCormick prepared a full narrative appraisal in a summary format. The purpose of the appraisal was to estimate the market value of the subject property, an existing industrial property, as of January 1, 2003. McCormick testified that market value was defined in his report as, "that value, estimated at the price it would bring in a fair, voluntary sale", which is from the Cook County classification ordinance. The appellant's appraiser appraised the fee simple interest of the subject property.

The appraiser explained the subject property is located on the southeast side of Chicago, two miles from the Indiana state border. The witness explained the subject property has frontage on the west side of Torrence Avenue, the north and south sides of 130th Street and the Calumet River. He explained that the area is an older industrial area with an abundance of vacant land from former industrial properties. The appraiser indicated that there had been little new development in the area with the exception of the addition to the Ford Plant and the Chicago Manufacturing Campus. McCormick testified that Torrence Avenue is a major north-south thoroughfare and 130th Street has access to the Bishop Ford expressway. He explained the subject site is served by rail and has access to the Calumet River.

McCormick concluded that the market for industrial property in the subject's area is limited. He reiterated the subject's area is an older industrial area and there is vacant land available for development, but not a lot of recent sales transactions have occurred in comparison to the amount of land available.

The witness testified that the Chicago Manufacturing Campus was a venture between the City of Chicago and Ford Motor Company to construct warehouse and manufacturing facilities that supply Ford with their products.

McCormick testified that his experience in analyzing sales of similar-sized properties is that the marketing time is very long and can range up to seven years, but he estimated the marketing time from one to three years for the subject. The appraiser also testified the market for this property would be regional if not national. The biggest characteristic in searching for comparable properties considered with this property is its extremely large size, which limits its marketability. A second characteristic in searching for comparables is the property's use, which is a manufacturing-type property. He also indicated that the fee-simple interest is another characteristic; therefore, you want comparable properties that are owner occupied or not leased at the time of sale. (Transcript, Vol. 1, pp. 27-28.)

McCormick determined the site contained approximately 95.4 acres based on the Cook County Assessor's Office records and Sidwell maps. The witness described the improvements as an extremely large manufacturing building with approximately 2,500,000 square feet built in stages from 1924 to 1999. The appraiser testified the weighted age was 47 years old. McCormick testified the ceiling heights varied from 14 to 35 feet with an average of 17 feet clear and there was a total of 5.2% office space. He testified there are numerous buildings with 85% of the

building area contained in Building No. 1. The witness explained that Building No. 2 is connected to Building No. 1 by a conveyor and makes up another 10% of building area. The appraiser explained that Building No. 1 and Building No. 2 are connected by a conveyor because they are separated by railroad tracks and the next contiguous parcel had to be connected by a conveyor belt. The size of the improvements was determined using building diagrams provided by Ford Motor Company's engineering department. McCormick explained that an addition with approximately 100,000 square feet was made to Building No. 2 and a certificate of occupancy was issued on June 27, 2003, a copy of which was in the appraisal addendum. McCormick testified the addition was separately assessed as an omitted property, by the assessor's office, in 2003, 2004 and 2005.

McCormick was of the opinion the improvements were of average condition for their age with a weighted age of 47 years calculated based upon the percentage of the building area that was constructed during each period. McCormick testified he included in his appraisal 1,800,000 square feet of asphalt and concrete paving, 15,000 lineal feet of chain link fencing, 15,000 lineal feet of rail siding, auxiliary buildings and storage tanks. The appraiser further testified that the overhead cranes were treated as personal property, but the craneways were considered real estate and included in the appraisal.

McCormick determined the highest and best use as vacant would be for industrial development or to remain vacant until there is sufficient demand. The witness determined the highest and best use of the subject parcel as improved is a continuation of its current use as a manufacturing type industrial complex.

The appellant's appraiser estimated the subject had an economic life of 60 years, an effective age of 50 years and a remaining economic life of 10 years. The appraiser explained that the effective age is greater than the average age due to its utility in that there is no more room for expansion. He testified the only way they expanded the existing building was to connect it with a conveyor system so the improvement suffers from functional obsolescence. McCormick testified that the subject's total building area is primarily in use; however, the 18,000 square foot powerhouse is no longer used.

McCormick testified that the subject property has been owned by Ford Motor Company since 1924 and has been used as an automobile assembly plant through 2006.

McCormick considered all three approaches to value, but there were no rental comparables for anything similar to the subject so he concluded the income approach was not applicable. McCormick searched Chicago and the regional area for leases of industrial properties similar to the subject in size and age, but found no leases that were comparable. The witness explained the use of large space multi-tenant buildings for rental comparables would be a different use than the subject property, which is a single user property. He was of the opinion that to convert the property to a multi-tenant use would be speculative and would require some type of cost for converting the property to a multi-tenant use.

The first approach developed by McCormick was the cost approach to value. His initial step under this method was to estimate the land value as vacant using six land sales. The comparable land sales range in size from 15.95 to 206 acres. Four of the sales were located in Chicago and

two were located in unincorporated Bloom Township. The sales occurred from January 1999 to September 2002 for prices ranging from $315,000 to $8,950,164 or from $9,130 to $74,585 per acre. After considering differences from the subject and making qualitative adjustments, the appraiser estimated the subject land had a market value of $35,000 per acre or $3,340,000.

McCormick testified that in estimating the reproduction cost new of the improvements he used Boeckh's Automated Cost Manual by Marshall and Swift. The appraisal had a listing of the various improvement components and their associated reproduction costs. The appraisal also had a more detailed calculation for Building No. 1 and Building No. 2. The appraiser estimated the total reproduction cost of the building improvements to be $151,913,034. Site improvements were estimated to have a reproduction cost new of $4,960,000 and the exterior storage tanks were estimated to have a reproduction cost new of $779,000. Adding the components resulted in a total reproduction cost new of the complex of $157,652,034. The appraiser testified these costs include indirect costs appropriate for the property but no entrepreneurial profit, which is the difference between the value and the cost. He testified that a large, single-user manufacturing facility like the subject is not a real estate investment property and there would be no entrepreneurial profit.

The appraiser then estimated depreciation using the extraction method based on the five comparable sales found in the sales comparison approach to value within the report. According to McCormick the comparable sales ranged in age from 17 to 40 years old and, after deducting the land values from the respective sale prices, had residual building values ranging from $115,000 to $10,370,440. The appraiser estimated the comparable buildings had reproduction costs new, as of the date of sale, ranging from $28,970,000 to $95,000,000. Deducting the respective residual building values from the cost new resulted in depreciation associated with the comparable buildings. The comparables had total depreciation ranging from 77.9% to 99.9% or from 2.5% to 4.6% per year. Based on this data the appraiser estimated the subject improvements suffered from 92% depreciation or approximately 2.0% per year for a total depreciation from all causes of $145,039,871. Subtracting the depreciation from the total reproduction cost new and adding the land value resulted in an estimated value under the cost approach of $15,950,000, rounded. The appraiser testified that he had inspected each of the comparable sales that were used to extract depreciation.

In considering the income approach McCormick stated within his report that the subject property was originally designed for single-use occupancy and has been occupied by the same user since it was constructed. The appraiser indicated that the subject property does not lend itself to multiple-tenant occupancy and would require a substantial amount of capital to convert it to multiple-tenant occupancy. He further stated in the report that demand for industrial space in the subject property's market is not strong enough to justify the expense associated with converting the subject property to multiple-tenant occupancy and that it is unlikely that the property would be leased in its entirety. The appraiser stated within the report that a thorough search for recent leases of industrial space similar to the subject property resulted in insufficient comparable data to utilize the income capitalization approach; therefore, the income capitalization approach could not be utilized in the appraisal assignment. (Appellant Exhibit #1, page 64.)

In developing the sales comparison approach the appraiser used five sales and two listings. He testified that all of the properties are single user manufacturing type properties that were not

leased at the time of sale. The comparables that sold were located in Chicago Heights, Illinois; Edgerton, Wisconsin; Kentwood, Michigan; Bloomington, Indiana; and Decatur, Illinois. The two listings were located in Kalamazoo, Michigan and Sturgis, Michigan. The five sales ranged in size from 547,679 to 2,197,775 square feet of building area. Sales 1 and 4 were composed of multiple buildings and sale 5 was a part 1 and 2 story building. The sales had average weighted ages ranging from 17 to 40 years old. The comparable sales had ceiling heights ranging from 21 to 42 feet and office areas ranging from 2.9% to 9.8% of total building area. The appraiser indicated the sales had land to building ratios or adjusted land to building ratios ranging from 2.19:1 to 6.27:1. The sales occurred from December 1998 to August 2003 for prices ranging from $500,000 to $12,970,000 or from $.23 to $12.60 per square foot of building area, including land. The two listings were composed of industrial buildings of 877,355 and 2,075,022 square feet of building area, respectively. These properties had average ages of 35 and 45 years and ceiling heights ranging from 20 to 42 feet. The land to building ratios for these two properties were 2.77:1 and 7.53:1 and they had office areas totaling 1.0% and 6.9% of total building area. These properties were listed for sale in November 2002 for prices of $7,900,000 and $22,000,000 or $9.00 and $10.60 per square foot of building area, including land.

The appraiser testified that he made an effort to verify the terms and conditions of each sale. The appraiser made qualitative adjustments to the sales and determined comparable sales 1, 2, 4 and 5 were inferior to the subject while comparable 3 was superior to the subject. The appraiser also concluded the two listings were superior to the subject and further noted that an offering typically sets the upper limit of value. Factors in the adjustment process included size, age, land to building ratio, ceiling height, percent of office space, market conditions and location. The qualitative adjustments for the various factors considered by the appraiser are found on page 73 of Appellant's Exhibit 1.

The appraisal also contained two additional sales located in Davenport, Iowa and McCook, Illinois for discussion purposes relative to the difference between asking price and sales price and marketing times for large industrial properties. These two comparables consisted of industrial properties with 2,479,000 and 1,700,000 square feet of building area, respectively. The comparables were 19 and 52 years old and had land areas of 203 and 103 acres. The sales occurred in September 1995 and October 1997 for prices of $10,500,000 and $10,600,000 or $4.24 and $6.24 per square foot of building area, land included. The witness testified the property located in Davenport was on the market seven years and had an original asking price of $40,000,000. The property located in McCook, Illinois was available for approximately 4 years and had an asking price of $17,000,000.

McCormick was of the opinion these sales indicate there is limited demand for these types of properties; the final selling price was substantially lower than the asking price; and the unit prices indicated by these sale properties was substantially lower than what it may be for other properties in similar markets besides the differences in size.

As stated earlier, McCormick was of the opinion it would not be proper to use multi-tenant buildings to compare to the subject because the subject is a single-user manufacturing facility. He testified that a multi-tenant building is a different use and has different property rights.

McCormick estimated the subject property had an indicated value under the sales comparison approach of $6.00 per square foot of building area, land included, resulting in a total market value of $15,000,000.

In reconciling the two approaches to value, the appraiser placed secondary consideration on the cost approach and most weight on the sales comparison approach and estimated the subject property had a market value of $15,000,000 as of January 1, 2003.

McCormick testified he continued to be involved with the property and prepared another appraisal with an effective date of January 1, 2006. The appraiser testified the only change to the subject was a 100,000 square foot addition that came on after June 2003. He was not aware of any significant changes in market conditions that would affect the subject property between January 1, 2003 and January 1, 2006. The witness testified there would be no significant change in value for the subject from his 2003 value estimate in 2004 or 2005.

Under cross-examination the appraiser was questioned about the subject's location in the Chicago metro market and Chicago's economic ranking in the United States. The witness agreed the subject is serviced by a rail spur that primarily brings in materials. The witness also agreed the subject is approximately 1.25 miles from Interstate 94, which provides immediate access to the area's highway system.

With respect to the Chicago Manufacturing Campus, the witness explained that the City of Chicago was instrumental in making the project work. He agreed that the Chicago Manufacturing Campus was also known as the 126th Street and Torrence Redevelopment Project Area. The witness indicated that there are suppliers at the Chicago Manufacturing Campus that provide materials to Ford that are delivered by means of 130th Street and/or Torrence Avenue or 126th Street. The witness agreed the purpose of the redevelopment was to keep existing manufacturing facilities in the area and encourage development of manufacturing in undeveloped areas. McCormick also agreed the redevelopment included significant governmental expenditure for infrastructure. He was of the opinion that Ford would benefit indirectly from those improvements to the campus. He agreed that the infrastructure improvements made it easier for access of trucks to the Ford Motor Plant. He indicated that the infrastructure improvements were almost complete as of December 1, 2003.

The witness also agreed the subject property is served by the Calumet River, a navigable waterway.

With respect to selecting comparable sales, McCormick agreed that an important factor he was looking for were properties of extremely large size, such as properties with 1 million or more square feet of building area. He acknowledged that his first comparable, located in Chicago Heights, had 547,679 square feet. He stated this property was comparable to the subject based on size, use and location. He acknowledged this property was on the market for 9 months. The witness testified that the seller was willing to accept a lesser price in order to avoid associated carrying costs by marketing the property for a longer period. He testified this comparable is served by rail lines. He also indicated that the nearest interstate is approximately 2.5 miles from the comparable and there is not a navigable waterway that borders the sale.

McCormick agreed comparable 2 sold for $2,435,000 or $2.81 per square foot of building area after adjusting for excess land. This comparable had 868,000 square feet of building area. This comparable was located in Edgerton, Wisconsin, approximately 140 miles from Chicago and 30 miles from Rockford. This comparable is located approximately 3 miles from an interstate highway. This property is served by a rail spur, but has no navigable waterway that borders the property.

The witness agreed that comparable 3 sold in August 2003 for a price of $12,970,440. He calculated the size to be 1,029,591 square feet, which included 114,000 square feet of unfinished mezzanine area. McCormick explained by unfinished it meant the area is not used for office, but is being used for industrial space. He was of the opinion that it is common practice for appraisers to consider this space. He agreed this building is not served by rail spurs, there is no interstate expressway within two miles of the property and there is no navigable waterway that borders the property.

McCormick agreed that his comparable 4 sold in December 1998, four years prior to the January 1, 2003 assessment date. He explained this property was used to manufacture televisions and warehouse them as they sold. McCormick asserted that at the time of sale this property was used for both warehousing and manufacturing. The Ford plant does not warehouse any finished product. McCormick agreed that this property is served by rail. This property is not located within a mile of an interstate expressway and there is no navigable waterway that borders the property.

McCormick agreed that at the time of sale, comparable 5 was closed. He agreed that Decatur is not a major metropolitan area and there is not a major interstate expressway within two miles of the comparable. Additionally, there is no navigable waterway that borders this property.

The witness agreed that the comparables 2, 3 and 4 were well over 100 miles from the Chicago market.

McCormick testified the offerings were being offered for sale as of November 2002. Offering 1 is located in Kalamazoo, Michigan, approximately 130 miles from Chicago. This property is served by rail, but there is no navigable waterway that borders the property.

Offering 2 is located in Sturgis, Michigan, approximately 130 miles from Chicago and is not among the top 15 or 20 metro markets in the United States. Interstate I-80 is approximately 4 miles north of the comparable sale and there is no navigable waterway that borders the property.

With respect to the addition to the Body Side Building, McCormick testified the assessments for the property were the same for 2003, 2004 and 2005. McCormick testified he has the certificate of occupancy, but did not know if the assessor was aware of it.

McCormick agreed that he estimated the subject land had a value of $35,000 per acre or approximately $.80 per square foot of land area. His land sales ranged from $.21 to $1.71 per square foot. His lowest sale was comparable 2 which he identified as having 34.5 acres based on information from the attorney for the seller and the closing statement. The witness also indicated

that he checks with the Sidwell maps. This property was served by rail and was located adjacent to improved sale 1.

McCormick determined land sale 1 had 695,000 square feet based on looking at the Sidwell map. McCormick testified land sale 6 is located approximately three miles northeast of the subject and is served by a rail spur.

McCormick agreed that his appraisal has an opinion of value as of January 1, 2003. He did not prepare a written summary appraisal summarizing market data or analysis concerning an opinion of value as of January 1, 2004 and January 1, 2005.

Under redirect examination McCormick testified that the Chicago Manufacturing Campus was developed by Centerpoint Realty Service and Ford Motor. Prior to development, the site was used for chemical storage and as a slag yard from a steel mill. He also explained there is environmental contamination north of Ford Motor Company that has a negative attribute to the area. Page 13 of Appellant's Exhibit 1 indicates that the estimated cost to clean up the cluster sites is between $18 and $87 million.

The witness also indicated the subject property has adequate accessibility. The witness explained that the transportation facilities at the subject were considered in the comparable sales approach and adjustments were made for location. McCormick explained the subject's location in a large metropolitan area was juxtaposed with the comparables for factors such as availability to transportation, work force, labor supply and cost. Adjustment to location was made for these factors. McCormick was of the opinion that location of an extremely large, older, heavy manufacturing plant in a large metropolitan area may not have an impact at all on the value paid by the buyer.

Gregory J. Hatfield

The City of Chicago called as its witness real estate appraiser Gregory J. Hatfield. Hatfield has had the MAI designation since 1999 and has been a real estate appraiser for approximately 15 years. He has been a licensed general real estate appraiser in the State of Illinois since 1995 and is a member of the Chicago Association of Realtors. The witness has been self-employed with Gregory J. Hatfield & Associates, LLC, since March 2000. He is the sole owner of the firm and performs commercial real estate appraisals. The witness indicated that he has prepared approximately 900 appraisals of commercial, multi-family, industrial, office and retail properties during his career. He testified approximately 40% of the 900 would be for industrial properties. The geographic area he concentrates in includes the Midwest, such as the Greater Chicago Metro Area including Michigan, Wisconsin and Indiana. His has appraised properties for tax purposes.

He testified that of the industrial properties appraised two were over 1 million square feet and one property was a single-user industrial manufacturing property just under 1 million square feet. Approximately a dozen were single-user industrial manufacturing properties greater than 400,000 square feet. He has previously been qualified to testify as an expert by the Property Tax Appeal Board. The witness was allowed to present opinion testimony.

Hatfield identified City Exhibits Nos. 1, 2 and 3 as the appraisal reports he prepared on the subject property with the effective dates of January 1, 2003; January 1, 2004; and January 1, 2005, respectively. Hatfield personally inspected the subject property on April 8, 2003. He met with the manufacturing manager and the facilities manager, obtained a site plan/floor plan from them and then did a walking tour of the plant and the outside areas.

Hatfield testified he obtained public records in the form of property record cards from the assessor, Sanborn maps, Sidwell maps and aerial photos. He also had a November 2000 appraisal by REAC prepared for Ford, a November 2004 appraisal by McCormick & Wagner prepared for Ford, and interior photographs provided by Ford.

With respect to City Exhibit 1, Hatfield was of the opinion the subject's highest and best use as vacant was for industrial development. He determined the highest and best use as improved was for the existing industrial use. The witness was of the opinion the subject property had a market value of $42,000,000 as of January 1, 2003.

Hatfield described the subject property site as having approximately 95 acres west of Torrence Avenue and bisected by 130th Street. He described the improvements as containing 2.456 million square feet of building area with the main facility having 2.181 million square feet. This building was constructed in stages from 1924 to 1999. The other main building at the subject is the Body Side Building constructed in 1995 with 193,850 square feet of building area. This building was expanded in 2002 and 2003. The witness explained this building is used to assemble and process sides to cars which are sent by conveyor to the main plant for assembly. Hatfield also explained that the second level area of approximately 320,000 square feet is included in the main building, which includes office area, employee welfare space and cafeteria space. The witness also explained that the south end of the building is basically for receiving and there are two rail spurs that run into the south elevation. He explained that shipping docks were at the north end of the plant where car testing also occurs.

Hatfield testified he relied on the year 2000 appraisal by REAC to obtain the square footage figures. He testified there are a number of ancillary buildings totaling about 81,000 square feet, which was rather precise in the REAC appraisal, which he used. He also explained that the REAC appraisal had the main plant ground floor plant area of 1.875 million, which was within a thousand square feet of the site plan Ford provided, so he was satisfied with that. He also used the REAC appraisal for the Body Side Building, which he fine tuned for January 1, 2004 based on the assessor's records. Hatfield identified City Exhibit 5 as the site plan/floor plan of the subject provided by the plant manager during the April 2003 inspection of the property. The appraiser used this as a check on the square foot calculations of the subject.

Hatfield described the subject property as being in average condition for a manufacturing plant with its various ages. He also was of the opinion the subject was in a good industrial manufacturing location given the I-94 cloverleaf location a mile west of the property, the property's location on the Calumet River, the rail service, Chicago utilities, and roadway access on 130th Street and Torrence Avenue.

The appraiser classified the subject as a single user, heavy industrial manufacturing property. In estimating the market value of the property Hatfield considered the cost, income and sales

comparison approaches, but used the income and sales comparison approaches. The cost approach was not used because of the multi-sectional nature of the buildings and the advanced age.

Even though the cost approach was not developed, the appraiser did estimate the value of the land as vacant using five land sales located in Chicago. The comparables ranged in size from 239,580 square feet to 6,969,600 square feet of land area. The sales occurred from December 1999 to April 2002 for prices ranging from $450,000 to $8,950,164 or from $.74 to $2.98 per square foot of land area. The appraiser made adjustments to the sales for such factors as location, size, access, exposure and market conditions. Based on these sales, the appraiser estimated the subject site had a market value of $1.50 per square foot or $6,230,000.

In developing the sales comparison and income approaches to value, Hatfield gave greater weight to the sales comparison approach because the subject is a single-user, owner occupied facility. Hatfield agreed that the two primary characteristics of the subject property were being a single-user property and its square footage in excess of 2.4 million square feet. (Transcript, Vol. 1, p. 152.) The appraiser tried to stay in the Chicago metro area in selecting comparables to reflect the Chicago area characteristics and the demand characteristics of a major metro market. In developing the sales comparison approach, Hatfield used four sales located in the Illinois cities of Rockdale, Joliet, Wilmington and Harvey. The comparables were industrial manufacturing single user properties that contained from 328,500 to 2,877,165 square feet of building area. Two comparables were composed of multiple building improvements. Comparables 1 and 2 were built in 1970 and 1969, respectively. Comparable 3 was constructed in stages in 1961, 1972 and 1984. Comparable 4 was built in stages from approximately 1920 to 1968. The comparables had land areas ranging in size from 802,937 to 11,499,840 square feet of land area and land to building ratios ranging from 2.44:1 to 6.48:1 after making an adjustment to comparable 3 for 65 acres of excess land. These properties had clear ceiling heights ranging from 18 to 30 feet and office areas ranging from 7% to 18% of building area. The sales occurred from June 2000 to December 2003 for prices ranging from $3,351,534 to $70,234,028 or from $10.20 to $24.41 per square foot of building area. Comparable sales 1 and 2 were sales-leaseback transactions where the seller, Caterpillar, Inc., agreed to lease back comparable 1 for 10 to 15 years and to lease back comparable 2 for 3 years. The appraiser made an adjustment to comparable 3 for 65 acres of excess land in the amount of $370,000. The appraiser also added $500,000 to comparable 4 to account for required/needed improvements. After making these adjustments the comparables had prices ranging from $11.72 to $24.41 per square foot of building area, land included.

The appraiser testified he adjusted the price of comparable 1 downward because of the buyer getting a credit tenant on a long-term lease and due to its larger land element. Comparable 2 had a high land element which required a downward adjustment and a downward adjustment because of an over abundance of office space. Comparable 3 required a downward adjustment because of its higher land element and significantly smaller size compared to the subject. For comparable 4 an upward adjustment was made for location and over abundance of office, but that was partly offset by its smaller size. After considering these adjustments, the appraiser arrived at a value estimate of $17.00 per square foot of building area or $41,750,000, land included.

The appraiser explained the income approach was developed as a check on the value arrived at using the sales comparison approach. In estimating market rent, the appraiser used rental comparables located in Chicago, Joliet and Loves Park, Illinois. His rental comparable 3 was the same property as his comparable sale 2. Comparable 1 is a 563,553 square foot manufacturing/crane facility constructed in 1910 and renovated in 1990 with two tenants leasing 240,000 and 112,000 square feet of building area. The leases were for 7 year terms commencing in March 2000 and October 1999 for $2.25 and $2.28 per square foot net rent, respectively. Comparable 2 is improved with a part 1-story and part 2-story manufacturing complex with 8 buildings built in the 1920's through the 1950's. The appraisal reflected this comparable was multi-tenanted with three leases and an offering. The leased and offering areas ranged in size from 81,859 to 385,345 square feet with net rents ranging from $2.62 to $3.59 per square foot. Rental comparable 3 was a sale leaseback beginning in October 2002 for a three year term at a net rent of $2.50 per square foot. Rental comparable 4 was composed of 355,727 square feet in a 558,004 square foot building constructed in 1960 with an addition in 1970. This was a leaseback for 9.5 years starting in August 2003 with a net rental of $2.67 per square foot. The appraiser estimated the market rent of the subject to be $2.25 per square foot, net, resulting in a potential gross income (PGI) of $5,525,309. The appraiser deducted 12% of PGI for vacancy and collection loss to arrive at an effective gross income (EGI) of $4,862,272. The appraiser deducted $242,114 or 5% of EGI for management and re-leasing fees and, using the *Korpacz National Investor Survey*, $.15 per square foot or $368,354 for a replacement allowance to arrive at a stabilized net operating income (NOI) of $4,250,804.

The appraiser next estimated the capitalization rate to be applied to the estimated NOI. Developing the market extraction method using comparable sale 2, the appraiser arrived at a rate of 10.83%. Using investor surveys the appraiser arrived at rates ranging from 8.84% to 9.68%. The band of investment technique resulted in an estimated capitalization rate of 9.75%. The appraiser noted the subject's large size entails greater risk to an investor and the appraiser ultimately estimated the typical investor would require a 10% overall rate of return for an investment in the subject property. Capitalizing the NOI by 10% resulted in an estimated value under the income approach of $42,510,000.

In reconciling the two approaches to value the appraiser placed most emphasis on the sales comparison approach to value and estimated the subject had a market value of $42,000,000 as of January 1, 2003.

The appraiser also prepared an appraisal, City Exhibit No. 2, estimating the subject's market value as of January 1, 2004. The main difference at the subject property was an expansion to the Body Side Building. He explained that in walking through the building in April 2003 the shell was almost complete but his client told him not to include this area in the 2003 appraisal because it was not completed and there was no occupancy permit. Because the area was occupied by January 1, 2004, the appraiser included the area in the subject property for the 2004 appraisal. The appraiser estimated the subject property had 2,556,804 square feet of building area as of January 1, 2004.

Hatfield identified City Exhibit No. 6 as an aerial photo of the subject property that post-dates construction of the Body Side Building construction. He identified the addition as the "L-shaped" north section with 98,700 square feet, according to the assessor's records.

Hatfield identified City Exhibit No. 7 as the floor/plan site plan that was copied for him during his inspection. The exhibit contains the dimensions of the addition to the Body Side Building, which was the area outlined in blue (blue slash markings).

In estimating the market value of the subject property as of January 1, 2004, Hatfield considered all three approaches to value, but used only the income and sales comparison approaches to value. With respect to the sales comparison approach Hatfield used two new sales identified as sales 3 and 4. New comparable sale 3 was improved with an 8-building multi-tenant complex of one-story industrial buildings constructed in stages from 1916 through the 1950's located in Chicago, Illinois. The comparable had 987,929 square feet of building area. The property was purchased in 1990 and converted to multi-tenant use. In October 2004, the property was part of a portfolio sale where 16 properties were purchased for a price of $98,700,000. The properties purchased had a combined building area of 3.44 million square feet of industrial space. The appraiser indicated comparable 3 was purchased for a price of $15,103,315 or $15.29 per square foot of building area. At the time of sale this comparable had two tenants having a combined space of 624,210 square feet with net rentals of $2.62 and $3.56 per square foot, respectively. This property was used as the appraiser's rental comparable 2 in both the 2003 and 2004 appraisals.

New comparable sale 4 was improved with a one-story steel-frame and concrete panel industrial building with 915,000 square feet of building area constructed in 1979. The property is located in Kentwood, Michigan and sold in August 2003 for a price of $12,970,000 or $14.18 per square foot of building area. (This comparable was also used by McCormick as comparable sale 3.) The appraiser indicated in the report that the buyer's intent was to convert the property to a multi-tenant facility. The report indicated the seller leased back the property until the spring of 2004. In early 2005 the buyer had leased 575,000 square feet of the building. The asking rent was from $3.25 to $4.75 per square foot.

Sales 3 and 4 replaced two sales used in the 2003 appraisal because they sold more proximate in time to the date of value and were significantly larger.

In summary, using the sales comparison approach for assessment year 2004, the appraiser had four comparable sales ranging in size from 652,000 to 2,877,165 square feet. The comparables sold from October 2002 to October 2004 for prices ranging from $12,970,440 to $70,234,028 or from $14.18 to $24.41 per square foot of building area. The appraiser estimated the subject had a market value of $18.00 per square foot or $46,000,000, land included.

With respect to the income approach the appraiser used the same four comparables as in the 2003 appraisal and added three additional comparables. New comparables 5 and 6 were composed of 372,580 and 630,410 square foot industrial buildings built in 1988 and 1968, respectively. Comparable 5, located in Sauk Village, Illinois, had 201,345 square feet leased for a net rental of $2.75 per square foot for a 5 year term that started in November 2004. Comparable 6, located in Hodgkins, Illinois, was leased in December 2004 for a three year term for a net rental of $2.75 per square foot. Comparable 7 was an offering located in Decatur, Illinois. This property had 1,000,000 square feet offered for rent within a 2,200,000 square foot former manufacturing

facility built in 1942. This comparable was available in June 2003 and divisible in 40,000 square foot increments for an asking rent of $2.96 per square foot.

Using this data, the appraiser estimated a market rent of $2.30 per square foot, resulting in a PGI of $5,880,649. The appraiser again deducted 12% of PGI or $705,678 for vacancy and collection loss to arrive at an EGI of $5,174,971. The appraiser deducted 5% of EGI of $258,749 for management and re-leasing fees and, based on market norms and using the *Korpacz* national *Investor Survey-Warehouse,* $.20 per square foot or $511,361 for a replacement allowance to arrive at a stabilized net operating income (NOI) of $4,250,804.

The appraiser next estimated the capitalization rate to be applied to the estimated NOI. Developing the market extraction method using comparable sale 2, the appraiser arrived at a rate of 10.83%. Using investor surveys, the appraiser arrived at rates ranging from 7.0% to 10.25%. The band of investment technique resulted in an estimated capitalization rate of 9.50%. The appraiser ultimately estimated the typical investor would require a 9.5% overall rate of return for an investment in the subject property. Capitalizing the NOI by 9.5% resulted in an estimated value under the income approach of $46,400,000.

In reconciling the two approaches to value the appraiser placed most emphasis on the sales comparison approach to value and estimated the subject had a market value of $46,000,000 as of January 1, 2004.

Hatfield identified City Exhibit No. 3 as the appraisal of the subject property he prepared with an effective date of January 1, 2005. As in the previous two appraisals, Hatfield considered all three approaches to value, but used only the income and sales comparison approaches to value. He used the same comparable sales in the 2005 appraisal and arrived at an estimate of value under the sales comparison approach of $46,000,000. The appraiser testified he used the same rental comparables in the income approach to value. Under the income approach the appraiser arrived at the same NOI as in the 2004 appraisal of $4,4O4,861. However, the capitalization rate used in the 2005 appraisal was 9.25%. Capitalizing the NOI resulted in an estimate of value under the income approach of $47,600,000. In reconciling the two approaches to value, the appraiser again placed most emphasis on the sales comparison approach to value and estimated the subject had a market value of $46,000,000 as of January 1, 2005.

Under cross-examination Hatfield agreed he previously appraised two properties over 1 million square feet. One such property was a warehouse, not a manufacturing facility.

The appraiser agreed that he had appraised the property rights in fee simple. The appraiser testified as a licensed appraiser he has to follow the Uniform Standards of Professional Appraisal Practice (USPAP) guidelines. The appraiser was shown Advisory Opinion 23 from USPAP, marked as Appellant's Exhibit No. 2, dealing with identifying the relevant characteristics of the subject property for a real property appraisal assignment. He agreed that the subject was an owner-occupied, extremely large, older, heavy industrial plant. These characteristics guided the appraiser in his valuation process, but he explained this guideline is more for identifying the subject property. He also testified he would "not necessarily" be dictated by these guidelines in using sales of fee simple interests rather than a leased fee or some other concept of value.

The appraiser agreed the subject has been used as an owner-occupied automotive assembly plant throughout its history and he has no indication that use was about to change. The appraiser testified he last inspected the property in 2003 and did not do inspections for his 2004 and 2005 appraisals.

Hatfield was aware the subject has different classifications assigned by the assessor's office, which are disclosed on page 13 of City Exhibits Nos. 1, 2 & 3. This data was taken from the assessor's records. The appraiser agreed that the total assessments for the subject did not change from 2003 through 2005. His reports indicated that the total assessment for each year reflected a market value of $26,592,710 or slightly over $10.00 per square foot of building area using the various levels of assessment. He agreed it would be incorrect to divide the total assessment by 36% to get an indication of value for the subject property.

Hatfield testified he included the addition in his 2004 and 2005 appraisals of the subject property. He agreed that the assessor had not added the addition to the 2004 and 2005 assessments.

Hatfield was shown Appellant's Exhibit No. 3, a Notice of Intent to List Omitted Assessments and a Final Result purportedly from the Cook County Assessor's Omitted Assessment Department, establishing omitted assessments for 2003, 2004 and 2005 for permanent index number (PIN) 25-25-402-001-0000 of $133,382, $258,996 and $258,996, respectively.[1] Hatfield was not familiar with the documents. The appraiser was of the opinion it would have been appropriate to value what was in place regardless of the assessment procedures.

With respect to the rental comparables[2] the appraiser agreed: comparable 1 was only a portion of a multi-tenant manufacturing building and was 10% of the subject's building area; comparable 2 was converted to a multi-tenant facility with four different rental areas with different sized leasable areas each of which was much smaller than the subject; comparable 3 was a sale-leaseback transaction; comparable 4 is a sale-leaseback transaction that is less than 10% the size of the subject property; rental comparable 5 is less than 10% the size of the subject property; and rental 7 sold for less than a dollar per square foot. The appraiser testified he was not assuming the subject to be a multi-tenant facility in his analysis.

With respect to the rental surveys relied upon by Hatfield in estimating the capitalization rate, he testified that the surveys don't get specific with the size of the properties used in calculating the capitalization rates.

With respect to comparable sale 1, which was used in all three appraisals, Hatfield agreed this was a sale-leaseback with an undisclosed lease rate. He agreed the lease was negotiated at the same time the sale was negotiated. The appraisal indicated the public record reported the sales price of $70,234,028 while the buyer reported a price of $78,267,672. Hatfield used the recorded legal document as the sales price. He did not verify the sale directly with a party. With respect

[1] The Body Side PIN is 25-25-401-010 as noted in each of Hatfield's appraisals at pages 11 and 13 (City Exhibits Nos. 1, 2 & 3), which differs from the PIN receiving the omitted assessments for 2003 through 2005.

[2] Rental comparables 1 through 4 were common to all three appraisals while rental comparables 5 through 7 were used only in the 2004 and 2005 appraisals.

to comparable sale 2, which was used in all three appraisals, Hatfield agreed the sale was a sale-leaseback transaction. Hatfield agreed that the seller was the same as that in comparable 1, but the buyer was a difference Real Estate Investment Trust (REIT). The lease in comparable 2 was for 3 years and was also used as his rental comparable 3. The lease was negotiated concurrent with the sale of the property. Hatfield agreed comparable sale 3 in City Exhibit No. 1 was significantly smaller than the subject at 430,000 square feet. This property was purchased with the intent to convert it to multi-tenant use. Hatfield agreed comparable sale 4 in City Exhibit No. 1 was slightly over 300,000 square feet. Hatfield agreed that comparable sale 3, used in City Exhibit Nos. 2 and 3, was an eight-building complex with tenants in place at the time of sale. He also agreed this property was part of a larger sale involving 16 properties with a purchase price in excess of $98 million. Hatfield was not sure if this was an allocation and it was hard to verify. The appraiser agreed 70% of this property was leased at the time of sale to several tenants. Hatfield agreed that comparable sale 4, used in City Exhibit Nos. 2 and 3, was purchased with the intent to convert it to multi-tenancy. Hatfield did not inspect this comparable and agreed it is less than half the size of the subject. The appraiser indicated this comparable was multi-sectional but a single structure and the intent of the purchaser was to convert the property to multi-tenant use.

Hatfield agreed that he gave the sales comparison approach most weight due to the long-term owner occupied status of the subject and its size.

The Chicago Board of Education adopted the evidence of the City of Chicago and did not call any witnesses. The report the Chicago Board of Education submitted prepared by Susan Enright was withdrawn and stricken from the record.

Cook County Board of Review

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject property for each of the years under appeal totaling $7,745,975 was disclosed. In each appeal, the board of review submitted printouts from the Costar Comps website on various sales. The board of review called no witnesses to testify with respect to the sales data or to explain the basis for calculating the assessment of the subject property.

In the 2003 appeal, the board of review had a summary of the assessed values for the parcels under appeal. The table was as follows:

Property Number		Land	Imprvmnt	Total	Class
25-25-401-010-0000		79,416	921,354	1,000,770	6-63
25-25-401-015-0000		109,602	237,774	347,376	5-93
25-25-401-017-0000		13,645	5,081	18,726	5-80
25-25-402-001-0000		1,035,393	5,101,772	6,137,165	6-63
25-36-100-018-0000		96,759	145,179	241,938	6-70
Totals	5	1,334,815	6,411,160	7,745,975	

The record also contained a memorandum from Jeffrey M. Hortsch to Tom Jaconetty, dated April 24, 2005, stating the subject had a total assessment of $7,745,975 which yields a market value of $26,592,625 or $10.64 per square foot. No testimony or documentation was provided

with respect to how the assessment was converted to a market value estimate in light of the differing classifications assigned to the parcels. The assessment equates to 29.13% of market value ($7,745,975 ÷ $26,592,625). The memorandum also made reference to four comparable sales and had attached pages from the CoStar Comps website for the four comparables.

The four comparables were located in Chicago, Joliet and University Park. The properties were improved with industrial buildings built from 1901 to 2002 that had from 907,920 to 2,877,165 square feet of building area. The sales occurred from June 2003 to December 2004 for prices ranging from $3,806,000 to $68,596,000 or from $3.81 to $33.15 per square foot of building area. Sale 1, located on Torrence Avenue in Chicago, was described as a multi-tenant industrial building constructed in 1901 with Cargill Incorporated as a major tenant. Sale 2, located in Joliet, was the same property utilized by Hatfield as his comparable sale 1 in all three appraisals. The data indicates this was a subsequent sale occurring in December 2004 for a price of $68,596,000 or $23.84 per square foot of rentable area. The information indicated that the comparable was fully leased by a single tenant, Caterpillar Tractor, on a 10 to 15 year lease. Sale 3 submitted by the board of review was also utilized by Hatfield as his sale 3 in the 2004 and 2005 appraisals of the subject property. The data sheet indicates this was a bulk/portfolio sale and also identified four major tenants on the property. This was an eight building complex with buildings ranging in size from 4,500 to 621,558 square feet. Sale 4, located in University Park, was a 907,920 square foot pre-cast concrete building with 30 foot truss heights constructed in 2002. The data sheet indicates this property was a single tenant industrial building that was "built to suit." The information indicated this property had Sweetheart Cup Company as a major tenant.

With respect to the 2004 appeal, the record also contains a memorandum from Jeffrey M. Hortsch to Tom Jaconetty, dated January 15, 2006, stating the subject had a total assessment of $7,745,975 which yields a market value of $26,592,625 or $10.64 per square foot. Again, no testimony or documentation was provided with respect to how the assessment was converted to a market value estimate. The memorandum also made reference to six comparable sales and had attached pages from the CoStar Comps website for the six comparables.

The data disclosed the comparables were located in the Illinois cities of Chicago, Franklin Park, Blue Island and University Park. The comparables were improved with industrial buildings that ranged in size from 500,000 to 907,920 square feet with land areas that ranged in size from 5.8 to 55 acres. The information indicated the buildings were constructed from 1955 to 2004. The comparables sold from December 2002 to April 2005 for prices ranging from $4,103,666 to $30,094,000 or from $7.34 to $33.15 per square foot of building area, land included, with five of the sales ranging in price from $7.34 to $12.17 per square foot of building area, land included. The information from the board of review indicated that sale 1 was a part 1, 3 and 9 story building where the buyer was the owner/user and the property was not on the market at the time it sold for a price of $7.34 per square foot of building area. Sale 2 was a multi-tenant warehouse distribution building constructed in 1972. This property was reported to have 5 tenants and sold for a price of $7.43 per square foot. Sale 3 was a multi-tenant industrial building that had 50,000 square feet leased at the time of sale. This one-story building constructed in 1943 with 862,056 square feet sold for a price of $7.54 per square foot. Sale 4 was a 4-story multi-tenant building constructed in 1955. The data identified 5 tenants. This property sold for a price of $10.60 per square foot. Sale 5 was described as being composed of 3, 1-story buildings of precast concrete

construction with 574,985 square feet built from 1991 to 2004. The comparable sold by an owner/user to a buyer/user in May 2004 for a price of $12.17 per square foot of building area. Sale 6, which was also submitted by the board of review in the 2003 appeal, was a 907,920 square foot one-story pre-cast concrete building with 30 foot truss heights constructed in 2002. The data sheet indicates this property was a single tenant industrial building that was "built to suit." The information indicated this property had Sweetheart Cup Company as a major tenant. The property sold for $33.15 per square foot of building area.

With respect to the 2005 appeal, the board of review submitted the same six sales described in the same CoStar Comps data sheets as contained in its 2004 submission that were previously discussed.

Michael MaRous

The City of Chicago called as its rebuttal witness Michael MaRous. MaRous is a real estate consultant and real estate appraiser. He is the owner of MaRous & Company, an Illinois corporation that specializes in real estate valuation issues. MaRous is licensed as an Illinois Certified General Real Estate Appraiser and has the MAI designation. He has been an appraiser for 32 years. MaRous is also a member of the Counselors of Real Estate. The witness has appraised a variety of properties including heavy manufacturing for a variety of clients. His geographic focus is the Chicago metropolitan area. He has prepared over 1,000 industrial property appraisals and has appraised industrial properties in the Chicago metro area and in Central Illinois.

MaRous identified Appellant's Exhibit No. 1, McCormick's appraisal, as the appraisal he reviewed on behalf of City of Chicago. MaRous reviewed and analyzed the McCormick appraisal and provided a written appraisal review concerning the McCormick report. MaRous visited the property site in April 2008, driving the area, stood and looked at the property and reviewed aerials available by Google Earth.

MaRous identified City Exhibit No. 8 as a copy of his appraisal review of the McCormick report. MaRous testified that his first bullet point on page 2 was in error with respect to the 36% assessment level and the assessor's indicated market value. MaRous disagreed with McCormick's conclusion that the access to the subject and its immediate environs is average and the subject has adequate accessibility for industrial property. MaRous was of the opinion that access to the subject is very good with its rail, proximity to the expressway, water access and location in a metropolitan area with 8 million people. MaRous was of the opinion these factors are a prime focus in suggesting the proper locational selection of comparables. MaRous also was of the opinion the subject was in a location with a significant amount of highly skilled labor.

In his report MaRous also contends that McCormick failed to explain the locational benefits to the Chicago Manufacturing Campus (CMC), ¼ mile east of the subject property. This industrial redevelopment was completed in partnership with Ford Motor Company and designed with the subject property in mind. According to MaRous this campus houses nine of Ford's parts suppliers. The business benefits include allowing suppliers to produce parts and immediately send them to the assembly line, eliminating transporting and storing inventories.

With respect to each of the improved comparable sales used by McCormick, MaRous explained in his review that the most notable difference between these sales and the subject is location. MaRous was of the opinion each comparable had an inferior location as compared to the subject property. MaRous testified comparable 1 located in Chicago Heights had a tax rate more than double that of the subject, which he considered a huge negative factor in site selection by major industrial users. He also testified this property was on the market for nine months, which was a relatively short marketing period for a larger industrial complex that is usually marketed for 6 to 18 months. According to the witness, sale 2 located in Edgerton, Wisconsin, is a rural setting not comparable to a metropolitan area of 8 million people and access to an interstate system, rail spur and variety of labor force. He agreed the comparable was a very large industrial complex. With respect to comparable 4, located in Bloomington, Indiana, MaRous testified this was located in an area with a relatively small population. In addition, he noted this comparable had warehousing, which costs less by as much as half the cost of manufacturing space. He agreed this is a large property which would make it similar to the subject on size alone. With respect to comparable 5, located in Decatur, MaRous described this as an older industrial facility that has been hit hard by closing of major plants over the last 30 years. He described this as an older obsolete facility in a far less than secondary, totally different, market than the subject. He also indicated that because it was so depreciated, 99.9% as calculated by McCormick, it should not have been considered. With respect to offerings 1 and 2, located in Kalamazoo and Sturgis, Michigan, MaRous stated these were second tier locations not comparable to the Chicago metropolitan area. Additionally, as offerings these properties show availability in Michigan, but no meeting of the minds. MaRous was of the opinion McCormick's sales comparison approach was not reliable.

Under the cost approach MaRous testified his research disclosed land sale 1 used by McCormick had 12.83 acres, not 15.95 acres, and had a sales price of $1.25 per square foot. The witness identified City Exhibit No. 9 as the source for his information on the land sale. He testified this land sale occurred 3 years prior to the lien date and therefore would need to be an upward adjustment to the price due to redevelopment in the area. The witness testified land sales 2 and 3 were located in the far south section of Cook County, an area with higher tax rates and a significant amount of vacant land, making the area less desirable. MaRous would not have used these sales. According to MaRous, land sale 5 was east of the subject, but had poor soils and contaminated soils that required between $5 and $8 million to mitigate for redevelopment. MaRous was of the opinion McCormick's estimate of land value is very low. MaRous was of the opinion that McCormick's opinion of market value reached under the cost approach is extremely low. MaRous was of the opinion the effective age of 50 years was incorrect due to ongoing maintenance and upgrading at the plant. In his appraisal review, MaRous explained that the cost new per square foot for the subject was greater than that of the comparable sales used to extract depreciation, which was not adequately explained and suggests these properties are not comparable to the subject. He also noted that due to the inferior locations of the comparables, the magnitude of external obsolescence for the comparables would be greater and result in the development of an inflated estimate of depreciation for the subject.

In the appraisal review, MaRous noted that McCormick did not include an income capitalization approach. MaRous opined that given the fact the property is owner-occupied and is designed

and built as a large single-user manufacturing facility, it is not likely to be purchased by an investor for leasing purposes. (City Exhibit No. 8, p. 7).

Overall, MaRous concluded the opinion of value in the McCormick report is not reliable for any of the years under appeal.

Under cross-examination MaRous testified he had not done an ad valorem appraisal for an industrial facility of over 2 million square feet. MaRous was of the opinion McCormick made a reasonable description of the improvements. MaRous understood that McCormick's assignment was to value the fee simple interest in the property. MaRous was of the opinion that Chicago is the most desirable major city in the Midwest for virtually all types of real estate. He agreed that there is significant vacancy in older, very large industrial properties in the City of Chicago.

MaRous acknowledged McCormick discussed in his report the subject's railroad access, north-south thoroughfares, the CMC and the locational aspects of that redevelopment project. As part of that discussion he agreed that McCormick concluded that the market area is stable and growing. He also acknowledged that the redevelopment in the subject's area required a massive infusion of public funds from the State of Illinois and the City of Chicago. He also agreed the property is aided by an enterprise zone and a TIF district.

He agreed that a lot of his criticism of McCormick's report was his handling of locational attributes. MaRous agreed that McCormick considered land sales 2 and 3 to be inferior to the subject, but was of the opinion they should not have been included in the appraisal at all.

In the context of extracting depreciation from the comparable sales, MaRous was quoted his statement from the last sentence of the first paragraph on page 6 of his review providing in part that, "[A]ppraisal theory states that reproduction cost estimates as of the effective date of the appraisal be used in each case." He was asked to compare a statement from *The Appraisal of Real Estate, Twelfth Edition*, page 389, number 4, discussing the Market Extraction Method that provides in part, "Estimate the cost of the improvements for each comparable at the time of sale." MaRous stated this was a difference of opinion.

He agreed that McCormick not having included the 100,000 square foot addition was an error, particularly for 2004 and 2005. He was of the opinion McCormick should have included the addition even if the assessor's office missed this area.

With respect to McCormick's comparable sale 3, located in Kentwood, Michigan, which was also used by Hatfield as his comparable 4 in both the 2004 and 2005 appraisals, MaRous was of the opinion this was an inferior location even though it has access to transportation, access and proximity to related businesses, and a good labor supply. With respect to this comparable MaRous stated on page 9 of his review that, "It is our opinion that this sale demonstrates there is a segment of the heavy industrial sector of the market that is acquired at a much higher range than that indicated by the remainder of the improved sales." He also noted this property was purchased with the plan to fill the building with one tenant or to demise it into a multitenant building.

MaRous agreed that all of McCormick's sales exhibited manufacturing use except possibly for comparable 4, which had warehousing.

With respect to the cost approach MaRous agreed that McCormick used reproduction cost new, which is used with the intent to duplicate an existing building. In using such an approach an appraiser needs to make floor adjustments and adjustments for office space. He did not observe that McCormick made such adjustments. MaRous did agree with McCormick's conclusion that the income approach was inapplicable to the subject property.

PTAB Findings and Conclusions

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 the appeal.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. The evidence disclosed Section 1(B)(2) of the Cook County Real Property Assessment Classification Ordinance defines "market value" as, "[t]hat value, estimated at the price it would bring at a fair voluntary sale." Similarly, the law in Illinois requires real property to be valued at fair cash value, estimated at the price it would bring at a voluntary sale. Cook County Board of Review v. Illinois Property Tax Appeal Board, 384 Ill.App.3d 472, 480, 894 N.E.2d 400, 323 Ill.Dec. 633 (1st Dist. 2008). Correspondingly, fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). Fair cash value is synonymous with fair market value. Cook County Board of Review v. Illinois Property Tax Appeal Board, 384 Ill.App.3d 472, 480 (1st Dist. 2008). The Supreme Court of Illinois has construed "fair cash value" to mean 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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). The Board finds the evidence in the record supports a reduction in the subject's assessment.

The record disclosed the subject property had a total assessment in each of the years under appeal of $7,745,975. The data provided by the board of review indicated that the subject's total assessment reflects a market value of $26,592,625. The assessment did not equate to 36% of market value as provided by the Cook County Real Property Assessment Classification Ordinance (Ordinance) for Class 5b industrial property due to the fact that certain parcels or portions thereof qualified for industrial incentives as provided in the Ordinance. The subject's assessment equates to 29.13% of market value ($7,745,975 ÷ $26,592,625). No testimony or documentation was provided by the board of review with respect to the calculations converting the assessments to a market value estimate. The Board finds the appellant did have attached to its Industrial Appeal Petition for the 2005 appeal a breakdown of assessments by PIN disclosing the classifications and assessment levels. In support of its contention of the correct assessment the appellant submitted an appraisal in each of the appeals prepared by McCormick estimating the subject property had a market value of $15,000,000 as of January 1, 2003. In support of the

assessments in each of the appeals the board of review submitted comparable sales and had attached pages from the CoStar Comps website for the comparables utilized in each of the respective appeals. The intervening taxing districts submitted three appraisals prepared by Hatfield providing estimates of value of $42,000,000 as of January 1, 2003; $46,000,000 as of January 1, 2004; and $46,000,000 as of January 1, 2005. The two appraisers were called as witness by the parties and the intervenors also called MaRous as a rebuttal witness with respect to the McCormick appraisal.

Both the appraisers providing value estimates described the subject as a being improved with an industrial complex with approximately 2.5 million square feet of total building area. The Board finds Hatfield's estimate of size for the building improvements to be better supported. Hatfield estimated the subject had 2,455,693 square feet of building area in 2003. He then estimated the subject had 2,556,804 square feet in 2004 and 2005 due to the expansion of the Body Side Building. The appellant contends this addition should not be considered because the addition was omitted property and assessed subsequently in 2008 as omitted property, as evidenced by Appellant's Exhibit No. 3. Based on the record before it, the Board finds this aspect of the appellant's argument was not proven by a preponderance of the evidence. A review of Appellant's Exhibit 3 identified the property receiving the omitted assessment as PIN 25-25-402-001-0000. The evidence in the record, particularly Hatfield's appraisals, identify the parcel improved with the Body Side Building as being PIN 25-25-401-010(-0000), a different PIN from that receiving the omitted property assessed value. Considering these facts the Board finds it was not proven that the addition to the Body Side Building was assessed as omitted property and should not be considered as part of the building improvements in 2004 and 2005. Both of the appraisers agreed not to value the addition to the Body Side Building as part of the improvements in 2003.

The Board finds that both of the appraisers indicated the property rights being appraised were the fee simple estate. The Board finds that both appraisers agreed that the highest use of the subject property as improved was for its current or existing industrial/manufacturing use. The Board finds both appraisers indicated in their testimony that the primary characteristics of the subject property were its large building area and its use as a manufacturing property by a single owner/user. Considering these factors, the Board finds the comparable sales used by McCormick and the overall analysis by McCormick were more consistent with the property rights appraised and the property's highest and best use. As explained below, the Board finds those comparables that were composed of larger, single user industrial manufacturing plants were more probative in establishing the market value of the subject property than the multi-tenant industrial properties or properties involved in sale-leaseback transactions used primarily by Hatfield.

In estimating the market value of the subject property, both appraisers estimated the value of the subject's land as vacant. McCormick estimated the subject land had a market value of approximately $.80 per square foot or $35,000 per acre resulting in a total land value of $3,340,000. In each of the years under appeal Hatfield estimated the subject had a land value of $1.50 per square foot or $65,340 per acre for a total land value of $6,230,000, rounded. As reflected by the assessment as set forth on the appellant's petition filed for 2005, the total land assessment of $1,334,815 reflects a market value of $3,983,569 or approximately $41,750 per acre or $.96 per square foot using the appropriate levels of assessment. McCormick used six

land sales ranging in size from 15.95 to 206 acres with unit prices ranging from $.21 to $1.71 per square foot. Hatfield used 5 sales ranging in size from 239,580 to 6,969,600 square feet that sold for unit prices ranging from $.74 to $2.98 per square foot of land area. The appraisers had three common land sales. Of these three common sales, two were most similar to the subject parcel in size, McCormick's land sales 4 and 5, which are the same as Hatfield's land sales 3 and 1, respectively. These comparables had unit prices of approximately $.71 and $1.75 per square foot of land area. Of these two properties, both appraisers agreed that the land with the highest price should have a negative adjustment because it was superior to the subject. The appraisers differed with respect to the other comparable with McCormick contending the comparable is equivalent to the subject while Hatfield argued an upward adjustment was needed. Considering these land sales, the Board finds the subject's current land assessment reflecting a value of $.96 per square foot, which is bracketed by the two best land sales in the record, is correct and no change is warranted in the land assessment for the subject property.

Of these two appraisers, only McCormick developed the cost approach to value. McCormick placed secondary weight on the estimate of value arrived at using this approach. The Board gives little weight to the conclusion of value arrived at under the cost approach. The Board finds due to the subject's age and multi-building configuration, estimating the cost new is not particularly meaningful and estimating depreciation is subjective and difficult to calculate. Furthermore, as previously stated, the Board found that McCormick understated the value of the subject land which in turn would result in an understated estimate of value under the cost approach.

Of these two appraisers, only Hatfield developed an estimate of value using the income capitalization approach. The Board gives the conclusion of value arrived at under this method very little weight. The evidence disclosed that both McCormick and MaRous agreed that the income capitalization approach had little applicability to an industrial property with the characteristics of the subject property. McCormick stated within his report that the subject property was originally designed for single-use occupancy and has been occupied by the same user since it was constructed. McCormick indicated that the subject property does not lend itself to multiple-tenant occupancy and would require a substantial amount of capital to convert it to multiple-tenant occupancy. McCormick further stated in the appraisal that demand for industrial space in the subject property's market is not strong enough to justify the expense associated with converting the subject property to multiple-tenant occupancy and that it is unlikely that the property would be leased in its entirety. McCormick also stated within his appraisal report that a search for recent leases of industrial space similar to the subject property resulted in insufficient comparable data to utilize the income capitalization approach; therefore, the income capitalization approach could not be utilized in the appraisal assignment. (Appellant Exhibit #1, page 64.) In his review of the McCormick appraisal, MaRous stated that given the fact the subject property is owner-occupied and is designed and built as a large single-user manufacturing facility, it is not likely to be purchased by an investor for leasing purposes.

Additionally, the Board finds a review of the data presented by Hatfield disclosed that the rental comparables were significantly smaller than the subject except possibly for the comparable rental located in Decatur, Illinois, which was described by MaRous as being an older industrial facility that has been hit hard by closing of major plants over the last 30 years. He further described the Decatur property as an older, obsolete facility in a far less than secondary, totally different,

market than the subject. Furthermore, this large industrial building was being rented as a multi-tenant facility, divisible to 40,000 square foot increments, which is a different use than the subject property. The Board further finds that rental comparables 3 and 4 used in each of the appraisals were sale-leaseback transactions and should be given little weight. Additionally, the Board finds rental comparable 2 used in each appraisal and rental comparable 5 in the 2004 and 2005 appraisals were multi-tenant properties, dissimilar to the subject in use as a single tenant, extremely large industrial multi-building facility. The Board finds this rental information is not particularly reliable in establishing the market rent for a 2.5 million square foot, single tenant industrial facility like the subject property. For these reasons the Property Tax Appeal Board finds that the value estimated by Hatfield under the income approach is not credible and is not reflective of the market value of the subject property for the assessment years under appeal.

Both these appraisers developed the sales comparison approach to value and gave primary weight to this method in estimating the market value of the subject property. Additionally, the board of review submitted data on comparable sales using information from the CoStar Comps service. In developing the sales comparison approach, McCormick used five sales and two listings. He testified that all of the properties are single user manufacturing type properties that were not leased at the time of sale. The comparables that sold were located in Chicago Heights, Illinois; Edgerton, Wisconsin; Kentwood, Michigan; Bloomington, Indiana; and Decatur, Illinois. The two listings were located in Kalamazoo, Michigan and Sturgis, Michigan. The five sales ranged in size from 547,679 to 2,197,775 square feet of building area. Sales 1 and 4 were composed of multiple buildings and sale 5 was a part 1 and 2 story building. The sales had average weighted ages ranging from 17 to 40 years old. The comparable sales had ceiling heights ranging from 21 to 42 feet and office areas ranging from 2.9% to 9.8% of total building area. The appraiser indicated the sales had land to building ratios or adjusted land to building ratios ranging from 2.19:1 to 6.27:1. The sales occurred from December 1998 to August 2003 for prices ranging from $500,000 to $12,970,000 or from $.23 to $12.60 per square foot of building area, including land. The Board gives little weight to McCormick comparable sale 4 due to its sale approximately 5 years prior to the 2003 valuation date. The Board also gives little weight to McCormick's comparable sale 5 due to its location in Decatur, Illinois and its sales price of $.23 per square foot of building area appears to be extremely low compared to the other data in the record. Comparable sales 1, 2 and 3 were significantly smaller than the subject building ranging in size from 547,679 to 1,029,000, making them superior to the subject in that aspect. Comparables 1 and 2 had inferior locations compared to the subject and the data provided by McCormick indicated the seller for comparable 1 did not want to market the property for an extended period. These three sales had unit prices of $3.00, $2.81 and $12.60 per square foot of building area, respectively.

The two listings were composed of industrial buildings containing 877,355 and 2,075,022 square feet of building area. These properties had average ages of 35 and 45 years and ceiling heights ranging from 20 to 42 feet. The land to building ratios for these two properties were 2.77:1 and 7.53:1 and they had office areas totaling 1.0% and 6.9% of total building area. These properties were listed for sale in November 2002 for prices of $7,900,000 and $22,000,000 or $9.00 and $10.60 per square foot of building area, including land. The listing prices set the upper limit of value for these properties.

Using this data, McCormick estimated the subject property had an indicated value under the sales comparison approach of $6.00 per square foot of building area, including land.

Hatfield has six comparables in his three appraisal reports. Comparable sales 1 and 2 were used in all three reports. The Board gives these sales less weight because these are sale-leaseback transactions where the seller is leasing the property back from the buyer for either 10 to 15 years as in sale 1, and for 3 years as in sale 2. Sale 3 used in the 2003 appraisal is significantly smaller than the subject with 430,000 square feet and the buyer intends to convert at least part of the property into a multi-tenant warehouse/distribution facility. The Board finds this proposed multi-tenant warehouse use differs from the subject's highest and best use determination in Hatfield's appraisal. Thus, the Board gives this comparable less weight. Comparable 4 is located in Harvey, Illinois, and involved an owner-user seller and an owner-user buyer. This comparable was significantly smaller than the subject with 328,500 square feet of building area in 5 buildings, including a 3-story brick office building that comprised 18% of the building area. This property sold in June 2000 for a price of $3,351,534 or $10.20 per square foot of building area. This property had an asking price of $5,000,000, which corroborates McCormick's testimony that the asking price of industrial properties sets the upper limit of value for that property. With respect to 2003, Hatfield estimated the sales provided an estimate of value for the subject property of $17.00 per square foot, land included.

In support of the assessment, the board of review submitted information on four comparable sales utilizing the CoStar Comps data sheets, but provided no testimony concerning the comparability of the sales to the subject property. The Board considered but gave less weight to this data because there was no corroborating testimony. The properties were improved with industrial buildings built from 1901 to 2002 that had from 907,920 to 2,877,165 square feet of building area. The sales occurred from June 2003 to December 2004 for prices ranging from $3,806,000 to $68,596,000 or from $3.81 to $33.15 per square foot of building area. Sale 1, located on Torrence Avenue in Chicago, was described as a multi-tenant industrial building constructed in 1901 with Cargill Incorporated as a major tenant that sold for $3.81 per square foot, including land, in March 2004. Sale 2, located in Joliet, was the same property utilized by Hatfield as his comparable sale 1 in all three appraisals. The data indicates this was a subsequent sale occurring in December 2004 for a price of $68,596,000 or $23.84 per square foot of rentable area. The information indicated that the subject was fully leased by a single tenant, Caterpillar Tractor, on a 10 to 15 year lease. As previously explained, due to this being a sale-leaseback transaction, less weight is give this sale. Sale 3 submitted by the board of review was also utilized by Hatfield as his sale 3 in the 2004 and 2005 appraisals of the subject property. The data sheet indicates this was a bulk/portfolio sale and also identified four major tenants on the property. This was an eight building complex with buildings ranging in size from 4,500 to 621,558 square feet. The property sold in October 2004 for a price of $15,103,315 or $15.30 per square foot of building area. Less weight was given this property due to its being part of a portfolio sale and use as a multi-tenant industrial building that is smaller than the subject. Sale 4, located in University Park, was a 907,920 square foot pre-cast concrete building with 30 foot truss heights constructed in 2002. The data sheet indicates this property was a single tenant industrial building that was "built to suit." The information indicated this property had Sweetheart Cup Company as a major tenant. This property is clearly superior to the subject and was given little weight.

With respect to the 2003 appeal, the Board finds three sales and two listings contained in McCormick's appraisal provide the best indication of the subject's market value. These three sales had unit prices of $3.00, $2.81 and $12.60 per square foot of building area, respectively. The Board finds the two listings in the McCormick appraisal also give some guidance with respect to the market value of the subject. The listings were large industrial properties containing 877,355 and 2,075,022 square feet of building area, with listing prices in November 2002 of $7,900,000 and $22,000,000 or $9.00 and $10.60 per square foot of building area, including land. As evidenced by the data in McCormick's appraisal and Hatfield's comparable sale 4 in the 2003 report, the listing prices set the upper limit of value for these properties. The Board finds only comparable 4 in Hatfield's 2003 appraisal involved an owner-occupied seller and an owner-occupied buyer. This property did not have many attributes similar to the subject in terms of size and construction. This property sold for a price of $3,351,534 or $10.20 per square foot of building area. None of the board of review's comparables was similar to the subject. Considering this data, and giving more deference to McCormick's sales comparables after eliminating his sales 4 and 5, the Board finds that the subject property had a market value of $7.00 per square foot of building area, including land, as of January 1, 2003, resulting in an estimated market value of $17,200,000, rounded.

With respect to the 2004 and 2005 appraisals, Hatfield provided two different comparable sales as numbers 3 and 4. As previously explained, new comparable sale 3 was improved with an 8-building multi-tenant complex of one-story industrial buildings constructed in stages from 1916 through the 1950's located in Chicago, Illinois. The comparable had 987,929 square feet of building area. The property was purchased in 1990 and converted to multi-tenant use. In October 2004, the property was part of a portfolio sale where 16 properties were purchased for a price of $98,700,000. The properties purchased had a combined building area of 3.44 million square feet of industrial space. The appraiser indicated comparable 3 was purchased for a price of $15,103,315 or $15.29 per square foot of building area. At the time of sale this comparable had two tenants having a combined space of 624,210 square feet with net rentals of $2.62 and $3.56 per square foot, respectively. Due to the nature of the portfolio sale and the multi-tenant use, the Board gives this sale little weight.

New comparable sale 4 was improved with a one-story steel-frame and concrete panel industrial building with 915,000 square feet of building area constructed in 1979. The property is located in Kentwood, Michigan and sold in August 2003 for a price of $12,970,000 or $14.18 per square foot of building area. (This comparable was also used by McCormick as comparable sale 3.) The appraiser indicated in the report that the buyer's intent was to convert the property to a multi-tenant facility. The report indicated the seller leased back the property until the spring of 2004. In early 2005 the buyer had leased 575,000 square feet of the building. The asking rent was from $3.25 to $4.75 per square foot. The Board finds this comparable is superior to the subject in age, size and construction. This property is also smaller than the subject building and used as a multi-tenant building different from the subject. These factors detract from the weight that can be accorded this sale and demonstrate a downward adjustment to the sales price is justified.

Hatfield was of the opinion the subject property had an indicated value under the sales comparison approach in both 2004 and 2005 of $18.00 per square foot of building area, land included.

In support of its assessments for both 2004 and 2005, the board of review submitted information on 6 comparable sales utilizing the CoStar Comps data sheets, but provided no testimony concerning the comparability of the sales to the subject property. The Board considered, but gave less weight to this data because there was no corroborating testimony. The comparables were located in the Illinois cities of Chicago, Franklin Park, Blue Island and University Park. The comparables were improved with industrial buildings that ranged in size from 500,000 to 907,920 square feet with land areas that ranged in size from 5.8 to 55 acres. The information indicated the buildings were constructed from 1955 to 2004. The comparables sold from December 2002 to April 2005 for prices ranging from $4,103,666 to $30,094,000 or from $7.34 to $33.15 per square foot of building area with five of the sales ranging in price from $7.34 to $12.17 per square foot of building area. The information from the board of review indicated that sale 1 was a part 1, 3 and 9 story building with 770,000 square feet of building area where the buyer was the owner/user and the property was not on the market at the time it sold for a price of $7.34 per square foot of building area. This sale is given some weight by the Board. Sale 2 was a multi-tenant warehouse distribution building constructed in 1972. This property was reported to have 540,000 square feet of building area with 5 tenants and sold for a price of $7.43 per square foot. Due to size and multi-tenant use, this sale was given little weight. Sale 3 was a multi-tenant industrial building that had 50,000 square feet leased at the time of sale. This one-story building constructed in 1943 with 862,056 square feet sold for a price of $7.54 per square foot. Due to its multi-tenant use, little weight was given this sale. Sale 4 was a 4-story multi-tenant building constructed in 1955. The data identified 5 tenants. This property sold for a price of $10.60 per square foot. Due to its multi-tenant nature little, weight was given this sale. Sale 5 was described as being composed of 3, 1-story buildings of precast concrete construction with 574,985 square feet built from 1991 to 2004. The comparable sold by an owner/user to a buyer/user in May 2004 for a price of $12.17 per square foot of building area. The Board will give this sale some weight, but finds that a downward adjustment would be needed to account for size, construction and age. Sale 6, which was also submitted by the board of review in the 2003 appeal, was a 907,920 square foot one-story pre-cast concrete building with 30 foot truss heights constructed in 2002. The data sheet indicates this property was a single tenant industrial building that was "built to suit." The information indicated this property had Sweetheart Cup Company as a major tenant. The property sold for $33.15 per square foot of building area. This property is clearly superior to the subject and was given little weight.

With respect to the 2004 and 2005 appeals, the Board finds sales 1, 2 and 3 as well as the two listings contained in McCormick's appraisal, sale 4 in Hatfield's appraisals (which is the same sale as McCormick's sale 3), and comparables 1 and 5 contained in the board of review's submission are the best indication of the subject's market value. The five sales had unit prices of $3.00, $2.81, $12.60, $7.34 and $12.17 per square foot of building area, respectively. The Board again finds the two listings in the McCormick appraisal give some guidance with respect to the market value of the subject. The listings were large industrial properties containing in 877,355 and 2,075,022 square feet of building area with listing prices in November 2002 of $7,900,000 and $22,000,000 or $9.00 and $10.60 per square foot of building area, including land, which would need to be adjusted downward because the listing prices set the upper limit of value for these properties. Considering this data, and giving more deference to McCormick's sales comparables after eliminating his sales 4 and 5, the Board finds that the subject property had a market value of $7.00 per square foot of building area, including land, as of January 1, 2004 and January 1, 2005, resulting in an estimated market value of $17,900,000, rounded.

As a final point, the evidence disclosed the subject's assessment for each of the years under appeal equates to 29.13% of market value rather than 36% of market value as established by the Ordinance for Class 5b industrial property due to the fact that certain parcels or portions thereof qualified for industrial incentives as contained in the Ordinance. Based on this fact the Board finds that the assessments for the subject property for each of the years under appeal shall be set at 29.13% of market value.

APPELLANT:	**Miller Container Corp.**
DOCKET NUMBER:	**06-00660.001-I-2 thru 06-00660.002-I-2**
DATE DECIDED:	**May, 2009**
COUNTY:	**Rock Island**
RESULT:	**Reduction**

The subject property consists of two parcels containing a total of approximately 23.08 acres. The parcels have been improved with two connected industrial buildings of part one-story and part two-story design containing 465,678 total square feet of building area built in 1959 with various additions beginning in 1960 and occurring until 2004. The building is of steel framed construction with insulated steel sandwich panels, clear ceiling heights ranging from 15' to 23' for an average of 18', wet sprinklered, and features 32 dock doors. There are various air-conditioned office areas within the building[1] totaling 16,545 square feet or 3.55% of office build-out. Site improvements of the property include asphalt drives, parking areas, concrete loading docks along with exterior lighting and landscaping. The property is located in Rock Island, Blackhawk Township, Illinois.

The appellant appeared through counsel before the Property Tax Appeal Board arguing that the fair market value of the subject was not accurately reflected in its assessed value. In support of this argument, the appellant submitted an appraisal prepared by Certified General Real Estate Appraiser J. Edward Salisbury of Salisbury & Associates, Inc. estimating the subject property had a market value of $6,100,000 as of January 1, 2006 (Appellant's Ex. 1).

As its witness, the appellant called J. Edward Salisbury, with over 30 years of appraisal experience. Salisbury noted that in the past 16 or 17 years he has appraised hundreds of industrial properties of which 15 or 20 have been 400,000 square feet or larger in size. Without objection, Salisbury was accepted as an expert witness in this matter.

Salisbury testified that he made an inspection of the subject property on October 11, 2006 during which he interviewed plant personnel, took a tour of the facility making area and ceiling height measurements, and finished with a second interview of staff. Salisbury testified the site had 23.08 acres and was improved with 465,678 square feet of building area for industrial use with warehouse capabilities. Due to the multiple additions that have been made over the years, Salisbury calculated a weighted age of 18 years for the improvement. (Appellant's Ex. 1, p. 28)

Salisbury opined the subject's market value is affected on a national scope. The property is within a predominantly industrial area and the neighborhood is adequate for the industrial use; however, there are no new industries moving into the area as currently industries prefer locations on the edge of the community in an industrial park directly off an interstate. Salisbury was of the opinion the subject's highest and best use as vacant would be for continued use as an industrial site and as improved the subject's highest and best use would be for its current use as a

[1] One office is a two-story main office area of 11,442 square feet on the first floor and 2,640 square feet on the second floor and another two-story office area contains a total of 1,214 square feet of building area. There are also several other office areas with a combined total of 1,249 square feet of building area.

manufacturing warehouse facility. In researching the ownership history of the property, Salisbury found no changes in ownership since 1959. He also estimated in his report that the realistic marketing time for the subject would be at least 12 to 18 months due to the size of the facility which limits the number of potential purchasers. He further testified that in examining sales not only within Illinois, but nationally, he has observed that larger, older industrial properties tend to take a lot longer to market than smaller, newer properties. He described demand for manufacturing space in Rock Island to be on a downward trend like the rest of the country has been over the past ten years based on his work with clients and analyses of the sales data; there is an increase demand for warehouse space.

Salisbury testified that in gathering comparable data for completion of an industrial appraisal assignment such as this one, he has four main criteria: location in terms of major metropolitan area or more rural; interstate access; age; building size along with clear ceiling heights and percentage of office space as primary feature considerations. Salisbury estimated the market value of the subject using the three traditional approaches to value.

Under the cost approach, the appraiser estimated the subject's value as $5,900,000, rounded. To develop the land value, one vacant land sale from December 2005 in Bettendorf, Iowa was used and nine vacant land listings from October 2006 in the Illinois communities of Rock Island, Milan, East Moline, and the Iowa communities of Davenport and Bettendorf were considered. These properties ranged in size from 2.84 to 114 acres of land area. The one sale was for $396,000 or $18,401 per acre. The listing prices ranged from $56,907 to $500,000 or from $5,002 to $26,923 per acre of land area.

In the appraisal, Salisbury noted the single most important factor affecting industrial land value was location which is then connected to other factors that must be considered. In describing the various land comparables, the appraiser noted the property's location in relationship to an interstate for three of the listings. The appraiser noted a minimal adjustment was made for location; the two smallest comparables were given adjustments for size as were two substantially larger properties, with the remainder having no adjustment for size. No adjustments were deemed necessary for the rights conveyed, financing, conditions of sale, market conditions (date), availability of utilities, zoning or legal encumbrances. Based on adjusted sale and listing prices, the appraiser concluded a market value of $20,000 per acre for the subject land or $460,000, rounded.

Next, the appraiser determined a replacement cost new for the subject improvement of $19,346,343 or $41.54 per square foot of building area utilizing the Marshall Valuation Service and including lump sum adjustments for site improvements such as parking, exterior lighting and landscaping. In terms of physical depreciation, Salisbury noted the subject property had some items of deferred maintenance, but otherwise simply had ordinary wear and tear from the aging process. In testimony, Salisbury opined that rates of depreciation should come from the market, but for industrial properties there are an insufficient number of sales to accurately determine specific percentages of depreciation for each type of depreciation. Therefore, Salisbury concluded it was more accurate to include all forms of depreciation and look at the average depreciation rate per year.

To calculate depreciation, the appraiser applied an extraction method utilizing sales #1, #2, #4 and #7 from his comparable sales approach in the report which were selected due to their known land values and these were the most similar in age to the subject. In the report, Salisbury further noted his market studies of sales of manufacturing/warehouse facilities indicate these properties do not depreciate on a straight line basis; instead, there is rapid depreciation in the first ten years of 4-10% per year which stabilizes during the remaining years. To arrive at the depreciation figure, Salisbury deducted the land value from the sales price for these four sales to arrive at the value contribution of the improvements. He next calculated the replacement cost new for each property and deducted the improvement's contributory value to arrive at the amount of accrued depreciation which was then divided by the replacement cost new to provide a total percentage of depreciation. This figure was then divided by the age of the comparable improvements to provide a percent of depreciation per year. Salisbury displayed this analysis of the four sales in a chart on page 44 of his report, Appellant's Ex. 1. This analysis resulted in abstracted rates of depreciation of 2.70% to 6.44% per year for properties ranging in age from 15 to 34 years old. From this data, the appraiser found the subject should have a rate of depreciation of 4% per year; with a weighted age of 18 years, the subject has depreciation of 72% from all causes.[2] Deducting depreciation of $13,929,367 from the subject's replacement cost new results in a depreciated value of improvements of $5,416,367 and then adding back the land value of $460,000 results in an estimated market value of the subject under the cost approach of $5,900,000, rounded.

In developing the income approach to value, Salisbury first searched for rent comparables. The size of the subject property, however, created a unique problem in that rarely if ever is such a large property rented to a single tenant. Larger properties like the subject tend to be incubated or divided into smaller units for rental purposes with marketing to multiple tenants. Once the larger property is incubated, Salisbury testified the lease rate typically goes down along with size and along with the age of the property (Transcript p. 22).

With the foregoing in mind, Salisbury selected five rentals and four rental listings from his data bank. The properties were located in Davenport, Iowa and the Illinois communities of Rock Island, Freeport, Danville, Galesburg, Silvis, and Macomb. The comparables were described as industrial or warehouse properties that ranged in size from 17,419 to 500,000 square feet of leased or available space. The properties ranged in age from 15 to 40 years old, had clear ceiling heights ranging from 19.1' to 45', and had office build-outs ranging from zero to 8% of rental area. Their rentals or offerings ranged from $1.00 to $2.55 per square foot. The appraiser made adjustments to the comparables for market conditions (date), location, age, size, office area, and lease terms as reflected in a chart on page 50 of his report. Based on an analysis of this data, Salisbury estimated the subject had a market rent of $1.75 per square foot of building area. The appraiser estimated the subject had a gross potential income of $814,937.

Salisbury assumed a vacancy and credit loss of 10% given the subject's market area for an effective gross income of $733,443. Next the appraiser calculated a management fee along with exterior maintenance, insurance and reserves for replacement given the age and condition of the

[2] While the summary in the report and Salisbury's testimony set forth 66% depreciation, the actual calculation of 4% and an age of 18 years leads to a result of 72% depreciation and all the summary of the mathematical calculations are consistent with depreciation of 72%.

property of 10% of effective gross income or $73,344 annually. After making these deductions, Salisbury estimated the subject had a net income of $660,099.

The appraiser then estimated the capitalization rate for the subject from the market to be 11% using actual sales and leases of industrial and warehouse properties located in Illinois, Missouri, Wisconsin, and Iowa. With respect to his selected sales, Salisbury noted that properties in excess of 150,000 square feet of building area are marketed on a national basis. The eleven properties he analyzed provided overall capitalization rates ranging from 9.8% to 21.6%. Salisbury testified that a typical range for the type of property at issue is 11% to 15%. Capitalizing the subject's net income resulted in an estimate of value under the income approach of $6,000,000, rounded.

Next Salisbury developed the sales comparison approach to value. In doing so, he selected eight comparable sales and one listing which were located in Davenport, Iowa and the Illinois communities of Macomb, Centralia, Effingham, Loves Park, Danville, Galesburg, Salem and Kankakee. In his testimony, Salisbury noted that the market for industrial properties of the size of the subject was very weak as of January 2006. In selecting suitable sales comparables, Salisbury considered size a very important factor, location whether metropolitan areas versus other areas, properties with interstate access, and finally properties in smaller communities without interstate access.

The selected comparables ranged in size from 175,251 to 850,000 square feet of building area and ranged in age from 15 to 37 years old. The comparables featured land-to-building ratios ranging from 2.60:1 to 7.05:1, clear ceiling heights ranging from 17' to 40', and office build-outs ranging from .80% to 14.27% of building area. The properties sold from September 2000 to September 2006 for prices ranging from $564,000 to $6,300,000 or from $1.97 to $12.51 per square foot of building area. After making adjustments to the comparables for date of sale, location, land-to-building ratio, conditions of sale, date of sale, size, condition of property, and age, the appraiser was of the opinion the subject had an indicated value under the sales comparison approach of $13.00 per square foot of building area or $6,100,000, rounded.

In reconciling the three approaches to value, Salisbury gave most weight to the sales comparison approach to arrive at an estimate of value of $6,100,000 as of January 1, 2006.

On cross-examination, Salisbury acknowledged that in the cost approach it is preferable to consider sales of land rather than listings. Likewise, in extracting depreciation from the market, the appraiser testified that he has actually appraised the properties considered or researched land sales in order to accurately deduct the land value from the sales prices. In each instance, in the course of extracting depreciation, the land sale deduction on page 44 of his report for the cities of Macomb, Centralia, Effingham and Galesburg is $10,000 per acre.

As to the income approach considered by Salisbury, on cross-examination he noted that leases executed as near to the date of January 1, 2006 as possible would be preferable for consideration. The questioning thus noted leases had various terms predating January 1, 2006 by a number of years. Also, listings of rental properties would reflect a higher per square foot value generally than what the actual market rentals would reflect as a listing sets the upper limit of value. Dates of sale closer to January 1, 2006 would also be preferable in determining a capitalization rate as

noted by the appraiser on cross-examination. Salisbury calculated income using the actual rental listings, except for one property, and there were still deductions for vacancy and miscellaneous expenses to be made from the income figure in some instances.

On redirect examination, Salisbury testified that it would not be appropriate to look at the ongoing business concern of an industrial property to determine its market value for *ad valorem* assessment purposes. Furthermore, the market for industrial properties the size of the subject has been on the decline for the past ten years.

The Board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of the two parcels totaling $4,146,313 was disclosed. Based on the subject's assessment and utilizing the 2006 three-year median level of assessments for Rock Island County of 33.14%, the subject property has an estimated fair market value of $12,511,505.

In support of the subject's assessment, the board of review submitted an appraisal prepared by real estate appraiser Kevin M. Pollard of Roy R. Fisher, Inc. estimating the subject property had a market value of $8,500,000 as of January 1, 2006.

When the board of review filed the appraisal with the Property Tax Appeal Board, it also submitted a cover letter conceding that this appraisal justifies a reduction in the assessment of the subject property. Based upon the appraisal's opinion of fair market value, the board of review proposed to stipulate to a 2006 assessment totaling $2,833,051 which would be equivalent to an estimated fair market value of $8,548,736 based on Rock Island County's 2006 three-year median level of assessments of 33.14%. Appellant rejected the proposed stipulation and the matter proceeded to hearing.

The board of review called as its witness real estate appraiser Kevin M. Pollard with 29 years of appraisal experience. Pollard testified that he holds the Member of the Appraisal Institute (MAI) designation along with being active in the Appraisal Institute and is certified in both Illinois and Iowa as a general real estate appraiser. He further testified to having performed several hundred industrial property appraisals in his career. Without objection, Pollard was accepted as an expert witness in this matter.

Pollard testified that he inspected the subject property on June 25, 2007 accompanied by a plant employee. His report, the appraisal he prepared concerning the subject property, further notes that he researched public records to determine ownership and other pertinent information, gathered cost, market and income data, and developed the instant appraisal utilizing the three approaches to value and reconciled those approaches to arrive at a final estimate of market value. His report includes both exterior and interior photographs of the subject property.

Pollard found no evidence of any sales of the subject property within the prior three years. Given information in Pollard's database and information gathered for this report, he estimated an exposure and marketing time of 2 years for the subject property.

In testimony, Pollard indicated the physical details of the property were "pretty much similar to what Mr. Salisbury described." (Transcript, p. 59) Unlike Salisbury, Pollard reports two industrial buildings of part one-story and part two-story design and an estimated building area

square footage of 445,740 square feet, excluding a 2,013 square foot connection between the buildings. On page 6 of his report, Pollard indicates he was not able to obtain plans for either building and thus relied upon construction information from various sources along with his personal observations during the inspection. He noted clear ceiling heights ranging from 10' to 30' and 2,880 square feet of office area. Pollard found the street and interstate access to the subject property was a positive feature; no detrimental influences were noted in the neighborhood.

Pollard was of the opinion the subject's highest and best use of the land as vacant was for an industrial use and the highest and best use of the property as improved was its current use as a fabrication and warehouse facility.

Pollard first analyzed the property using the cost approach to value wherein he estimated the subject's value as $8,685,000, rounded. To develop the land value, four vacant land sales occurring between August 2004 and March 2006 in the "Quad Cities" of Milan and Rock Island, Illinois and Davenport and Bettendorf, Iowa were considered. The properties ranged in size from 3.199 to 15.75 acres of land area and sold for prices ranging from $175,000 to $535,000 or from $27,000 to $54,705 per acre. As depicted on a chart preceding page 8-A of his report, Pollard made no adjustments for financing or date of sale, but did make adjustments for location, topography/shape, size, and access of the comparables resulting in adjusted sale prices ranging from $27,000 to $27,992 per acre. Thus, Pollard concluded a market value range of $623,160 to $646,055 for the subject such that he estimated a land value for the subject of $635,000, rounded.

Pollard next estimated the replacement cost new of the improvements utilizing the Marshall & Swift "Estimator" Service for each of the buildings with a total building area of 442,860 square feet of which 2,880 square feet was finished office areas plus an addition for a 2,013 square foot connector along with 33 dock doors and miscellaneous paving and landscaping. Replacement of the east building and site improvements was estimated to be $8,144,942 or $41.07 per square foot of building area which included soft costs "(architect's fees, profit, interest, contingencies, etc.)." The west building replacement cost including the connecting building was estimated to be $8,694,337 or $35.55 per square foot of building area.

The appraiser used the age/life method to calculate physical depreciation. In this regard, given the original construction date of 1959 and various additions including a recent substantial addition, Pollard estimated an effective age of 25 years for the subject property and with Marshall & Swift Life Expectancy Tables indicating a total life of 40 years, he estimated 62.5% for physical depreciation of the east building. Similarly for the west building constructed in 1977 with subsequent additions, he estimated an effective age of 8 years and a total life of 40 years resulting in a 20% deduction for physical depreciation of this structure. Given some low ceiling heights and layout issues, Pollard estimated a 20% deduction for functional obsolescence of the east building and a 5% deduction for functional obsolescence of the west building. For each building he estimated an additional 10% deduction for external obsolescence. Thus, Pollard concluded a depreciated replacement cost new for the east building of $2,138,048 and for the west building of $5,912,149; adding the estimated land value of $635,000 to these figures, the appraiser concluded an estimate of the market value of the subject property under the cost approach of $8,685,000, rounded.

Next, Pollard developed the sales comparison approach utilizing six comparable sales located in the region. The comparables were located in the Illinois communities of Peoria and Milan, and the Iowa communities of Mount Pleasant, Cedar Rapids, and Davenport. The comparables ranged in size from 102,100 to 252,000 square feet of building area which sold from April 2002 to March 2007 for prices ranging from $1,575,000 to $7,000,000 or from $11.41 to $27.78 per square foot of building area. Pollard reported that all but one of the sales were reported to be cash or conventionally financed transactions, thus he made no adjustment for financing as Sale #4, a contract purchase, was paid off within two months. In his report, Pollard opined that values of industrial properties in the Quad City area have generally increased since 2002, but larger properties tend to be more affected by location and utility to a potential buyer. In light of these factors, Pollard made a time adjustment to Sale #6 only. After making further adjustments to the comparables for location, age/condition, quality, size, and land-to-building ratio, the appraiser was of the opinion the comparables had adjusted sales prices ranging from $13.12 to $21.67 per square foot of building area. As to Sale #5, the appraiser testified that he appraised this property and gave it less weight in his analysis due to some environmental issues associated with the property. Based on his analysis of the data, Pollard estimated the subject had an indicated value under the sales comparison approach of $19.00 per square foot of building area or $8,470,000, rounded.

In developing the income approach to value the appraiser used five comparable leases located in the Quad City area. The rental comparables were primarily warehouses that ranged in size from 69,552 to 248,564 square feet of building area. Their rents ranged from $1.86 to $2.66 per square foot. The appraiser estimated the subject had a market rent of $2.20 per square foot of building area. Thus, the appraiser estimated the subject had a gross income of $980,628.

Pollard next stated in his report that based on interviews with local brokers, the subject would have a vacancy rate ranging from 5% to 15%; Pollard selected an allowance of 5% for vacancy. The appraiser reported management fees range from 2% to 5% depending on the type of property and number of tenants. Since this is an owner occupied property, Pollard selected a 3% allowance for management and calculated a reserve for replacements of $0.15 per square foot of building area of $66,861. After accounting for these deductions, Pollard estimated the subject had a net income of $836,788.

The appraiser then estimated the capitalization rate for the subject to be 9.85% using a market extraction method from his Sale #3 which established a capitalization rate of 9.84%. Capitalizing the subject's net income resulted in an estimate of value under the income approach of $8,500,000, rounded.

In reconciling the three approaches to value, Pollard gave primary weight to the sales comparison approach, but since the cost and income approach conclusions reflected slightly higher values, Pollard rounded the final value conclusion from the sales comparison approach upward slightly. In the end, Pollard estimated a market value for the subject property of $8,500,000 as of January 1, 2006.

Based on its appraisal evidence, the board of review requested a finding of $8,500,000 as the fair market value of the subject as of the assessment date.

On cross-examination, Pollard acknowledged that the two connected buildings making up the subject property operate as a single unit and was valued together for appraisal, other than the individual calculations made in the cost approach analysis. Pollard did not agree that there has been declining economic growth in the industrial market in the area; while over the past ten years there has been a slight increase in vacancies of some types of properties, that has not been true in the industrial market in the Quad Cities area. Pollard agreed that larger improved industrial properties like the subject are more affected by national or regional trends in the market.

In terms of the structures, the east building would be described as having been constructed in piecemeal fashion with eight various additions, but that was not true for the west building with only three additions.

As to the cost approach, on cross-examination Pollard testified that the land sales data confirm that as the land size increases, the price per acre decreases. However, because he made adjustments to the sale prices, Pollard would not acknowledge that since the subject land was larger than all of his land sale comparables, the estimated price per acre of the subject should be less than the lowest sale price per acre of $27,000.

In Pollard's sales comparison approach, he acknowledged that three of his six sales occurred after the effective date of value of the report. Moreover, Sale #1 which occurred in March 2007 was a property about one-quarter the size of the subject and was a leased fee sale with adjustments of 15% each made for location and size. Sale #2, also occurring after the date of valuation, was about 40% the size of the subject property and had been vacant and on the market for two years prior to sale. Sale #3 which occurred after the date of valuation was about one-quarter the size of the subject and was purchased by the tenant of the property. Sale #4, a structure a little more than half the size of the subject, was purchased on contract and was not marketed.[3] Sale #6 was admittedly about one-quarter the size of the subject property for which the property was given a 15% downward adjustment and because the sale did not include the land which was leased from the airport authority, Pollard made a 15% upward adjustment for this factor. In reviewing the adjustments made to the sales comparables, Pollard admitted on cross-examination that overall his age/condition adjustments were generally greater than his size adjustments even though all of the comparables were roughly one-quarter to one-half the building size of the subject property.

On cross-examination concerning his income approach to value, Pollard acknowledged that Lease #1 was a multi-tenant property and the leased area of 69,552 square feet is significantly smaller than the subject property. Likewise Lease #2 was slightly more than one-quarter the size of the subject; Lease #3 was about 60% the size of the subject and a multi-tenant property; Lease #4 was about one-quarter the size of the subject and marketed for about 3 years with the lessor having made substantial repairs to the property; and Lease #5, a warehouse building, was about one-third the size of the subject. Pollard further acknowledged that as a general proposition, the largest lease comparable indicates the lowest rental rate and the smallest lease comparable is nearly the highest rental rate. As to the market extracted capitalization rate from Sale #3, Pollard reiterated on cross-examination that this was the sale purchased by the tenant/lessee.

[3] In the addenda, Pollard noted Sale #4 "was not formally marketed." In testimony on cross-examination, he said it was "marketed" in that a woman was getting a divorce; it had been on the market for probably six to eight months. (Transcript p. 71)

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board finds that a reduction in the subject's assessment is warranted.

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. 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). The Board finds the evidence in the record supports a reduction in the subject's assessment.

The appellant submitted an appraisal estimating the subject property had a market value of $6,100,000, as of January 1, 2006. The Rock Island County Board of Review submitted an appraisal estimating the subject property had a market value of $8,500,000 as of January 1, 2006. The two parcels under appeal have assessments totaling $4,146,313 reflecting a market value of $12,511,505 using the 2006 three-year median level of assessments for Rock Island County of 33.14%. The Property Tax Appeal Board further recognizes that the Rock Island County Board of Review proposed to stipulate to a lower total assessment of $2,833,051 reflecting a market value of $8,548,736 based on the three-year median level of assessments. In summary, the Property Tax Appeal Board finds that the evidence provided by both parties demonstrates the subject's assessment is excessive.

One of the differences in the appraisals was with respect to the building area, office areas, and ceiling heights associated with the subject property. Salisbury testified he measured the building improvements and ceiling heights. While Pollard's report has substantial differences from the building details provided by Salisbury, when testifying Pollard did not discuss those differences and characterized the physical details as "pretty similar" to those set forth by Salisbury. In light of the testimony, the Board finds Pollard understated the size of the subject improvements and misstated the size of the total office area of the subject. Based on this record, the Board finds that Salisbury's estimate of size of the building improvements, office areas and ceiling heights is the better supported of the two conclusions.

Of the two appraisals, the Board finds the appraisal and testimony provided by Salisbury is better supported and more credible than Pollard's appraisal and testimony. Both appraisers developed all three of the traditional approaches to value in developing their respective estimates of market value. Although the cost approach is given less weight than either the sales comparison approach or the income approach by both appraisers, this method does act as a check on the validity of the other two approaches to value. In performing the cost approach, while it is troubling that Salisbury found only one vacant land sale to consider and otherwise used listings, the Board finds it more troubling that Pollard's comparable vacant land sales were all nearly half the size or even smaller than the subject property. In adjusting for these size differences in vacant land sales, but for one property, Pollard adjusted by only 5% without an adequate explanation. In contrast, Salisbury provided testimony as to his adjustments for size at both ends of the spectrum of larger and smaller properties, with the majority of his comparables being similar in size and requiring no size adjustment. As to the calculation of replacement cost new, since Pollard significantly underreported both the building size and the total office area of the subject property, his estimated replacement cost new differed substantially from that of

Salisbury. The Board finds that having found Salisbury's size determinations to be more credible, the Board likewise finds Salisbury's replacement cost new estimates to be more credible than those offered by Pollard. Lastly, as to a final value conclusion, the Board finds that the inclusion of well-supported cost approach in an appraisal does buttress the overall value conclusion developed by Salisbury and adds to the credibility and reliability of his conclusion of value.

With respect to the income approach to value developed by Salisbury and Pollard, both appraisers disagreed on the estimated market rent of the subject property with Salisbury concluding $1.75 per square foot and Pollard concluding $2.20 per square foot of building area. Besides the differences in the baseline building size of the subject property, Pollard analyzed leases of properties that were significantly smaller than the subject property while Salisbury had six lease comparables of 200,000 or more square feet that were more similar to the subject's 465,678 square feet of building area. Moreover, in analyzing the differences among the leased properties, the Board notes that Pollard apparently did not consider adjustments for office area and/or ceiling height whereas Salisbury considered adjustments for these differences. As to expenses to be deducted, the appraisers again differed with Salisbury assuming a 10% deduction from potential gross income for vacancy and Pollard assuming a 5% deduction from potential gross income for vacancy. The appraisers differed significantly with respect to the vacancy rate to be applied to the subject property. Pollard's estimate of vacancy was simply stated as two sentences in his appraisal referencing "local brokers" and the fact that this owner-occupied property was recently expanded. Similarly, Salisbury's appraisal had one paragraph devoted to vacancy and credit loss with a summary statement that a 10% vacancy and credit loss was "reasonable" in the subject's market area. The Board finds that neither report has a reference to any authority or statistical data relative to vacancy of industrial warehouse type properties located in the subject's market area. The Board finds, however, that Salisbury's testimony with respect to his research of the industrial market not only regionally but nationally lends more credibility to his estimate of the vacancy rate. Likewise, the management expense deduction estimated by Salisbury was 10% whereas for Pollard it was 3%. Pollard also took a separate deduction for reserves for replacements of $0.15 per square foot or $66,861. The appraisers were slightly different on the capitalization rate to be applied to the net income with Salisbury at 11% and Pollard at 9.85%, although Pollard's estimate relied on market extraction from one sale only. The Board finds this method of determining a capitalization rate from one property alone is not a reliable method to arrive at a capitalization rate with no cross-check on the calculation. The Board further notes that both appraisers agreed the subject would have a substantial marketing period with Salisbury estimating 12 to 18 months and Pollard estimating 2 years. These estimates of exposure time and marketing period tend to support Salisbury's conclusion that the appropriate vacancy rate applicable to the subject property as of January 1, 2006 was 10%. Based on this analysis the Board finds Salisbury's estimate of value under the income approach is more credible.

Both appraisers developed the sales comparison approach to value. After reviewing the appraisals and considering the testimony provided by both appraisers, the Board finds that Salisbury's conclusion of value under the sales comparison approach is better supported. The Board finds that Salisbury provided a better description of the sales he used in his report such as age of the comparables, number of buildings, ceiling heights, office area and construction. This additional data and more complete descriptions provide the Board with a better understanding of

the physical characteristics of the comparables which in turn leads to a better understanding and confidence in Salisbury's analysis. Only by reviewing the addendum in Pollard's report could the Board find the office area, ceiling height and land-to-building ratio data of the comparable sales and, more importantly, the adjustment analysis did not consider either office area or ceiling height. Furthermore, as pointed out during cross-examination, half of the sales analyzed by Pollard in his sales comparison approach were dated significantly after the date of valuation of January 1, 2006. While the Board recognizes that the comparables used by Salisbury had different attributes when compared to the subject such as size and location, the Board finds that Salisbury adequately explained his adjustment process to account for these differences and these properties were more similar in size and other attributes to the subject than the comparable sales selected by Pollard. In conclusion, the Board finds that Salisbury's estimate of value under the sales comparison approach is more credible than the estimate developed by Pollard.

In conclusion the Property Tax Appeal Board finds the subject property had a market value of $6,100,000 as of January 1, 2006. Since market value has been determined the 2006 three-year median level of assessments for Rock Island County of 33.14% shall apply.

APPELLANT:	**Totall Metal Recycling, Inc.**
DOCKET NUMBER:	**06-00425.001-I-2 thru 06-00425.002-I-2**
DATE DECIDED:	**February, 2009**
COUNTY:	**Madison**
RESULT:	**Reduction**

The subject is an industrial property located on three parcels totaling 15.22 acres.[1] The property is improved with nine buildings containing a total building area of approximately 90,000 square feet. The buildings were constructed in stages from 1966 through 2006. The buildings have ceiling heights ranging from 10 to 40 feet and the subject has 7% of the building area as office space. The property is located in Granite City, Granite City Township, Madison County.

The appellant appeared before the Property Tax Appeal Board contending the market value of the subject property is not accurately reflected in its assessed valuation. In support of this argument, the appellant submitted an appraisal prepared by real estate appraiser Scott M. Tade of Tade Appraisal Company estimating the subject property had a market value of $1,475,000 as of January 1, 2006.[2] The appellant called Scott M. Tade as its witness.

Tade testified that he made an inspection of the subject property by inspecting and photographing the buildings. He measured as much as he could and further testified he walked off and verified with overhead photographs what he could not get to with a tape measure. Tade testified the site had 15.22 acres and was improved with six separate buildings as well as covered storage bins. He estimated there was 85,680 square feet of building area. Tade was of the opinion the subject's highest and best use as improved was its current use as an industrial and warehouse facility. He also estimated in his report that the realistic marketing time for the subject should not exceed 12 months. Tade estimated the market value of the subject using the sales comparison approach and the income approach to value.

The first approach developed by Tade was the sales comparison approach. The appraiser included six comparable sales in the appraisal. The comparables were located in the Illinois communities of Mascoutah, Granite City, Belleville and Madison. The comparables ranged in size from 13,300 to 230,000 square feet of building area. The properties sold from January 2001 to October 2005 for prices ranging from $280,000 to $1,200,000 or from $6.74 to $22.56 per square foot of building area. The appraiser opted not to use comparable sale number 1, which sold for $16.46 per square foot of building area, due to its low ceiling height and large office area. The appraiser also opted not to use comparable sale number 5, which sold for $22.56 per square foot of building area, due to its small size. The remaining comparables had prices ranging from $6.74 to $18.52 per square foot of building area. After making adjustments to the comparables for date of sale, location, land to building ratio, construction, condition, size and "extras", the appraiser was of the opinion the comparables had adjusted prices ranging from $15.30 to $17.93 per square foot of building area. Tade estimated the subject had an indicated

[1] Parcel 22-1-20-07-00-000-015, containing .6 acres, is not under appeal. This parcel had a total assessment of $4,180.

[2] Tade's estimate of value included parcel 22-1-20-07-00-000-015.

value under the sales comparison approach of $16.76 per square foot of building area or $1,435,000.

In developing the income approach to value the appraiser used rent comparables located in the Illinois communities of Red Bud, Mascoutah, Centralia and Millstadt. The rental comparables were warehouses that ranged in size from 19,000 to 170,000 square feet. Their rents ranged from $1.85 to $3.30 per square foot either on a triple net or gross basis. The appraiser estimated the subject had a market rent of $2.50 per square foot of building area on a triple net basis. The appraiser estimated the subject had a gross income of $214,200.

Tade stated in his report that based on interviews with industrial realtors the subject would have a vacancy rate of 25% and a management fee and miscellaneous expenses of 12% of effective gross income. After making deductions for vacancy as well as for management and miscellaneous expenses, Tade estimated the subject had a net income of $141,372.

Tade estimated the capitalization rate for the subject to be 9.36% using the band of investment technique. Capitalizing the subject's net income resulted in an estimate of value under the income approach of $1,510,000.

In reconciling the two approaches to value, Tade gave equal weight to the sales comparison approach and the income approach to arrive at an estimate of value of $1,475,000 as of January 1, 2006.

Tade testified the subject property was located on a secondary site because the property is not located off of the interstate with good visibility and easy access. He indicated the subject's location affected his opinion of value. He cited his sale number 4 as a property in a secondary location that has been available for lease for two years for $1.95 per square foot. He also testified that his comparable sale number 1 was entirely vacant at the time of sale in March 2005 and is currently 40% vacant. He was of the opinion these two examples justified his estimate that the subject would have a 25% vacancy rate.

Under cross-examination the appraiser acknowledged his opinion of the subject's marketing time should not exceed 12 months. The appraiser also noted that he did not estimate the subject's land value in his appraisal. Tade testified his description of the subject as having six separate buildings excluded the recycle bins, which are open sided buildings with roofs on them. Tade's estimate of size for the subject's building area does not include the recycle bins. Tade acknowledged that his appraisal does not include an estimate of value for the recycle bins. Tade also agreed that his appraisal report does not contain the age of any of the comparable sales he used. Tade also agreed that his appraisal does not reflect the ceiling height for any of the comparables. Tade indicated that comparable sale number 2 contained one building, comparable sale number 3 had two buildings and comparable sale number 4 was only a portion of a larger building. He agreed that he didn't use comparable sale number 5 due to its small size of 13,300 square feet but chose to use sale number 6 that was approximately 9,000 square feet larger with 22,000 square feet.

Tade also agreed that his report contained only one sentence with respect to his estimate of the subject having a vacancy rate of 25%. He stated that his estimate of the vacancy rate was based

on his experience and interviews with industrial brokers. He agreed his report had no other data that would corroborate the vacancy rate.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final equalized assessment of the two parcels under appeal totaling $686,950 was disclosed. The subject's assessment reflects a market value of $2,061,675 using the 2006 three year median level of assessments for Madison County of 33.32%.

In support of its contention of the correct assessment, the board of review submitted an appraisal prepared by Barry T. Loman estimating the subject property had a market value of $1,900,000 as of January 1, 2006.[3]

At the beginning of the hearing, the appellant made a motion to strike the Loman appraisal from the record contending the Madison County Board of Review did not request an extension of time to submit evidence. A review of the record disclosed that by letter dated April 3, 2007, the Property Tax Appeal Board notified the board of review of the appeal and further granted the board of review until May 3, 2007, to submit evidence or request an extension of time to submit evidence. By correspondence dated April 9, 2007, and received by the Property Tax Appeal Board on April 16, 2007, the board of review requested an extension of time to submit evidence. By letter dated May 24, 2007, the Property Tax Appeal Board granted the board of review until July 23, 2007, to submit evidence or request a further extension of time to submit evidence. By correspondence dated and postmarked July 23, 2007 and received by the Property Tax Appeal Board on July 30, 2007, the board of review submitted its "Board of Review Notes on Appeal" and the Loman appraisal. Based on this record the Property Tax Appeal Board finds the appraisal submitted on behalf of the board of review was timely and denies the appellant's motion to strike the Loman appraisal from the record.

The board of review called as its witness real estate appraiser Barry T. Loman. Loman testified that he is a valuation specialist for Madison County and does commercial and industrial work for the board of review.

Loman testified he was not allowed to go on the property but drove by the property and took some photographs. He also received the property record cards for the subject from the Granite City Township Assessor Darlene Laub and reviewed some aerial photos of the subject. Based on this data he estimated the subject had 90,141 square feet of building area. In his report Loman indicated the highest and best use of the subject was as currently improved as an industrial/warehouse property. He also estimated the exposure time for the subject property would be one year to attain the value estimate contained in the appraisal. He also estimated the marketing period for the subject property would not exceed twelve months.

In estimating the market value of the subject property, Loman developed the three approaches to value. Under the cost approach Loman first estimated the value of the land using six comparable sales. These comparable sales ranged in size from 2.49 to 37.52 acres. Five of the comparables were located in Granite City and one was located in East St. Louis. The land sales occurred from June 2003 to January 2006 for prices ranging from $87,000 to $475,000 or from $9,995 to

[3] Loman's estimate of value included parcel 22-1-20-07-00-000-015.

$34,940 per acre. After making adjustments for time, size and location, Loman was of the opinion the land comparables had adjusted prices ranging from $15,480 to $26,253 per acre. Loman indicated the average price for the land sales was $19,300 per acre. Loman placed the most emphasis on land comparables 1 and 2 due to date of sale and location. These comparables sold for prices of $13,433 and $17,502 per acre and had adjusted prices of $20,150 and $26,253 per acre. Based on this data Loman estimated the subject had a land value of $21,250 per acre or $323,400.

Loman next estimated the replacement cost new of the improvements using the Marshall Valuation Service. He estimated the subject improvements had a replacement cost new of $2,808,094. Loman estimated the subject suffered from 17.1% or $480,184 in physical depreciation using an effective age of 6 years and an economic life of 35 years. He also estimated the subject suffered from $669,360 in external obsolescence based on a $1.00 per square foot of rent loss due to its location. In conclusion, Loman was of the opinion the subject improvements had a depreciated value of $1,658,550. Adding the estimated land value and the depreciated improvement value, Loman estimated the subject had an indicated value of $1,982,000 under the cost approach.

The next approach to value developed by Loman was the sales comparison approach. Loman utilized eight comparable properties located in the Illinois communities of Granite City, Madison, Bethalto and Sauget. The improvements ranged in size from 9,120 to 405,740 square feet of building area. The appraiser disclosed that six of the comparables were constructed in whole or in part from 1964 to approximately 2000 and had ages ranging from 5 to 57 years old. The appraiser disclosed the comparables had ceiling heights ranging from 10 to 60 feet and office areas ranging from none to 45% of building area. These properties had parcels ranging in size from 1.4 to 55.88 acres. The sales occurred from April 1997 to March 2007 for prices ranging from $300,000 to $9,908,269 or from $9.12 to $65.79 per square foot of building area. After making adjustments for time, size, location, age, quality, office space, and ceiling height the appraiser was of the opinion the comparables had adjusted prices ranging from $16.86 to $24.30 per square foot of building area. Based on this data the appraiser estimated the subject had an indicated value under the sales comparison approach of $20.00 per square foot for a total market value of $1,803,000.

Loman testified his sale number 2, which sold in August 2005 for $32.89 per square foot of building area, was originally part of his sale number 3 that sold in December 2001 for a price of $38.24 per square foot of building area. Loman also testified his sale number 4 was located in the Northgate Industrial Park, which is a superior location as compared to the subject.

The final approach to value developed by Loman was the income approach to value. To estimate the market rent Loman utilized five comparable rentals located the Illinois communities of in Madison, East St. Louis, Highland, Mascoutah, and Millstadt. The comparables ranged in size from 34,000 to 168,456 square feet with rents ranging from $2.35 to $4.04 per square foot. Based on this data Loman estimated the subject had a market rent of $2.50 square foot on a net basis resulting in a potential gross income of $225,353. Loman estimated the subject would have a vacancy and collection loss of 7.5% resulting in an effective gross income of $208,452. From this amount Loman deducted 15% of effective gross income or $31,268 for expenses resulting in a net income of $177,184. To estimate the capitalization rate Loman used the band of

investment method to arrive at a rate of 9.9% and conducted an investment survey to arrive at a rate of 7.26%. Comparing these two rates, Loman concluded the capitalization rate applicable to the subject would be 9.0%. Capitalizing the subject's estimated net income resulted in an estimate of value under the income approach of $1,960,000.

In reconciling the three approaches to value Loman placed the least amount of emphasis on the cost approach with most emphasis on the sales comparison and income approaches to value. Loman estimated the subject property had a market value of $1,900,000 as of January 1, 2006.

Under cross-examination Loman acknowledged that he is a salaried employee of the Madison County Chief County Assessment Official. He has been a salaried employee with Madison County for 19 years. Loman also testified he was aware that the Granite City Township Assessment Officials were allowed access to the subject property. He also agreed that the subject property is located in a secondary warehousing area.

With respect to the vacancy rate of 7.5% utilized in the income approach, Loman testified that he looked online at different societies such as the Society of Industrial Realtors and Colliers Turley and Martin. He also examined three or four different market analyses of vacancy rates in the St. Louis and metro-east area. He testified that he did not find any vacancy rates near 20% for 2005, the previous year, and testified that he did not see any rates that exceeded 10%. He did acknowledge that for 2008 he has seen vacancy rates as high as 23% in some areas.

Loman also indicated that he included in his appraisal report a building that was constructed on the subject property in 2006.

The next witness called on behalf of the board of review was board of review member E. Anne Hutson. Ms. Hutson testified that a 9,300 square foot metal utility building was constructed on the subject site during 2006. A building permit was issued in March 2006 for $193,000 and was ultimately valued at $100,180 according to the property record card included in the addendum of Loman's report. Ms. Hutson testified that a property can be valued after January 1 based on an instant assessment based on a prorated assessment from the date of completion.

Tade was called as a rebuttal witness. He testified that his research indicated that Loman's comparable sale number 5 is currently vacant and has been listed on the market since at least October 2007 for a price of $2,600,000.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds 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 assessment of the subject property is excessive and not reflective of its market value. 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). The Board finds the evidence in the record supports a reduction in the subject's assessment.

The appellant submitted an appraisal estimating the subject property had a market value of $1,475,000, as of January 1, 2006. The Madison County Board of Review submitted an appraisal estimating the subject property had a market value of $1,900,000 as of January 1, 2006. The two parcels under appeal have assessments totaling $686,950 reflecting a market value of $2,061,675 using the 2006 three year median level of assessments for Madison County of 33.32%. The Board finds that the evidence provided by both parties demonstrates the subject's assessment is excessive.

One of the differences in the appraisals was with respect to the building area associated with the subject property. Although Tade testified he measured the building improvements, his appraisal did not contain the building area associated with the covered steel span storage bins. Therefore, the Board finds Tade understated the size of the subject improvements. Although Loman was not allowed to inspect the property he was able to use the property record cards developed by the Granite City Township Assessment Officials that had inspected the subject property. The Board also finds that Loman's report included a 9,300 square foot metal utility building that was constructed on the subject site in 2006. The record indicates this building was given a prorated assessment and valued at $100,180 for assessment purposes. The Board finds that Loman's estimate of size of the building improvements is the better supported of the two conclusions.

Of the two appraisals, the Board finds the appraisal and testimony provided by Loman is better supported and more credible than Tade's appraisal and testimony. First, the Board finds that Loman developed all three of the traditional approaches to value in developing his estimate of market value. Although the cost approach is given less weight than either the sales comparison approach or the income approach, this method does act as a check on the validity of the other two approaches to value. The Board finds that the inclusion of this approach does buttress the overall conclusion of value developed by Loman and adds to the credibility and reliability of his conclusion of value.

With respect to the income approach to value developed by Loman and Tade, the two appraisers were in near agreement with respect to the market rent of $2.50 per square foot, the expenses to be deducted with Tade at 12% of effective gross income and Loman at 15% of effective gross income, and the capitalization rate to be applied to the net income with Tade at 9.36% and Loman at 9.00%. The primary difference between the two appraisers was with respect to the vacancy rate to be applied to the subject property with Tade at 25% and Loman at 7.5%. The Board finds that neither report has a reference to any authority or statistical data relative to vacancy of industrial warehouse type properties located in the subject's market area. Additionally, Tade's estimate of vacancy was simply stated as a fragment in a sentence of his appraisal referencing interviews with industrial realtors. Similarly, Loman's appraisal had one paragraph devoted to vacancy and collection loss. The Board finds, however, that Loman's testimony with respect to his research conducted to arrive at his estimate of the vacancy rate was more credible. The Board further finds that both appraisers agreed the subject would have a marketing period that would not exceed 12 months and Loman further indicated in his report that the exposure time for the subject would be one year to attain the value estimate in his appraisal. These estimates of exposure time and marketing period tend to support Loman's conclusion that the appropriate vacancy rate applicable to the subject property as of January 1, 2006 was 7.5%. Based on this analysis the Board finds Loman's estimate of value under the income approach is more credible.

Both appraisers developed the sales comparison approach to value. After reviewing the appraisals and considering the testimony provided by both appraisers, the Board finds that Loman's conclusion of value under the sales comparison approach is better supported. The Board finds that Loman provided a better description of the sales he used in his report such as age of the comparables, number of buildings, ceiling heights, office area and construction. This additional data and more complete descriptions provide the Board with a better understanding of the physical characteristics of the comparables which in turn leads to a better understanding and confidence in Loman's analysis. The Board recognizes that the comparables used by Loman had different attributes when compared to the subject such as size and location, but Loman adequately explained his adjustment process to account for these differences. In conclusion, the Board finds that Loman's estimate of value under the sales comparison approach is more credible than the estimate developed by Tade.

In conclusion the Property Tax Appeal Board finds the subject property had a market value of $1,900,000 as of January 1, 2006. Since market value has been determined the 2006 three year median level of assessments for Madison County of 33.32% shall apply resulting in a total assessment of $633,080. The Board finds, however, that $4,180 in assessed value should be deducted from this total to account for the parcel appraised but not appealed resulting in a total assessment for the parcels under appeal of $628,900.

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[Items Contained in Italics Indicate
Arguments or Evidence in Opposition to the Appellant's claim]