



State of Illinois

PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

DECIDED BY THE BOARD

During Calendar Year 2020

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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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2020 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.ptab.illinois.gov and click on the link that says "Appeal Status Inquiry." Access to Board records is addressed in Section 1910.75 of the rules of the Property Tax Appeal Board. Additional Property Tax Appeal Board decisions may also be accessed via the "Appeal Status Inquiry" link.

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 2020 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.

BOARD MEMBERS

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South Barrington

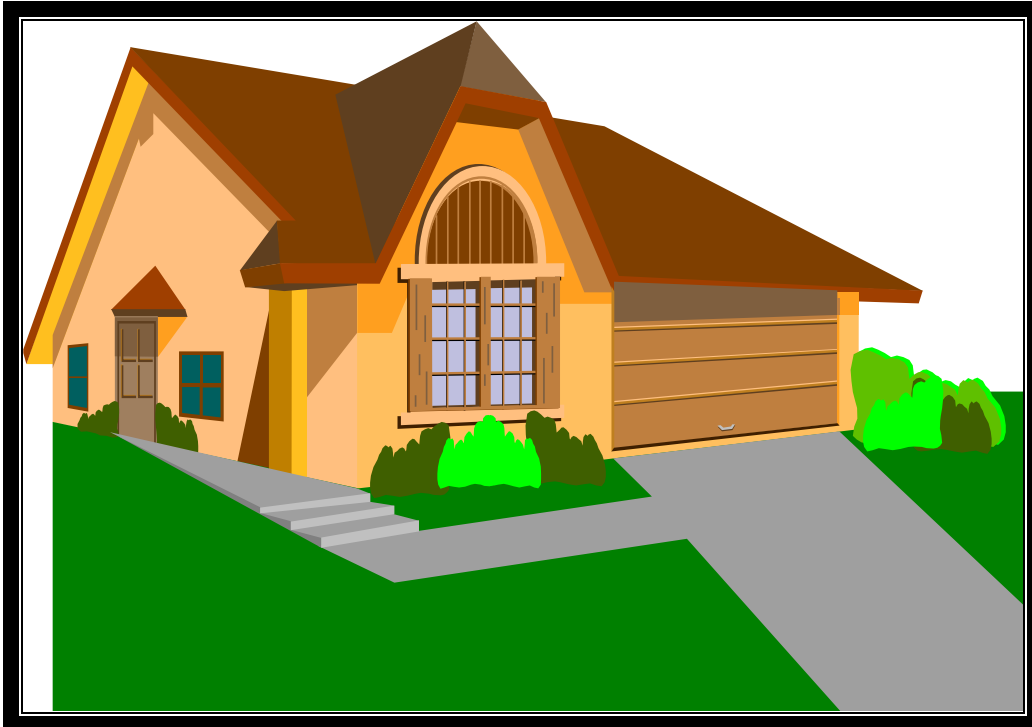
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PROPERTY TAX APPEAL BOARD

SYNOPSIS OF REPRESENTATIVE CASES

2020 RESIDENTIAL DECISIONS



PROPERTY TAX APPEAL BOARD
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APPELLANT:	1910 Emerson St., LLC
DOCKET NUMBER:	16-32995.001-R-1
DATE DECIDED:	July, 2020
COUNTY:	Cook
RESULT:	Reduction

The subject property consists of a 9,900 square foot parcel of land improved with a six-year old, two-story, masonry, single-family dwelling containing 2,476 square feet of building area. The property is located in Melrose Park, Proviso Township, Cook County and is classified as a class 2 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends assessment inequity and contention of law as the bases of the appeal. In support of these arguments, the appellant submitted a brief asserting that the subject was purchased in April 2016 for \$175,000 in a deteriorated condition. The appellant argues that the subject was in need of rehabilitation and was in a non-livable condition at the time of sale. To support this, the appellant submitted copies of an affidavit from the manager of the property; the quit-claim deed; the sales contract; a loan invoice; articles of amendment for incorporation; the master statement; the multiple listing services listing sheet; the building permit; and black and white photographs of the subject.

The appellant also submitted three equity comparables. These properties are described as two-story, masonry or frame or frame and masonry, single-family dwellings. They range in age from 18 to 57 years old, and range in size from 2,124 to 2,675 square feet of building area. The comparables have improvement assessments ranging from \$6.91 to \$7.90 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's assessment of \$23,892 which reflects a market value of \$238,920 using the Cook County Real Estate Classification Ordinance level of assessment for class 2 property of 10%.

In support of the assessment the board of review submitted four equity comparables with sale information on one property. These properties are described as two-story, frame, single-family dwellings. They range in age from seven to nine years old and range in size from 2,155 to 2,673 square feet of building area. The comparables have improvement assessments ranging from \$8.92 to \$10.87 per square foot of building area.

Conclusion of Law

The Property Tax Appeal Board may consider appeals based upon contentions of law. Such contentions of law must be concerned with the correct assessment of the subject property. If contentions of law are raised, the party shall submit a brief in support of his position. 86 Ill.Admin.Code §1910.65(d). 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

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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. 35 ILCS 200-180.

The Board finds the appellant did not show that the subject was rendered uninhabitable or otherwise unfit for occupancy by accidental means. However, the Board finds the appellant submitted evidence showing the subject was in a deteriorated condition and in need of rehabilitation. The Board finds the sale of the subject in April 2016 for a price of \$175,000 is the best evidence of the subject's market value in the condition it was in during the lien year. The evidence shows the subject was advertised for sale and that the parties were unrelated. Since market value has been determined, the level of assessment of 10% for Class 2 property under the Cook County Real Property Assessment Classification Ordinance shall apply.

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APPELLANT:	Joseph W. & Jane Lee Aherne
DOCKET NUMBER:	16-05797.001-R-1
DATE DECIDED:	January, 2020
COUNTY:	McHenry
RESULT:	Reduction

The subject property consists of a two-story dwelling of frame construction that contains 2,842-square feet of living area. The dwelling was constructed in 1989. Features include an unfinished basement, central air conditioning, a fireplace, an enclosed frame porch and a 462-square foot two-car garage. The subject property has .282 acre or 12,276-square foot site. The subject property is located in Algonquin Township, McHenry County.

The appellants contend overvaluation as the basis of the appeal. In support of this argument, the appellants submitted a grid analysis of four suggested comparable sales located within 1.5 blocks from the subject. The comparables consist of two-story dwellings of frame construction that were built from 1987 to 1989. The dwellings range in size from 2,372 to 3,017 square feet of living area and have sites that range in size from 9,240 to 17,379 square feet of land area. One comparable was reported to have a full basement that is partially finished and three comparables have partial basements with finished area reported as “none listed.” Other features include central air conditioning and two-car garages. The comparables sold from December 2015 to August 2016 for prices ranging from \$203,000 to \$273,000 or from \$85.58 to \$95.62 per square foot of living area, including land. 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" disclosing the total assessment for the subject of \$97,365. The subject's assessment reflects an estimated market value of \$292,387 or \$102.88 per square foot of living area, including land, when applying the 2016 three-year average median level of assessment for McHenry County of 33.30%.

In support of the subject’s assessment, the board of review submitted an analysis of the four comparable sales submitted by the appellants and three additional comparable sales identified as comparables #5, #6 and #7. The comparables consist of two-story dwellings of frame or brick and frame exterior construction that were built from 1989 to 1993. The dwellings range in size from 2,245 to 2,790 square feet of living area and have sites that range in size from .212 to .230 of an acre of land area. One comparable has a partial unfinished basement and two comparables have basements that are partially finished. Other features include central air conditioning, a fireplace and garages that have 400 or 420 square feet of building area. The comparables sold from March to June of 2015 for prices ranging from \$275,000 to \$299,888 or from \$101.51 to \$123.39 per square foot of living area including land. Although the board of review contends comparables #5 and #6 support the subject’s current assessment, the board of review offered to reduce the subject’s assessment to \$96,890, which reflects an estimated market value of approximately \$290,670.

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The appellants were notified of this suggested assessment and given thirty (30) days to respond if the offer was not acceptable. The appellants responded to the Property Tax Appeal Board by the established deadline and did not accept the proposed assessment.

In rebuttal, the appellants argued the subject property does not have an enclosed frame porch, but a screened porch that is not heated or cooled. The appellants described the structure as a “warm season porch.” The appellants submitted photographs of the structure and requested its assessment be reduced by \$3,900 or an assessment of \$95,600, which reflects an estimated market value of \$286,800. The appellant also argued “We were advised to use the assessed property values for our appeal. The BOR used sales values. Nevertheless, the BOR Sales Comparison cited 7 comparable properties with equalized values to determine our assessed value.”¹

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The record contains seven comparable sales for the Board's consideration. The Board gave less weight to appellants' comparables #3 and #4 and board of review comparable #7 due to their smaller dwelling sizes when compared to the subject. The Board finds the remaining four comparables are more similar when compared to the subject in location, land area, design, age, exterior construction, dwelling size and most features, with two of these comparables having superior finished basement area. These comparables sold from April 2015 to July 2016 for prices ranging from \$247,000 to \$299,888 or from \$90.49 to \$107.49 per square foot of living area, including land. The subject's assessment reflects an estimated market value of \$292,387 or \$102.88 per square foot of living area, including land, which falls within the range established by the most similar comparable sales contained in the record. However, the Board finds only one comparable sale, board of review comparable #6, sold for a greater price than the subject's estimated market value as reflected by its assessment. This comparable was four years newer in age and had a superior finished basement when compared to the subject. After considering adjustments to the four most similar comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is excessive. Therefore, a reduction in the subject's assessment is warranted.

¹The appellants marked “comparable sales” as the basis of the appeal as depicted on the residential appeal form filed with the Property Tax Appeal Board. Section 16-180 of 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. (35 ILCS 200/16-180). Based on the appeal filed by the appellants, the Board finds this appeal is limited to finding the subject's correct assessment on the basis of comparable sales.

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APPELLANT:	Nick Aherns
DOCKET NUMBER:	17-06634.001-R-1
DATE DECIDED:	October, 2020
COUNTY:	Will
RESULT:	No Change

The subject property consists of a two-story dwelling of brick, stone and vinyl siding exterior construction with 2,588 square feet of living area. The dwelling was constructed in 1924 but had an addition and renovations that were completed in 2017. Features of the home include a 1,265 square foot basement with an outside entrance, central air conditioning, a 506-square foot detached garage, a 298-square foot stamped concrete basement patio, a 293-square foot concrete patio, and a 1,365-square foot brick paver pad/basketball court.¹ The property is located in Crete, Crete Township, Will County.

The appellant submitted evidence before the Property Tax Appeal Board claiming the subject's assessment was incorrect based on a contention of law. The appellant requested the Board carry forward its prior year's decision pursuant to section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). The record shows the Property Tax Appeal Board issued a decision pertaining to the subject property under Docket Number 16-01119.001-R-1. In that appeal, the Board lowered the subject's assessment to \$9,666 based on the evidence in the record. The appellant reported that the subject property is an owner-occupied residence and this tax year is in the same general assessment period. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$9,666.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$56,919. The subject's assessment reflects a market value of \$170,825 or \$66.01 per square foot of living area, land included, when using the 2017 three-year average median level of assessment for Will County of 33.32% as determined by the Illinois Department of Revenue. The board of review disclosed a township equalization factor of 1.0065 was applied in the 2017 tax year.

In response to the appeal, the board of review submitted a memorandum prepared by the Crete Township Assessor. The assessor disclosed the subject property was purchased in June 2015 for a price of \$29,000 after a January 2014 Sheriff's Deed was issued. The assessor asserts that at the time of purchase the subject consisted of a 1.5-story frame dwelling containing 1,248 square feet of living area with a 746-square foot basement and a 456-square foot detached garage.² Amenities included a 101-square foot roofed porch and concrete patios totaling 456 square feet.

¹ The Board finds the best evidence of the subject's description was located in the property record card presented by the board of review and supported by photographs provided therewith.

² The parties differ as to the description of the subject dwelling prior to the 2017 completion of an addition and renovations. The Board finds this discrepancy will not impact the Board's decision in this appeal.

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The assessor asserted that after the purchase of the subject property an extensive remodel and addition began. The assessor provided a copy of the building permit issued in August 2015 with a cost of construction in the amount of \$150,000. The assessor noted that only two walls of the original house remain. The assessor provided the subject's property record card and photographs to support their claim. The property record card disclosed that the remodeling and addition were completed and assessed in 2017. The assessor argued that the appellant is requesting a "rollover" of a former decision that does not take into consideration the addition that was added to the property.

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

In written rebuttal, the appellant's counsel contends the board of review evidence is neither responsive nor relevant to the basis of the appeal and should be given no weight.

Conclusion of Law

The appellant raised a contention of law asserting that the assessment of the subject property as established by the Property Tax Appeal Board for the 2016 tax year should be carried forward to the 2017 tax year pursuant to section 16-185 of the Property Tax Code. (35 ILCS 200/16-185). When a contention of law is raised the burden of proof is a preponderance of the evidence. (See 5 ILCS 100/10-15). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Property Tax Appeal Board finds the subject property was the subject matter of an appeal before this Board for the 2016 tax year under Docket Number 16-01119.001-R-1. In that appeal, the Property Tax Appeal Board rendered a decision lowering the subject's assessment to \$9,666 based on the evidence in the record. The Property Tax Appeal Board takes notice that Will County's quadrennial general assessment period began in the 2015 tax year and continues through the 2018 tax year. The appellant's counsel in this appeal relied upon section 16-185 of the Property Tax Code (35 ILCS 200/16-185) which provides in pertinent part:

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 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)

The record disclosed that 2015 through 2017 tax years are within the same general assessment period and the property appears to be owner-occupied. However, the Board finds the record disclosed the subject property was extensively remodeled during 2015 and 2016, with an addition that left only two of the original walls of the dwelling. The evidence of new construction was unrefuted and not addressed by the appellant.

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Section 9-160 of the Property Tax Code provides in part that:

[I]n all counties with less than 3,000,000 inhabitants . . . the assessor shall . . . also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. . . . (35 ILCS 200/9-160)

The Board finds the record disclosed the subject property was purchased on June 18, 2015 for a price of \$29,000. At the time of purchase, the property consisted of a 1.5-story frame dwelling containing 1,248 square feet of building area. A building permit was issued in August 2015 for an addition and renovations to the subject property with a construction cost of \$150,000. The cost of the new construction when added to the subject's purchase price results in an estimated market value of \$179,000. The subject's final 2017 assessment as established by the board of review is \$56,919 which reflects an estimated market value of \$170,825. Considering both section 16-185 and section 9-160 of the Property Tax Code, requiring the assessor to value new or added improvements, the Board finds the evidence in the record supports the subject's estimated market value as reflected by its assessment, therefore, no reduction in the subject's assessment is warranted.

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APPELLANT:	Barbara Barrie
DOCKET NUMBER:	17-03516.001-R-1
DATE DECIDED:	June, 2020
COUNTY:	Lake
RESULT:	No Change

The subject property consists of a one-story dwelling of brick construction that has 3,455 square feet of living area. The dwelling was built in 2005. The home features a 3,194 square foot unfinished basement, central air conditioning, a fireplace and a 1,144 square foot garage. The subject property has a 61,881 square foot site and is located in Ela Township, Lake County.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted four comparable sales located from next door to four blocks from the subject. The comparables consist of two, one-story and two, two-story dwellings of brick, frame or wood siding exterior construction that were built from 1976 to 1991. The comparables have unfinished basements that range in size from 1,120 to 2,853 square feet. The comparables also have central air conditioning, one fireplace, and garages that range in size from 462 to 968 square feet of building area. The dwellings range in size from 2,853 to 3,561 square feet of living area and are situated on sites that range in size from 34,555 to 59,678 square feet of land area. The comparables sold from January 2016 to May 2017 for prices ranging from \$370,000 to \$445,000 or from \$120.35 to \$140.19 per square foot of living area, including land. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's final assessment of \$196,539. The subject's assessment reflects an estimated market value of \$592,878 or \$171.60 per square foot of living area, including land, when applying the 2017 three-year average median level of assessment for Lake County of 33.15% as determine by the Illinois Department of Revenue.

In support of the subject's assessment, the board of review submitted four comparable sales located within 1.035 miles of the subject, with three comparables located in a different neighborhood code, as defined by the local assessor. The comparables consist of two-story dwellings of brick or wood siding exterior construction that were built from 2001 to 2008. The comparables have unfinished basements that range in size from 1,862 to 2,420 square feet. Other features include central air conditioning, one or three fireplaces, and garages that range in size from 652 to 714 square feet of building area. The dwellings range in size from 3,422 to 3,625 square feet of living area and are situated on sites that range in size from 13,560 to 41,382 square feet of land area. The comparables sold from April 2016 to July 2018 for prices ranging from \$555,000 to \$705,000 or from \$160.22 to \$206.02 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant failed to meet this burden of proof and no reduction in the subject's assessment is warranted.

The parties submitted eight comparable sales for the Board's consideration. The Board's find neither parties' comparables are particularly similar when compared to the subject. For example, one comparable is located over one mile from the subject; three comparables are located in a different neighborhood code, as defined by the local assessor; seven comparables have smaller sites; six comparables are of a dissimilar two-story design; six comparables have considerably smaller basements; four comparables are older in age; two comparables are smaller in dwelling size; and all of the comparables have smaller garages when compared to the subject, requiring significant adjustments for these differences. Additionally, two of the comparables submitted by the board of review sold over one year subsequent to the subject's January 1, 2017 assessment date. Nonetheless, the Board shall make a decision based on the weight and equity of the evidence regardless of the quality of the evidence. The Board finds both parties' comparables sold from January 2016 to July 2018 for wide ranging prices of from \$370,000 to \$705,000 or from \$120.35 to \$206.02 per square foot of living area, including land. The subject's assessment reflects an estimated market value of \$592,878 or \$171.60 per square foot of living area, including land, which falls within the range established by both parties' comparable sales. After considering the multitude of necessary positive or negative adjustments¹ to the comparables for differences when compared to the subject for date of sale, location, land size, design, dwelling size, age and features, the Board finds the subject's estimated market value as reflected by its assessment is justified. Therefore, no reduction in the subject's assessment is warranted.

¹ The Board finds the differences in land area, design, age, dwelling size, basement size, and garage size each require a significant upward adjustment.

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APPELLANT:	Aric Ellsworth
DOCKET NUMBER:	17-04350.001-R-1
DATE DECIDED:	August, 2020
COUNTY:	Jo Daviess
RESULT:	No Change

The subject property consists of a 1.5-story single-family dwelling of frame exterior construction containing 1,500 square feet of living area. The dwelling was constructed in 1942 and has an effective age of 40 years old based on renovations. Features of the home include a crawl-space foundation, central air conditioning, a fireplace and a 624-square foot detached garage. The property also features a 2,160-square foot barn and a 288-square foot storage shed. The property has an 85,378-square foot site in the State of Illinois¹ and is located in Scales Mound, Scales Mound Township, Jo Daviess County.

The appellant contends inequity in assessment and overvaluation with regard to the improvement as bases of the appeal.² In support of these arguments, the appellant submitted a narrative summary arguing that the assessment of the subject property is based on the sale price of the subject property in March 2015 (which included the adjoining 2.6-acre parcel in Wisconsin). The appellant contended that the subject's assessment should not be based on the sale price because the sale price includes the parcel in Wisconsin. The appellant noted that he pays separate property taxes in Wisconsin for the adjoining parcel located across the state line. The appellant submitted a copy of a settlement statement which appears to be related to the sale of another property.³

In support of the overvaluation argument, the appellant submitted a grid analysis of three comparable sales located from 1.5 to 5.6 miles from the subject property. The properties are improved with two-story and one-story single-family dwellings ranging in size from 1,252 to 2,006 square feet of living area. The homes ranged in age from 42 to 87 years old. Two comparables each feature a basement with one having finished area; one home was built on a slab and crawl space foundation. One comparable has central air-conditioning; two comparables each have a fireplace; and each comparable has a detached garage ranging in size from 624 to 1,104 square feet of building area. Comparable #3 has an additional garage with 528 square feet of building area. The comparables sold from May 2010 to February 2018 for prices ranging from \$119,500 to \$275,000 or from \$65.30 to \$219.65 per square foot of living area, land included. The appellant submitted property record cards for the subject and each of the parties' comparable properties. Based on this evidence, the appellant requested a reduction in the total assessment to \$44,641

¹ The property is located partially in both Illinois and Wisconsin. The parcel situated in Illinois (which is the subject matter of this appeal) is improved with the buildings described above and contains 1.96 acres of land. The adjoining parcel of unimproved land in Wisconsin contains 2.6 acres of land and is separately assessed in the State of Wisconsin.

² The appellant has requested a reduction of \$1 from the current **land** assessment. The Board finds that neither party submitted evidence of **land** assessment only and, therefore, the Board finds that the appellant is not contesting the land assessment and will not analyze the land assessment separately.

³ The settlement statement included in the appellant's submission relates to a property different from the subject. However, the Board finds that the parties agree that the subject property (including the Wisconsin parcel) was purchased in March 2015 for a price of \$180,000.

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which would reflect an estimated market value of \$133,936 or \$89.29 per square foot of living area, including land, at the statutory level of assessment of 33.33%.

In support of the assessment inequity argument, the appellant submitted information on four properties located from .1 of a mile to 2.9 miles from the subject property. The properties are improved with 1.5-story or 1-story dwellings of wood and vinyl, vinyl, or log exterior construction ranging in size from 1,039 to 1,759 square feet of living area.⁴ Three dwellings each feature a basement with finished area and central air-conditioning; one dwelling has a crawl space foundation; comparable #1 has two detached garages containing 527 and 336 square feet of building area and a 504-square foot pole barn; comparables #2 and #4 each have a garage containing 286 and 572 square feet of building area; and comparable #3 has a 576-square foot pole barn and no garage. The assessment equity comparables have improvement assessments ranging from \$22,130 to \$34,325 or from \$12.58 to \$28.51 per square foot of living area. Based on this evidence, the appellant requested a reduction in the improvement assessment of \$38,842 or \$25.89 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's total assessment of \$57,784. The subject's assessment reflects a market value of \$173,265 or \$115.51 per square foot of living area, land included, when using the 2017 three-year average median level of assessment for Jo Daviess County of 33.35% as determined by the Illinois Department of Revenue. The subject dwelling has an improvement assessment of \$34,115 or \$22.74 per square foot of living area.

In response to the appellant's argument, the board of review submitted a narrative summary arguing that the 1.96-acre lot on the Illinois side of the border contains all of the improvements. The adjoining 2.6 acres in Wisconsin is unimproved land. The board of review acknowledged that the entire acreage and buildings were purchased in March 2015 for a price of \$180,000. The board of review asserted that 2017 was the beginning of a quadrennial reassessment year for Scales Mound Township and all sales from 2014, 2015, and 2016 in the township were included in the reassessment at 33.33% of their fair cash values pursuant to 35 ILCS 200/9-145. The board of review argued that it made an adjustment to the subject's assessment to account for the Wisconsin parcel by lowering the subject's assessment from \$60,020 which reflects a market value of \$180,060 (approximately the subject's sale price in 2015) down to \$57,784 which reflects a market value of \$173,369.

Further, the board of review argued that the appellant's equity and comparable sales grids contain numerous discrepancies which lead to misleading prices per square foot of living area. The board of review further contended that the subject dwelling is in superior condition compared to five of the seven comparables submitted by the appellant; one of the three comparable sales sold in 2010, which is too remote in time from the January 1, 2017 assessment date at issue; and a submitted copy of the subject's listing in April 2017 which illustrates the subject was listed for sale for \$235,000 and depicts its good condition along with a list of upgrades and amenities after a renovation.⁵ Lastly, the board of review asserted that the appellant's requested amount of

⁴ The appellant's grid contains incorrect data with respect to the comparables' size and improvement assessments. The Board has drawn the correct information from the property record cards of the said comparables.

⁵ The Board notes that said listing was removed in October 2017 and the property is not currently listed for sale.

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reduction in assessment without the Wisconsin parcel would amount to the Wisconsin 2.6 acres of unimproved land having a market value of \$46,000 which is unsupported by any evidence. The board of review submission also included property record cards and photographs for the subject and each of the parties' comparables.

In support of its contention of the correct assessment on the overvaluation argument, the board of review submitted information on three comparable sales, two of which are located in the same township as the subject property. The properties are improved with 1-story, 1.5-story, and 2-story dwellings of frame exterior construction ranging in size from 1,374 to 1,741 square feet of living area and ranging in age from 13 to 97 years old. Each comparable has a full or partial basement with one having finished area. Each comparable also has central air-conditioning and a garage ranging in size from 435 to 975 square feet of building area. One dwelling has a fireplace. The properties had lot sizes ranging from .99 of an acre to 1.82 acres of land area. The comparables sold from March 2015 to December 2016 for prices ranging from \$115,000 to \$240,000 or from \$77.28 to \$137.85 per square foot of living area, including land.

In support of the subject's improvement assessment, the board of review submitted information on six equity comparables located in the same township as the subject property. The properties are improved with one-story frame dwellings that range in size from 1,232 to 1,742 square feet of living area. The dwellings were constructed from 1978 to 1996. The comparables each feature a full or partial basement with one having finished area. Five comparable each have central air conditioning; four dwellings have one or two fireplaces; and five comparables each have a garage ranging in size from 484 to 1,120 square feet of building area. Comparable #2 has two garages containing 552 and 600 square feet of building area. Comparables #1 and #6 each have an additional outbuilding. The comparables have improvement assessments ranging from \$40,182 to \$55,774 or from \$24.92 to \$45.27 per square foot of living area.

Based on this evidence, the board of review requested that the subject's assessment be confirmed.

In rebuttal, the appellant submitted a four-page narrative summary re-asserting initially that the subject property should not be based on the purchase price pursuant to the Property Tax Code because the purchase price would have been lower had he only purchased the Illinois property. The appellant acknowledges that the board of review reduced the subject's assessment by the amount they deemed to be the value of the Wisconsin parcel, but argued that property in the subject's Scales Mound Township typically lists for approximately \$10,000 per acre, not the \$2,580 per acre that the board of review estimated the Wisconsin parcel to be worth. The appellant submitted a listing of a vacant lot for sale in Scales Mound Township. Next, the appellant argued in rebuttal that the assessments placed on his barn, shed, and detached garage as disclosed in the board of review submission is too high based on the condition of the said outbuildings.

With respect to the board of review's three comparable sales, the appellant argued in rebuttal that comparables #2 and #3 support a reduction in the subject's assessment. With respect to the six equity comparables submitted by the board of review, the appellant argued that each comparable is newer in age relative to the subject. Lastly, the appellant reiterated that the board of review has not addressed his argument with respect to erroneously using the subject's sale price as the basis of the assessment.

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In response to the appellant's rebuttal, the board of review argued that the appellant in his rebuttal submitted a real estate advertisement for a land sale in the Scales Mound area. The board of review argued that this new evidence was not submitted with his original appeal and it should not be considered by the Board. Section 1910.66(c) of the Property Tax Appeal Board Rules states as follows:

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 the guise of rebuttal evidence. (Emphasis added).

86 Ill. Admin. Code §1910.66(c)

Based on the above, the Board finds that the additional land listing submitted by the appellant in his rebuttal is new evidence and therefore will not be considered.

Conclusion of Law

The appellant contends in part that 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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, **a recent sale, comparable sales** or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

As an initial matter, the Board will make a determination of the assessment and the market value of the subject property that is situated in Illinois only, and that decision is based on equity and the weight of the evidence. 86 Ill. Admin. Code §1910.50(b).

Section 1910.10 of the Rules of the Property Tax Appeal Board states in part as follows:

- b) The Property Tax Appeal Board shall determine the correct assessment prior to state equalization of any parcel of real property which is the subject of an appeal, based upon facts, evidence, exhibits and briefs submitted to or elicited by the Board.

86 Ill. Admin. Code §1910.10.

The parties submitted a total of six comparable sales to support their respective positions before the Property Tax Appeal Board. These properties were similar to the subject property in location, construction, dwelling size and most features. The Board gave less weight to appellant's comparable sale #1 and board of review sale #3 based on their sale dates being almost two years prior to the subject's January 1, 2017 assessment date and, therefore, less likely to be reflective of the subject's market value as of the date at issue.

The Board finds the best evidence of market value to be the parties' remaining comparable sales. However, each of the parties' best sale comparables has a full or partial basement with two having

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finished areas which are superior features relative to the subject requiring downward adjustments in order to make these properties more equivalent to the subject. Additionally, appellant's comparable #3 contains 18.96 acres of land compared to the subject's 1.96 acres which would require a downward adjustment. The best comparable sales in the record sold from April 2016 to February 2018 for prices ranging from \$115,000 to \$275,000 or from \$65.30 to \$219.65 per square foot of living area, including land. The subject's assessment reflects a market value of \$173,265 or \$115.51 per square foot of living area, land included, which falls within the range established by the best comparable sales in evidence. In addition, the subject's assessment appears to be supported given its additional 2,160-square foot barn that the comparables do not have. Finally, the subject's listing in April 2017 for a price of \$235,000 (albeit including the 2.6-acre parcel located in Wisconsin) undermines the appellant's request for a reduction in assessment reflecting a market value of \$133,936 or \$89.29 per square foot of living area, including land.

After considering adjustments to the comparables for differences in some features, such as full or partial basements, the Board finds that the subject's market value as reflected by its assessment is supported by the best comparable sales in this record.

Additionally, the Property Tax Appeal Board acknowledges the appellant's argument that basing the subject's assessment solely on the purchase price is erroneous because the purchase price would have been lower without the attached parcel located in Wisconsin. The evidence in the record reflects that the board of review subtracted what it considered the value of the Wisconsin parcel in its final determination of the subject's assessment, albeit the parties disagree substantially on the value of said Wisconsin parcel. The Board finds that based on the best comparable sales in this record as stated above, the subject's sale price of \$180,000 is supportive of its assessed value. Therefore, the Board finds that based on this evidence, the appellant did not demonstrate by a preponderance of the evidence that the subject was overvalued and, therefore, no reduction in the subject's assessment is warranted on the basis of overvaluation.

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

The parties submitted a total of ten equity comparables with varying degrees of similarity to the subject property in location, design, dwelling size, and most features. However, each of the parties' equity comparables, with the exception of appellant's comparable #1, has a full or partial basement, requiring downward adjustments in order to make them more equivalent to the subject. The parties' equity comparables have improvement assessments ranging from \$22,130 to \$55,774 or from \$12.58 to \$45.27 per square foot of living area. The subject's improvement assessment of \$34,115 or \$22.74 per square foot of living area falls within the range established by the equity comparables in this record. After considering necessary adjustments to the comparables for differences in some features, such as a basement, when compared to the subject, the Board finds that the appellant did not demonstrate by clear and convincing evidence that the subject is

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inequitably assessed. Therefore, the Board finds that the subject's improvement assessment is supported, and no reduction in the subject's improvement assessment is warranted.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. 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.

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APPELLANT:	Robert Engelman
DOCKET NUMBER:	17-00542.001-R-2
DATE DECIDED:	March, 2020
COUNTY:	Lake
RESULT:	No Change

The subject property consists of a one-story dwelling of brick exterior construction with 3,784 square feet of living area. The dwelling was constructed in 2006. Features of the home include a full basement, central air conditioning, a fireplace and a 662 square foot attached garage. The subject property is located in West Deerfield Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted three comparable sales. The comparables have varying degrees of similarity to the subject in location, design, age, dwelling size and features. The comparables sold in June or August 2017 for prices ranging from \$462,500 to \$702,000 or from \$182.81 to \$241.65 per square foot of living area, including land. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$397,591. The subject's assessment reflects a market value of \$1,199,370 or \$316.96 per square foot of living area, including land, when applying the 2017 three-year average median level of assessment for Lake County of 33.15% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review argued the Property Tax Appeal Board issued a decision pertaining to the subject property for the prior 2015 tax year under Docket Number 15-01962.001-R-1. In that appeal, the Property Tax Appeal Board issued a decision based on an agreement between the parties lowering the subject's assessment to \$359,444. The board of review argued the subject's 2017 assessment reflects the Property Tax Appeal Board's 2015 decision, plus application of the 2016 and 2017 equalization factors of 1.0643 and 1.0393, respectively, as provided by section 16-185 of the Property Tax Code. (35 ILCS 200/16-185).

The board of review also submitted four suggested comparable sales in further support of its assessment of the subject property. The comparables have varying degrees of similarity to the subject in location, design, age, dwelling size and features. The comparables sold from February to November 2017 for prices ranging from \$1,378,000 to \$1,580,000 or from \$311.27 to \$360.73 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Under rebuttal, appellant's legal counsel presented evidence showing the subject property was listed for sale as of July 2018 for \$974,000. Counsel also pointed out the comparable sales submitted by the board of review were dissimilar two-story style dwellings when compared to the

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subject. Counsel did not address or refute the statutory authority, specifically section 16-185 of the Property Tax Code (35 ILCS 200/16-185), as cited by the board of review.

Conclusion of Law

The Property Tax Appeal Board finds the subject property was the matter of an appeal before this Board a prior tax year under Docket Numbers 15-01962.001-R-1. In that appeal, the Property Tax Appeal Board rendered a decision lowering the subject's assessment to \$359,444 based on an agreement by the parties. The Property Tax Appeal Board takes notice that Lake County's quadrennial general assessment period began in the 2015 tax year and continues through the 2018 tax year. The Board further finds section 16-185 of the Property Tax Code is controlling in this appeal. (35 ILCS 200/16-185).

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 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)

The Board finds this record disclosed the subject property is an owner-occupied residence and the 2015 through 2017 tax years are within the same general assessment period. The Board finds the record shows equalization factors of 1.0643 and 1.0393 were issued in West Deerfield Township for the 2016 and 2017 tax years, respectively. The record contains no evidence showing the Board's 2015 decision was reversed or modified upon review and there was no evidence the subject property sold in an arm's-length transaction establishing a different fair cash value.¹ Applying section 16-185 of the Property Tax Code (35 ILCS 200/16-185) to the Board's prior 2015 decision results in an assessment of \$397,591. ($\$359,444 \times 1.0643 \times 1.0393 = \$397,591$). The subject's final 2017 assessment as established by the board of review was \$397,591. Considering the statutory mandates of section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the Property Tax Appeal Board finds no change in the subject's assessment is warranted.

¹The Board recognizes the subject property was listed for sale during the subsequent 2018 tax year, however, a listing price is not an exception provided in section 16-185 of the Property Tax Code. (35 ILCS 200/16-185).

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APPELLANT:	Sean Freeman
DOCKET NUMBER:	17-02765.001-R-1
DATE DECIDED:	June, 2020
COUNTY:	Lake
RESULT:	No Change

The subject property consists of a two and one-half story dwelling of brick construction that has 7,877 square feet of living area. The dwelling was constructed in 1924 and renovated in 2015 and 2016. The home features an unfinished basement, central air conditioning, four fireplaces, a 1,217-square foot recreation room with a 684-square foot indoor pool and an 800 square foot attached garage. The subject is situated on a 24,677 square foot site and is located in Moraine Township, Lake County.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted information pertaining to the sale of the subject property. The appellant partially completed Section IV of the residential appeal petition. The appeal petition depicts the subject property sold for \$995,000 in August 2015. It was not disclosed if the sale involved family members or related corporations. The sale involved a realtor and was purportedly advertised for sale in an unspecified manner for an unspecified time period. The appellant submitted a copy of the settlement statement associated with the sale of the subject property. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect its sale price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject property of \$371,780. The subject's assessment reflects an estimated market value of \$1,121,508 or \$142.38 per square foot of living area, including land, when applying Lake County's 2017 three-year average median level of assessment of 33.15% as determined by the Illinois Department of Revenue.

With respect to the subject's sale price, the board of review submitted evidence prepared by the township assessor. The assessor indicated a permit in the amount of \$85,000 was issued for renovations to the subject dwelling after the subject's sale. A copy of the permit was submitted for review.

In support of the subject's assessment, the board of review submitted an analysis of three comparable sales. The comparables are located within .892 of mile from the subject. They consist of two-story or three-story dwellings of brick construction that were built from 1925 to 1937. The comparables have finished partial basements, central air conditioning, two or three fireplaces, and a garage that ranging size from 504 to 1,135 square feet of building area. The dwellings range in size from 5,695 to 7,385 square feet of living area and are situated on sites that contain from 28,887 to 56,075 square feet of land area. The comparables sold from April 2016 to August 2017 for prices ranging from \$1,000,000 to \$1,850,000 or from \$158.38 to \$283.40 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

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Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation as a basis of the appeal. When market value 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 of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof.

The Board gave little weight to the subject's August 2015 sale price. The Board finds the sale occurred 17 months prior to the subject's January 1, 2017 assessment date and is therefore dated and less indicative of market value. More importantly, the subject property was renovated subsequent to its sale, therefore, the subject's 2015 sale price does not reflect its updated condition as of the assessment date.

The board of review submitted three comparable sales in support of the subject's assessment. The comparables had varying degrees of similarity to the subject in location, land area, design, age, dwelling size and features. They sold from April 2016 to August 2017 for prices ranging from \$1,000,000 to \$1,850,000 or from \$158.38 to \$283.40 per square foot of living area, including land. The subject's assessment reflects an estimated market value of \$1,121,508 or \$142.38 per square foot of living area, including land, which falls at the lower end of the range established by the comparable sales contained in this record on an overall basis and below the range on a per square foot basis. After considering any necessary adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction in the subject's assessment is warranted.

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APPELLANT:	Lawrence Grycko
DOCKET NUMBER:	18-01370.001-R-1
DATE DECIDED:	January, 2020
COUNTY:	Will
RESULT:	Increase

The subject property consists of a two-story dwelling of brick and frame exterior construction with 2,754 square feet of living area. The dwelling was constructed in 1996. Features of the home include a full finished basement, central air conditioning, a fireplace, a three-car attached garage and a two-car detached garage. The subject property has a 1.49-acre site and is located in Lockport Township, Will County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$385,000 as of January 1, 2018. The appraisal was prepared by James E. Sloan, a certified residential real estate appraiser. In estimating the market value of the subject property, the appraiser developed the sales comparison approach to value. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$156,657. The subject's assessment reflects a market value of \$470,300 or \$168.45 per square foot of living area, including land, when applying the 2018 three-year average median level of assessment for Will County of 33.31% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review noted it received the Property Tax Appeal Board's decision pertaining to the subject property for the 2016 tax year under Docket Number 16-00338.001-R-1. In that appeal, the Property Tax Appeal Board issued a decision based on the valuation evidence submitted by the parties lowering the subject's assessment to \$143,018. The board of review argued the current 2018 appeal is entitled to a "rollover" of the 2016 Property Tax Appeal Board decision with application of the township multipliers of 1.0670 for the 2017 tax year and 1.0593 for the 2018 tax year. As a result, the Will County Board of Review requested the Board issue a decision in the amount of \$161,649, which is greater than the subject's current assessment of \$156,657. The board of review asserted that if the taxpayer wishes to maintain the current 2018 assessment of \$156,657 and withdraw the 2018 appeal it would not object. Alternatively, if the taxpayer should disagree and not withdraw the appeal, the board of review requested the Property Tax Appeal Board grant a 90-day extension to submit evidence.¹

By letter dated July 3, 2019, the appellant was notified of the suggested assessment increase and opportunity to withdraw the appeal without objection. The appellant responded to the Property Tax Appeal Board by the established deadline declining the proposed stipulation and requested the

¹ The board of review did not submit any further valuation evidence in this matter.

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Property Tax Appeal Board rule on the evidence that was originally submitted and “render a just decision.”

Conclusion of Law

The Property Tax Appeal Board finds the subject property was the matter of an appeal before this Board the prior tax year under Docket Number 16-00338.001-R-1. In that appeal, the Property Tax Appeal Board issued a decision lowering the subject's assessment to \$143,018 based on equity and the weight of the evidence contained in the record. The Property Tax Appeal Board takes notice that Will County's quadrennial general assessment period began in the 2015 tax year and continues through the 2018 tax year. The Board further finds section 16-185 of the Property Tax Code is controlling in this appeal. (35 ILCS 200/16-185).

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 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)

The Board finds this record disclosed the subject property is an owner-occupied residence and the 2016 through 2018 tax years are within the same general assessment period. The Board finds the record shows equalization factors of 1.0670 and 1.0593 were issued in Lockport Township for the 2017 and 2018 tax years, respectively. The record contains no evidence showing the Property Tax Appeal Board's 2016 decision pertaining to the subject property was reversed or modified upon review or that the subject property sold in an arm's-length transaction establishing a different fair cash value. Applying section 16-185 of the Property Tax Code (35 ILCS 200/16-185) to the Board's prior year's 2016 decision results in an increase in the assessment. ($\$143,018 \times 1.0670 \times 1.0593 = \$161,649$). Considering the statutory mandates of section 16-185 of the Property Tax Code (35 ILCS 200/16-185), the Property Tax Appeal Board finds an increase in the subject's assessment is required by law.

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APPELLANT:	Loretta & Daniel Holm
DOCKET NUMBER:	17-02783.001-R-1
DATE DECIDED:	July, 2020
COUNTY:	Grundy
RESULT:	No Change

The subject property consists of 33 acres of vacant timber land that is located in Morris, Wauponsee Township, Grundy County.

The appellants contend assessment inequity as the basis of the appeal. In support of this argument the appellants submitted information on three equity comparables located in Wauponsee Township. The parcels range in size from 26.54 to 50.25 acres and have land assessments ranging from \$1,995 to \$8,076. The appellants also disclosed that the subject property is landlocked, wooded, located in a flood plain, and was purchased on July 2013 for \$66,000. 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" disclosing the final land assessment for the subject of \$22,000. In support of its contention of the correct assessment, the board of review stated the subject property contains 33 acres of vacant timber land bordering a waterway and is classified as "0020 Rural Residence Lot." The board of review argues the appellants' equity comparables are classified as either "0021 Farmland without Buildings" or "0011 Farmland with Buildings" and are invalid comparisons as they are not the same or similar classification as the subject. The board of review further noted that the appellants disclosed that the subject property sold for \$66,000 on July 13, 2015 and provided a copy of the PTAX-203 Real Estate Transfer Declaration associated with the transaction. In reviewing the evidence that the appellants provided to the Property Tax Appeal Board, the board of review requests confirmation of the subject's assessment which reflects the recent sale price of the subject.

Conclusion of Law

The appellants contend assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellants did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the appellants' comparables are not similar to the subject because they are classified as farmland and are not assessed according to market value like the subject but are assessed based on their soil types and productivity indices (See 35 ILCS 200/10-110.) The uniformity clause of the 1970 Illinois Constitution (Ill. Const. 1970, art. IX, §4(a)) requires only that taxation be uniform as to the class upon which it operates. Since the subject property is not

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farmland and has a different tax classification than the comparables presented by the appellant, it has not been shown that the assessment violated the uniformity clause of the Illinois Constitution. DuPage Bank and Trust Company v. Property Tax Appeal Board, 151 Ill.App.3d 624, 628 (2nd Dist. 1987).

In order to qualify for an agricultural assessment, the land must be farmed for at least two years preceding the date of assessment. Section 10-110 of the Property Tax Code, provides:

The equalized assessed value of a farm, as defined in Section 1-60 and if used as a farm for the 2 preceding years, except tracts subject to assessment under Section 10-145, shall be determined as described in Sections 10-115 through 10-140. (35 ILCS 200/10-110).

This section of the Property Tax Code requires that land must be used for agricultural purposes for the assessment year at issue and at least two years preceding the date of assessment, which did not occur under the facts of this case. The Board finds there was no evidence in the record that shows the subject qualifies for a farmland assessment. After reviewing the evidence in the record, the Board has determined that the subject's current assessment is justified and supported by the subject's most recent sale price in July 2015 for \$66,000. Based on this record the Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's land assessment was inequitable and a reduction in the subject's assessment is not warranted.

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APPELLANT:	Gregory A. Johnson
DOCKET NUMBER:	17-01674.001-R-1
DATE DECIDED:	August, 2020
COUNTY:	Will
RESULT:	Reduction

The subject property consists of a frame exterior, tri-level single-family dwelling with 1,778 square feet of above-grade living area. The dwelling was constructed in 1955 and features a finished lower level, a sub-basement, central air-conditioning, a fireplace and a 600-square foot garage. The dwelling is situated on a 7,200-square foot site and is located in Crest Hill, Lockport Township, Will County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant submitted evidence disclosing the subject property was purchased April 29, 2016 for a price of \$85,000. The appeal petition indicated that the sale was not between related parties and the property was advertised for sale on the Multiple Listing Service (MLS) by a Realtor. Appellant submitted a copy of the MLS listing sheet showing the property was originally listed for sale on March 17, 2016 for \$99,900 and a contract was entered into on or about April 11, 2016 for \$85,000. The listing sheet notes that the property is “priced to sell” and has great curb appeal. The appellant also submitted a copy of the Settlement Statement showing that this was a cash purchase and that a commission was paid to a realty firm, along with a brief in support of his position that this was an arm’s length transaction. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its “Board of Review Notes on Appeal” disclosing the total assessment for the subject of \$30,196. The subject's assessment reflects a market value of \$90,624 or \$50.97 per square foot of living area, land included, when using the 2016 three-year average median level of assessment for Will County of 33.32% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on the sales of four comparable properties, three of which are located in the same neighborhood as the subject. The comparables consist of 1-story or 1½-story single-family dwellings of frame construction. The dwellings were built from 1943 to 1955 and range in size from 1,080 to 1,404 square feet of living area. The comparables each have a concrete slab foundation, central air conditioning, and a garage ranging in size from 480 to 784 square feet of building area. The dwellings are situated on sites ranging in size from 7,320 to 15,408 square feet of land area. The comparables sold from May 2015 to October 2016 for prices ranging from \$107,000 to \$134,000 or from \$76.21 to \$124.07 per square foot of living area, including land.

The Board of Review Notes on Appeal states that the subject was originally assessed at \$45,959 for tax year 2017. The board of review submitted a memorandum disclosing that, based on the \$85,000 sale price, the board of review lowered the assessment to 1/3 of that amount then applied the 2017 multiplier of 1.0670 arriving at the current assessment of \$30,196.

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

In rebuttal, appellant's attorney submitted a brief in which she contends that the board of review did not dispute the recent sale of the subject property or contest its validity. She argued that the comparable sales submitted by the board of review are either too remote in time to establish market value as of the lien date or are not similar enough to the subject to make a meaningful comparison. She further argued that the inclusion of a township equalization factor is not appropriate in this appeal because it is already included in the assessment being appealed.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board gave less weight to the board of review's comparables which differ from the subject in style, dwelling size, foundation type and/or age. Further, the 2015 sales of comparables #3 and #4 are too remote in time to the January 1, 2017 assessment date at issue to be reflective of the subject's estimated market value. The Board finds the best evidence of market value in the record to be the purchase of the subject property in April 2016 for \$85,000. The appellant presented evidence that the sale was not between related parties and was advertised by a Realtor through the Multiple Listing Service. The board of review presented no evidence contesting the validity of the sale and presented evidence acknowledging the 2016 sale and lowering the 2017 assessment from \$45,959 to \$30,196 which is equivalent to 1/3 of the sale price after application of the 2017 equalization factor of 1.0670. ($\$28,331 \times 1.0670 = \$30,196$.) The Board finds that due to the fact the subject property sold within approximately eight months of the assessment date at issue, there was no need to further adjust the assessment by the application of a township equalization factor without some demonstration that the market value of the subject property had increased by approximately 7% during that time period.

Based on this evidence, the Board finds a reduction in the subject's assessment to reflect the purchase price is justified.

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APPELLANT:	Howard Levin
DOCKET NUMBER:	17-20565.001-R-1
DATE DECIDED:	January, 2020
COUNTY:	Cook
RESULT:	No Change

The subject property consists of a one-story dwelling of frame and masonry construction with 1,539 square feet of living area. The dwelling is 53 years old. The property has a 10,000 square foot site and is located in Oak Park Township, Cook County. The subject is classified as a class 2-03 property under the Cook County Real Property Assessment Classification Ordinance. The subject property is owner-occupied.

The appellant contends assessment inequity and overvaluation as the bases of the appeal. In support of the equity argument, the appellant submitted information on three equity comparables. The comparables had improvement assessment ranging from \$14.20 to \$20.58 per square foot.

In support of the overvaluation argument, the appellant submitted sale data for four suggested comparables. The comparables sold from November 2016 to November 2017 for sale prices ranging from \$395,000 to \$405,000 or from \$212.25 to \$249.38 per square foot, including land. The evidence indicates that the comparables are located within 1.1 miles or less from the subject property.

The appellant also indicated that 2017 was a reassessment year for the subject property resulting in a large assessment increase and submitted a prior decision issued by the Property Tax Appeal Board and identified by Docket #11-20420.001, along with the appeal history of the subject property, a grid sheet listing similar properties in the subject's neighborhood with the 2016-2018 assessment data; a chart listing the percentage change in assessment from 2016 to 2017 for properties in the subject's neighborhood; and Assessor printouts and Google map printouts for the comparables listed on the appellant's grid sheet.

The board of review submitted its "Board of Review-Notes on Appeal" disclosing the total assessment for the subject of \$11,930. The subject property has an improvement assessment of \$8,805, or \$6.11 per square foot of living area. The subject's assessment reflects a market value of \$119,300, or \$82.85 per square foot of living area, including land, when applying the assessment level of 10% as established by the Cook County Real Property Classification Ordinance.

In support of its contention of the correct assessment, the board of review submitted information on eight equity comparables with improvement assessment ranging from \$23.65 to \$35.51 per square foot.

In support of the market value argument, the board of review submitted information on four comparable sales. The comparables sold from November 2015 to May 2016 for prices ranging from \$425,000 to \$620,000 or from \$301.20 to \$449.60 per square foot of living area, including

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land. The PINs indicate the comparables are located within approximately one mile or less from the subject property.

The appellant submitted written rebuttal indicating the subject received a favorable assessment reduction from the Cook County Board of Review for the subsequent 2018 and 2019 tax years.

The appellant also argued that the board of review failed to address the appellant's market value argument as the board of review's evidence was not as thorough as the appellant's evidence. Additionally, their sale comparables were not in the subject's neighborhood code and contained incorrect data.

Lastly, the appellant argued that the board of review submitted highly suspect equity comparables. Newspaper articles regarding the Assessor's methodology were also attached.

Conclusion of Law

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

The Board finds the best evidence of assessment equity to be appellant's comparables #1, #2 and #3, as well as board of review's comparables #1 and #3. These comparables were most similar to the subject property based on a combination of location, square footage of living area, and age. They had improvement assessments that ranged from \$14.20 to \$25.94 per square foot of living area. The subject's assessment of \$22.97 per square foot of living area falls within the range established by the best comparables in this record. Accordingly, the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed, and a reduction in the subject's assessment is not justified on this basis.

The appellant also 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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Board finds the best evidence of market value to be appellant's sale comparables #1, #2 and #3, as well as board of review's sale comparable #4, based on a combination of the date of sale's proximity to the January 1, 2017 valuation date, square footage of living area, and physical proximity to the subject. These comparables sold for prices ranging from \$218.34 to \$320.87 per square foot of living area, including land. The subject's assessment reflects a market value of \$291.43 per square foot of living area, including land, which is within the range established by the

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best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified based on overvaluation.

The appellant also developed an argument based on percentage of assessment increase. Arguments regarding the proper method of valuation are legal arguments. *Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal. Bd.*, 131 Ill.2d 1, 14-15 (1989); *Kankakee Cnty. Bd. of Review v. Prop. Tax Appeal. Bd.*, 226 Ill.2d 36, 51 (2007); *Bd. of Review of County of Alexander v. Prop. Tax Appeal Bd.*, 304 Ill.App.3d 535, 538 (5th Dist. 1999). The appellant failed to cite any legal authority in support of this method of valuation and, therefore, the Board gives this argument no weight.

Lastly, the appellant raised an argument for the first time on rebuttal asking the Board to reduce the current lien year's assessment because the board of review issued 2018 and 2019 assessment reductions. The Board finds that there is no merit to the appellant's argument. *Hoyne Savings & Loan Association v. Hare*, 60 Ill.2d 84, 322 N.E.2d 833 (1974) and *The 400 Condominium Association, et al., v. Tully*, 79 Ill.App.3d 686, 398 N.E.2d 951 (1st Dist. 1979) stand for the proposition that an assessment reduction in a subsequent year does not require an assessment reduction in the tax year at issue absent a glaring error in calculation. The Supreme Court in *Hoyne* observed that the facts in that case presented unusual circumstances coupled with a grossly excessive assessment increase from \$9,510 in 1970 to \$246,810 in 1971. Consequently, it remanded the case for the lower court to ascertain the correct assessed valuation. *Hoyne*, 60 Ill.2d at 89-90, 322 N.E.2d at 836-37.

The appellant's argument inverts the holdings in those cases. The Supreme Court in *Hoyne* never found the 1970 assessment to be in error; it found the 1971 assessment to be grossly excessive. In this case, the appellant argued the 2017 assessment was too high merely because the 2018 and 2019 assessments were reduced by the board of review. The appellant failed to present any facts that suggest the board of review reduced the 2018 and 2019 assessments because they were grossly excessive. Even if the appellant were to present such facts, there is no basis to conclude that the 2017 assessment should, therefore, be reduced. The Appellate Court in *Moroney v. Illinois Property Tax Appeal Board*, 2013 Ill.App. (1st) 120493, distinguished *Hoyne* and *400 Condominium* as confined to their unique facts. The Court rejected that appellant's argument that those prior cases stood for the proposition that "subsequent actions by assessing officials are fertile grounds to demonstrate a mistake in prior year's assessments." *Moroney*, 2013 Ill.App. 120493 at ¶46. There was no evidence in *Moroney* that there was any error in the calculation of the taxpayer's 2005 assessment. The Appellate Court observed, "just because factors warranting a reduction existed in 2006, does not mean they existed in 2005, or any other year for that matter (which is why property taxes are assessed every year)." *Id.* Accordingly, the Board finds no merit to the appellant's argument that it should reduce the 2017 assessment because the board of review issued a lower 2018 assessment and 2019 assessment.

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APPELLANT:	Filip Mitrovic
DOCKET NUMBER:	16-24939.001-R-1
DATE DECIDED:	January, 2020
COUNTY:	Cook
RESULT:	No Change

The subject property consists of a three-story dwelling of masonry construction that is 91 years old. The dwelling contains 5,229 square feet of living area and is situated on a 4,000 square foot site. The property is located in Lakeview Township, Cook County. The subject is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation, uniformity and a contention of law as the bases of appeal. In support of these arguments, the appellant submitted evidence that the subject property sold on July 2, 2016 for \$500,000, or \$95.62 per square foot, including land. The parties were unrelated and real estate brokers were involved in the transaction. The appellant also submitted a sale contract and a one-page chart entitled “Assessment Ratios 2014” for the townships located in Chicago. No source is listed on the chart. The appellant requested application of the median assessment ratio for class 2 property in Lakeview Township of 8.16% be applied to their \$500,000 purchase price to yield a requested assessed value of \$40,800. No further evidence was submitted.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$50,000. The subject's assessment reflects a market value of \$500,000, or \$95.62 per square foot, including land, when applying the assessment level of 10% as established by the Cook County Real Property Classification Ordinance. In support of its contention of the correct assessment, the board of review submitted information on four sale comparables, each of which only reflected equity data. The board of review also submitted a memorandum regarding application of a sales ratio study, relying on Cook County Board of Review v. Property Tax Appeal Board, 339 Ill.App. 3d 529, 791 N.E.2d 8 (2002) (hereinafter Bosch). Based on this evidence, the board requested confirmation of the subject's assessment.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation, that the assessment is inequitable, and that there is a contention of law. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. When unequal treatment in the assessment process is the basis of appeal, the inequity of the assessment must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). If a contention of law is raised, the party shall submit a brief in support of their position. 86 Ill.Admin.Code §1910.65(d). The Board finds the appellant did not meet these burdens of proof and a reduction in the subject's assessment is not warranted.

Initially, the Board finds that the issue of market value is a moot point, as the subject's current assessment reflects a market value of \$500,000, or \$95.62 per square foot, including land, when applying the assessment level of 10% as established by the Cook County Real Property

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Classification Ordinance. The remaining issue in the instant case, as in the Bosch case, is the Property Tax Appeal Board's authority to deviate from assessment levels set out in the Cook County ordinance to remedy a uniformity challenge based on an interpretation of sales ratio studies generated by the Department of Revenue. The Bosch court was unable to make this determination as the issue was not timely raised. In this case, the appellant raised the issues of uniformity and a contention of law but failed to provide evidence and a brief on these issues. The appellant's only supporting evidence included a 2014 assessment ratio chart for Chicago properties. The taxpayer failed to provide an adequate brief and supporting evidence for application of a 2016 assessment ratio to the subject's market value. Bosch noted that an agency's routine practice of using certain evidence in reaching its decision does not eliminate the requirement that the evidence relied upon be introduced by the party bearing the burden of proof. Bosch, 339 Ill App. 3d at 539, citing Commonwealth Edison Co. v. Property Tax Appeal Board, 115 Ill.App. 3d 371, 379, 450 N.E.2d 780 (1983). Accordingly, this Board holds that an assessment reduction is not warranted based on the evidence contained in this record.

"The Board's submission of a report did not alter the nature of the claim in the six cases before PTAB where the taxpayers challenged only the fair market value assigned. There is evidence in the record that the Board was aware of PTAB's 'procedures,' but that knowledge, and the Board's tender of evidence in 'anticipation' of PTAB's action, cannot invest PTAB with the power to supplement the record with evidence never introduced by the taxpayers and grant relief the taxpayers never sought." Bosch, 339 Ill App. 3d at 539.

Cook County Board of Review v. The Property Tax Appeal Board and The Lurie Company, No. 1-01-3232

The Board finds the best evidence of market value to be the sale of the subject property for \$500,000, however, the Board finds that application of a 2014 assessment ratio is not appropriate for a 2016 assessment appeal. The subject's assessment already reflects the recent purchase price when applying the assessment level of 10% as established by the Cook County Real Property Classification Ordinance. Accordingly, no further reduction in assessment is warranted.

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APPELLANT:	Derek & Melanie Scawinski
DOCKET NUMBER:	17-00573.001-R-1
DATE DECIDED:	May, 2020
COUNTY:	Kane
RESULT:	No Change

The subject property consists of a one-story single-family dwelling of vinyl-siding exterior with 1,060 square feet of living area. The dwelling was constructed in 1984. Features of the home include a full basement with finished area, central air conditioning, a fireplace and a one-car garage containing 308 square feet of building area. The property has a 5,980 square foot site and is located in Geneva, Geneva Township, Kane County.

The appellants contend assessment inequity as the basis of the appeal. In support of the inequity argument, the appellants submitted the Section V grid analysis with information on three comparables located in close proximity to the subject. The appellants reported both assessment data and recent sales prices of the subject and comparables in addition to attaching printouts from the Multiple Listing Service (MLS) concerning the subject and the three comparables.

The comparable parcels contain either 5,850 or 6,458 square feet of land area and have been improved with one-story dwellings with aluminum or vinyl siding exteriors. The dwellings were built between 1983 and 1986 and range in size from 1,059 to 1,065 square feet of living area. Each home has a basement, two of which have finished areas. The dwellings also feature central air conditioning and a two-car garage. One comparable has a fireplace. The comparables have improvement assessments ranging from \$50,955 to \$52,627 or from \$48.07 to \$49.65 per square foot of living area. The appellants also reported the recent sales of these properties; the sales occurred from June 2015 to August 2016 for prices ranging from \$160,000 to \$206,000 or from \$150.94 to \$194.34 per square foot of living area, including land.

Additionally, in Section IV - Recent Sale Data, the appellants reported the October 2015 purchase of the subject property and indicated the transaction was between unrelated parties, was sold by a Realtor, and was on the market for four days. A copy of the applicable MLS sheet depicts the asking price was \$217,800 and, as was reported by the appellants, was sold for \$224,800. The appellants also submitted copies of the Settlement Statement related to the sale transaction in October 2015 which reiterated the contract sales price of \$224,800.

Based on the foregoing evidence and argument, the appellants requested an improvement assessment of \$52,000 or \$49.06 per square foot of living area and a total assessment of \$68,973 which would reflect a market value of \$206,940 or \$195.23 per square foot of living area, including land, at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$74,926. The subject property has an improvement assessment of \$57,953 or \$54.67 per square foot of living area. The subject's total assessment reflects a market value of \$224,800, land included, when applying the statutory level of assessment of 33.33%.

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In response to the appeal, the board of review submitted a memorandum from Denise LaCure, Geneva Township Assessor, along with additional documentation. As to the subject, LaCure reiterated the MLS data concerning renovations describing a totally new kitchen including cabinets, a new roof, new siding, new furnace and air conditioning, and windows, among other items.

In support of its contention of the correct assessment and on behalf of the board of review, the township assessor submitted information on three equity comparables. LaCure argued that all six comparables presented by both parties were very similar to the subject property, but for the extensive remodeling and updating of the subject. The board of review comparable parcels range in size from 5,590 to 5,850 square feet of land area and have been improved with one-story dwellings of aluminum siding exterior. The dwellings were built in 1985 or 1986. Each home contains 1,060 square feet of living area and has a full basement with finished area. Each dwelling also features central air conditioning and a two-car garage. Two of the comparables each have a fireplace. The comparables have improvement assessments ranging from \$54,598 to \$55,549 or from \$51.51 to \$52.40 per square foot of living area.

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

Conclusion of Law

The taxpayers contend assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellants did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted a total of six comparable properties to support their respective positions before the Property Tax Appeal Board. All six comparables are located in close proximity to the subject and have similar lot sizes, ages, design, dwelling sizes, foundations, and/or most features. The six comparables had improvement assessments that ranged from \$50,955 to \$55,549 or from \$48.07 to \$52.40 per square foot of living area. The subject's improvement assessment of \$57,953 or \$54.67 per square foot of living area falls above the range established by the comparables in this record but appears to be justified based upon other market value evidence in the record.

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:

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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 1, at 21 (1989). The Board finds the comparables submitted by the appellants sold for prices ranging from \$160,000 to \$206,000 and have improvement assessments ranging from \$48.07 to \$49.65 per square foot of living area. The subject property also sold relatively recently for \$224,800, or from \$18,800 to \$64,800 more than the appellants' comparables. The subject property has an improvement assessment \$54.67 per square foot of living area, somewhat higher than the appellants' similar assessment comparables. The Board finds the subject's slightly higher per square foot improvement assessment is well justified giving consideration to the credible market evidence contained in this record.

Based on this record, the Property Tax Appeal Board finds the appellants did not demonstrate with clear and convincing evidence that the subject's improvement was inequitably assessed and a reduction in the subject's assessment is not justified.

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APPELLANT:	<u>Joseph Sjoblom</u>
DOCKET NUMBER:	<u>17-03370.001-R-1</u>
DATE DECIDED:	<u>July, 2020</u>
COUNTY:	<u>Lake</u>
RESULT:	<u>Reduction</u>

The subject property consists of a tri-level dwelling of wood siding exterior construction that contains 3,124 square feet of living area. The dwelling was constructed in 1964. Features of the home include central air conditioning and a garage with 440 square feet of building area. The subject property is located in West Deerfield Township, Lake County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased in September 2015 for \$522,500. The appellant completed Section IV of the residential appeal petition disclosing the buyer and seller were unrelated parties. The appellant indicated the property was sold through a Realtor and was advertised for sale in the Multiple Listing Service (MLS), the internet and local newspaper. The appellant also submitted a copy of the Real Estate Transfer Declaration associated with the sale of the subject property. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$201,436. The subject's assessment reflects a market value of \$607,650 or \$194.51 per square foot of living area, including land, when applying the 2017 three-year average median level of assessment for Lake County of 33.15%.

In support of the subject's assessment, the board of review submitted four comparable sales located within .309 of a mile from the subject. The comparables consist of two-story dwellings of brick construction that were built from 1963 to 1969. The comparables have unfinished basements, central air conditioning, one to three fireplaces, and a garage ranging in size from 462 to 775 square feet of building area. Neither the subject's nor comparables' land sizes were disclosed. The dwellings range in size from 2,876 to 3,534 square feet of living area. The comparables sold from May 2016 to July 2018 for prices ranging from \$570,000 to \$1,150,000 or from \$198.19 to \$325.41 per square foot of living area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

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The Board finds the best evidence of the subject's market value to be its purchase in September 2015 for \$552,500, 15 months prior to the January 1, 2017 assessment date. The appellant provided evidence demonstrating the sale had elements of an arm's length transaction. The evidence disclosed the parties to the transaction were not related and the property was advertised for sale on the open market. The appellant also submitted a copy of the Real Estate Transfer Declaration associated with the sale. The Board finds the subject's purchase price of \$522,500 is below the market value as reflected by its assessment of \$607,650. The board of review did not submit any evidence to challenge the arm's-length nature of the subject's sale. The Illinois Supreme Court has defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d. 428, (1970). A contemporaneous sale of two parties dealing at arm's-length is not only relevant to the question of fair cash value but is practically conclusive on the issue of whether an assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967).

The Board gave little weight to the four dissimilar comparable sales submitted by the board of review. The comparables are of a different two-story design; two comparables have more bathrooms; each comparable has a superior unfinished basement; each comparable has at least one fireplace; and the board of review failed to disclose the subject's and comparables' land sizes for comparison purposes. These factors detract from the weight of the evidence to be considered as reliable indicators of the subject's market value.

Based on this record, the Board finds a reduction in the subject's assessment is justified. Since fair market value has been established, Lake County's 2017 three-year average median level of assessment of 33.15% shall apply.

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APPELLANT:	<u>Joe & Jean Wilson</u>
DOCKET NUMBER:	<u>17-05886.001-R-1</u>
DATE DECIDED:	<u>August, 2020</u>
COUNTY:	<u>Madison</u>
RESULT:	<u>Reduction</u>

The subject property consists of a one-story frame single-family dwelling that was constructed in 2006 and contains 2,472 square feet of living area. Features of the home include a full finished basement, central air conditioning, two fireplaces, and a three-car garage with 576 square feet of building area. The property has a 1.14-acre site and is located in Edwardsville Township, Madison County.

The appellants' appeal is based on overvaluation. In support of this argument, the appellants submitted an appraisal report with an estimated market value of \$415,500 as of November 9, 2017. The appraisal was prepared by Keith Beaumont, a State Certified Residential Real Estate Appraiser, and the property rights appraised were fee simple. The intended user was Consumer Health Care Federal Credit Union. The intended use of this summary appraisal was for the lender/client to evaluate the subject property for a mortgage finance transaction.

In estimating the market value, the appraiser developed both the cost approach and the sales comparison approach to value. Under the cost approach to value, the appraiser calculated the replacement cost new as \$416,014 for the subject property using a calculation of \$103.00 per square foot.

Under the sales comparison approach to value, the appraiser utilized three comparable sales of properties located from .14 to 2.20 miles from the subject property. The appraiser noted that it is "not unusual for comparable sales in this market area to be farther than two miles" from the subject property. The comparables are described as one-story dwellings that were 11 to 14 years old and range in size from 2,419 to 2,639 square feet of living area. Each comparable has a full finished basement, central air conditioning, one or two fireplaces, and a three-car garage. The comparables have sites ranging in size from 13,300 to 15,700 square feet of land area. The appraiser noted that the "subject lot area is larger than average for this neighborhood and could not be bracketed." The comparables sold from July to September 2017 for prices ranging from \$395,000 to \$430,000 or from \$151.57 to \$175.51 per square foot of living area, including land. After applying adjustments to the comparables for differences when compared to the subject, the adjusted values ranged from \$403,100 to \$435,000, and the appraiser arrived at an opinion of market value of \$415,500 as of November 9, 2017. Based on the above evidence, the appellants requested a reduction in the subject's assessment to \$138,321.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$146,670. After reviewing the appellants' evidence, the board of review agreed to reduce the subject's assessment by the amount of increase caused by application of the equalization factor or to \$146,670.

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The appellants were notified of this suggested agreement and given thirty (30) days to respond if the offer was not acceptable. The appellants responded to the Property Tax Appeal Board by the established deadline rejecting the board of review's proposed assessment.

Conclusion of Law

The appellants contend 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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellants met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the appellants submitted an appraisal while the board of review proposed a settlement reducing the 2017 assessment by the amount of the equalization factor. The appellants rejected the proposed settlement offer.

The Board gave little weight to the proposed offer made by the board of review as the board of review submitted no evidence to substantiate that the reduction in the assessment amount was reflective of the fair market value of the subject property nor did they submit any evidence to critique or refute the opinion value reached by appellants' appraiser.

The Board finds the best evidence of market value in the record to be opinion of value arrived at in the appraisal submitted by the appellants. The appraisal comparables are similar to the subject in design, dwelling size, age and most features. Although one comparable is located over two miles from the subject, the appraiser explained that this distance was not excessive in this market. The appraiser made adjustments to the comparables for differences from the subject and arrived at an opinion of value of \$415,500. In the absence of any evidence refuting the appraisers' opinion of value, the Board finds the subject's estimated market value as reflected by its assessment is not supported and a reduction in the subject's assessment commensurate with the appellants' request is justified.

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APPELLANT:	<u>Matt Yegge</u>
DOCKET NUMBER:	<u>16-05747.001-R-1</u>
DATE DECIDED:	<u>September, 2020</u>
COUNTY:	<u>McHenry</u>
RESULT:	<u>Reduction</u>

Legal Argument

The appellant appeared before the Property Tax Appeal Board through counsel claiming a contention of law issue and assessment inequity regarding the subject's improvement. The subject's land assessment is not contested. Counsel argues that appellant's entire subdivision was unilaterally revalued wherein the assessments within the neighborhood were increased over 30% from the previous year. Counsel argues that a comparison of similar properties within the subject's neighborhood creates a self-fulfilling justification for the increased assessment. Counsel further argues assessments of similar type properties in surrounding neighborhoods should be considered, which was flatly rejected by the board of review. In support of the legal argument, counsel cited *Apex Motor Fuel Co. v Barrett*, 20 Ill.2d 395 (1960); *People ex rel. McDonough v. Illinois C. R. Co.*, 355 Ill. 605 (1934); *Givens v. Illinois Property Tax Appeal Bd.*, 84 Ill. App.3d 218 (5th Dist. 1980); *People ex rel. Schlaeger v. Allyn*, 393 Ill. 154 (1946); and *Pace Realty Group v. Property Tax Appeal Bd.*, 306 Ill. App.3d 718 (2nd Dist. 1999).

The board of review argues the subject neighborhood was revalued in 2016 using sales from 2013, 2014 and 2015, all stratified into appropriate groups and using the same methodology to determine value. Further, the board of review argued that the comparables submitted by the appellant were from other dissimilar neighborhoods, not within the subject's neighborhood.

Second, the appellant argued the local assessor utilized an improper sales ratio study to determine an increase in the assessment of the properties located in the subject's neighborhood was appropriate. Counsel argued the assessor was required to use the prior year's assessment (2015) of each sale divided by its current sale price in 2016 in order to ratify the level of assessment with the market value as reflected by its sale. In addition, counsel argued the assessor utilized properties that should not have been considered based on their date of sale and/or the nature of the sale.

In reply, the board of review submitted a letter prepared by McHenry Township Assessor, Mary Mahady. Mahady explained she decided to revalue the subject's neighborhood based on sales within the neighborhood from 2012 to the end of 2015. She states in her letter that the sales indicate the ratio information for the parcels at the time in relation to the 2015 assessment. She argued the report was not prepared within the guidelines of a sales ratio study for equalization as prepared by the Illinois Department of Revenue, but rather, it was used as a tool to determine if revaluation of the subject's neighborhood was necessary for 2016.

Mahady further stated she is required to value properties at 33.33% of their value and the sales ratio information for the subject's neighborhood indicated the median level of assessments in the Liberty Trails subdivision was 27.71%, which indicated to her that there was a need for revaluation

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in that subdivision. Mahady stated that the purpose of the reassessment in Liberty Trails subdivision and other selected neighborhoods was to provide equitable treatment to all McHenry Township properties, by placing all properties as near as possible to 33.33%.

Findings of Fact

The subject property consists of a one-story dwelling of frame construction with 2,131 square feet of living area. The dwelling was constructed in 2006. Features of the home include a full unfinished basement, central air conditioning and a 3-car garage. The property has an 11,200 square foot site and is located in McHenry, McHenry Township, McHenry County.

The appellant contends assessment inequity in regard to the subject improvement as one basis of the appeal. The subject's land assessment is not contested. In support of this argument the appellant submitted information on four equity comparables located within 6.4 miles of the subject. Photographs of comparable properties were submitted to show properties in competing neighborhoods were similar to the subject. The four comparables submitted by the appellant were one-story dwellings of vinyl or vinyl and brick exterior construction that ranged in age from 9 to 14 years old. Each comparable featured a basement with one being a partial basement and the others featuring a full basement. Three of the basements were finished. Each comparable features central air conditioning, three have a fireplace, and each has a 3-car garage. The comparables range in size from 1,739 to 2,413 square feet of living area and have improvement assessments ranging from \$43,710 to \$68,501 or from \$22.93 to \$28.38 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment to \$54,425 or \$25.54 per square foot of living area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$87,587. The subject property has an improvement assessment of \$74,180 or \$34.81 per square foot of living area.

In support of its contention of the correct assessment, the board of review submitted information on three equity comparables located within the subject's Liberty Trails Unit 2 subdivision. Two of the comparables were the same model as the subject. The one-story comparables were built from 2005 to 2010 with exterior construction of stone and vinyl, brick and vinyl or frame and stone. The comparables featured full unfinished English basements, central air conditioning and a 2-car or 3-car garage. The comparables have improvement assessments ranging from \$73,768 to \$75,415 or from \$34.62 to \$35.39 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The taxpayer contends as a matter of law the subject's assessment is incorrect. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under the Illinois Administrative Procedure Act by an agency shall be the preponderance of the evidence. (5 ILCS 100/10-15). The rules of the Property Tax Appeal Board do not provide for the standard of proof when a contention of law is raised, therefore, the standard of proof is the preponderance of the evidence. The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is justified.

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The record is clear the local assessor revalued the subject's neighborhood based on sales occurring within the subject's neighborhood from the previous three years. The assessor was attempting to achieve a level of assessment for the subject property of 33.33% as required by the Property Tax Code. The Board finds the assessor is correct in that she may reassess property as necessary to achieve a uniform level of assessments that is fair and just.

As a general principle, for single-family residential property such as the subject, the assessing officials determine fair cash value using methods, such as (1) market data which is a comparison of similar, neighboring properties recently sold to the property being assessed, and (2) cost which is a calculation of the cost to reproduce (or rebuild) a property, subtracted by the depreciation (e.g., wear and tear, age) amount, plus the land value. See *Publication 136*, Property Assessment and Equalization by the Illinois Department of Revenue (April 2016), p. 6.

Pursuant to the Property Tax Code, in Illinois real property assessment should be 33.33% of the fair cash value which is to be based on the Illinois Department of Revenue's sales ratio studies for the three most recent years preceding the assessment year, adjusted to take into account any changes in assessment levels implemented since the data for the studies were collected. (35 ILCS 200/1-55).

Further, Section 9-75 of the Property Tax Code provides in relevant part:

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. . . . (35 ILCS 200/9-75).

The Board finds the framework of the Property Tax Code illustrates the broad authority of boards of review to review and change individual assessments as appears fair and just. The Board finds in the instant appeal the McHenry County Board of Review determined the subject's final assessment. The evidence disclosed the appellant timely filed a complaint with the board of review contesting the subject's assessment. The McHenry County Board of Review issued a written decision denying the complaint and confirming the assessment, which in turn conferred jurisdiction upon the Property Tax Appeal Board. The Property Tax Appeal Board's jurisdiction is to determine the correct assessment of a property which is the subject of an appeal based on the equity and weight of the evidence. (35 ILCS 200/16-180 and 16-185).

Section 16-20 of the Property Tax Code provides:

In counties with less than 3,000,000 inhabitants the board of review shall, in any year, whether the year of the general assessment or not, perform the functions set forth in Sections 16-25 through 16-90 of the Property Tax Code. (35 ILCS 200/16-20).

Section 16-30 of the Property Tax Code provides in part that:

[T]he board of review . . . shall meet on or before the first Monday each June to revise the assessment of property. At the meeting, the board of review upon application of

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any taxpayer or upon its own motion may revise the entire assessment of any taxpayer or any part of the assessment as appears to it to be just. . . (35 ILCS 200/16-30).

Furthermore, Section 16-55 of the Property Tax Code provides in pertinent part:

On written complaint that any property is over assessed or under assessed, the board shall review the assessment, and correct it, as appears to be just, but in no case shall the property be assessed at a higher percentage of fair cash value than other property in the assessment district prior to equalization by the board or Department . . . The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce, or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department. . . Before making any reduction in assessments of its own motion, the board or review shall give notice to the assessor or chief county assessment officer who certified the assessment, and give the assessor or chief county assessment officer an opportunity to be heard thereon . . . (35 ILCS 200/16-55).

The Board finds these statutes clearly provide that the board of review has broad authority, by its own motion or upon written complaint, in any year to review the assessment of any property, and revise and correct that assessment as appears to be just. The only constraint to the board of review's action is that the revision or correction must result in a uniform assessment, that is an assessment that is at the same percentage of fair cash value *as other similar property in the same assessment district*.

With respect to the equity analysis submitted by the board of review, the Property Tax Appeal Board gave little weight to this evidence for multiple reasons. First, the Board finds the assessor failed to utilize the proper method in calculating the assessment to value ratio for the properties. Notwithstanding the lack of foundation for the equity analysis in terms of disclosing the properties used in the study, their actual sale prices and assessments, the Board finds the proper method to calculate assessment to value ratios for ad valorem taxation purposes is by using a property's prior year's assessment divided by its arm's-length sale price. In the instant case, the assessor testified that she used sales from 2013 to 2015 and used their "current assessments." Thus, the Property Tax Appeal Board finds it can give little credence to the assessor's contention that the subject property is equitably assessed based on its sales ratio study performed only within the subject's neighborhood.

Second, the Property Tax Appeal Board finds the equity analysis is not dispositive in determining whether the individual property that is the subject matter of this appeal is equitably assessed. The Board finds these types of ratio studies, even if determined to be proper, evaluate the accuracy of assessed values in comparison to the marketplace as a whole, not the individual subject property that is subject to this appeal. The Board finds ratio studies are one of the primary tools for measuring mass appraisal performance. This tool is commonly used to calculate equalization factors or to determine whether assessors are entitled to additional compensation. (35 ILCS 200/4-

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20). This Board fully recognizes, based on the assessor's limited ratio study, assessments in the subject's neighborhood do not appear to mimic the market to some extent. However, again this evidence is not demonstrative that the individual subject property in this appeal is uniformly assessed in comparison to other similar properties by clear and convincing evidence.

The Board finds comparing the subject property to similar comparable properties only located within the subject's neighborhood that underwent the same reassessment process would be self-validating to a uniformity argument. The court in Pace Realty Group v. Property Tax Appeals Bd., 306 Ill. App. 3d 718 (2nd Dist. 1999) held that [t]he Illinois Constitution requires uniformity of taxation (Ill. Const. 1970, art. IX, § 4(a)) and prohibits taxing officials from valuing one kind of property within a taxing district at a certain proportion of its true value while valuing the same kind of property in the same district at a substantially lesser or greater proportion of its true value. (citing, Kankakee County, 131 Ill. 2d at 20). The court in Pace Realty found the Property Tax Appeal Board erred when as a matter of law it selected as a comparable a parcel of property which had also received the same contested assessment. Id. at 728. Further, [c]onducting uniformity analysis in such a manner will lead to absurd results and will render the assessment appeal process meaningless. Id.

Based on an analysis of the Code and court decisions cited above, the Board finds it was error to submit comparable properties of a contested neighborhood to validate and support an equity argument for a property located within the same contested neighborhood. Therefore, the Board gives little weight in its analysis to the comparables submitted by the board of review.

The facts of this case are unique; therefore, this decision is limited to the facts of this case in the instant appeal only. The Board finds other properties located outside of the contested neighborhood should have been examined and presented to compare the level of assessments to sale ratio to establish a uniformity of assessments within the township compared to the contested neighborhood.

The Property Tax Appeal Board finds the more traditionally accepted method of determining whether uniformity of assessments exists is by comparing and contrasting property assessments together with their salient physical characteristics.

The taxpayer contends assessment inequity as the basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The 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 four comparable properties located within 6.4 miles of the subject. The testimony at hearing revealed the comparable properties were located within the subject's market area, but outside of the contested neighborhood. This was not refuted by the board of review. In support of uniformity, the appellant provided pictures of the comparables which represented one house from each of the four different neighborhoods. The comparables had

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improvement assessments ranging from \$43,710 to \$68,501 or from \$22.93 to \$28.38 per square foot of living area. The subject's improvement assessment is \$74,180 or \$34.81 per square foot of living area, which the Board finds is higher than the comparable properties located outside of the contested neighborhood, but still located within the subject's market area.

After consideration of the salient characteristics of each comparable in contrast to the subject's salient features, the Board finds the subject's improvement assessment is excessive and a reduction is warranted commensurate with the appellant's request.

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APPELLANT:	Brent Zimmerman
DOCKET NUMBER:	18-00221.001-R-1
DATE DECIDED:	October, 2020
COUNTY:	Madison
RESULT:	No Change

The subject property consists of a one-story dwelling of brick and frame exterior construction with 2,365 square feet of living area.¹ The dwelling was constructed in 2017. Features of the home include a full basement with 1,270 square feet of finished area, central air conditioning, one fireplace, and a three-car garage containing 943 square feet of building area. The property has an approximately 39,000 square foot or .90-acre site and is located in Glen Carbon, Edwardsville Township, Madison County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on the cost to construct the subject dwelling. The appellant completed Section – VI – Recent Construction Information on Your Residence on the appeal petition stating the subject site was purchased on September 17, 2017 for a price of \$40,000 and the total cost to construct the home was \$299,085 resulting in a total cost of \$339,085. To further document the cost of construction, the appellant submitted a document entitled “Final Affidavit” from Remington Properties disclosing the project location as Lot 6 Pioneer Trails for Brent and Melissa Zimmerman with an address of 14 Pioneer Trails, Glen Carbon and included an itemization of the construction costs for a Ranch Plan 3-Car Garage. The project start date is shown as January 1, 2017 with a completion date of October 3, 2017. The appellant also provided a copy of the final Compliance Inspection Report from the Glen Carbon Building Department dated October 3, 2017. The appellant indicated the dwelling was completed on October 3, 2017, that they did not act as general contractor and that there was no non-compensated labor performed. The appellant noted that he has “built three other homes in Madison County and all of these homes have been taxed at the level the homes were built for.” Based on this evidence, the appellant requested the subject’s assessment be reduced to \$113,085.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$152,310. The subject's assessment reflects a market value of \$457,662 or \$193.51 per square foot of living area, land included, when using the 2018 three-year average median level of assessment for Madison County of 33.28% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review provided a copy of a document with a handwritten note indicating the document was “previous evidence submitted to the board of review” regarding the construction costs of the subject dwelling. The document is labeled “Affidavit” and disclosed

¹ The Board finds the best evidence of the description of the subject dwelling’s exterior construction and basement finish is found in the property record card, which includes a photograph. The appellant did not disclose in Section III of the appeal petition that the subject dwelling has brick and frame exterior construction or finished area in the basement.

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the project location as Lot 6 Pioneer Trails for Brent and Melissa Zimmerman with an address of 14 Pioneer Trails, Glen Carbon. The contractor is shown as Remington Properties. The document included an itemization of construction costs for a Ranch Plan 3-Car Garage in the amount of \$299,086.47, excluding the lot value.

In support of its contention of the correct assessment, the board of review submitted a grid analysis and property record cards on three comparable properties located within .10 of a mile from the subject property and on the same street as the subject, with sales data included on two comparables. The comparables have sites containing approximately .90-acres or 1.08-acres of land area that are improved with one-story dwellings of brick and frame exterior construction that range in size from 1,857 to 2,053 square feet of living area. Each comparable features a basement with finished area, central air conditioning, one fireplace, and a garage ranging in size from 688 to 788 square feet of building area. Comparables #1 and #2 sold in September and October 2017 for prices of \$485,000 and \$453,088 or for \$236.24 and \$225.42 per square foot of living area, land included, respectively. The board of review provided the PTAX-203 Real Estate Transfer Declarations associated with each of these sales disclosing the seller as Remington Properties, LLC and that each property had been advertised for sale.

The board of review further asserted the three comparables have improvement assessments ranging from \$59.12 to \$61.10 per square foot of living area while the subject has an improvement assessment of \$58.74 per square foot of living area. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, the appellant critiqued the comparables submitted by the board of review. The appellant contends the comparable homes have nicer finishes than the subject, which include stone fireplaces, built-in shelves, nicer flooring, nicer windows, upgraded trim and upgraded cabinets. The appellant requested a reduction in the subject's improvement assessment to reflect the lower value of the home.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The Property Tax Appeal Board finds the best evidence of market value in the record to be board of review comparable sales #1 and #2. These home are located on the same street as the subject property and are similar to the subject in site size, design, age and features, though each dwelling is smaller in size when compared to the subject. The record indicates these two properties were purchased from Remington Properties, LLC which appears to be the same contractor that built the subject dwelling. These properties sold in September and October 2017 for prices of \$485,000 and \$453,088 or for \$236.24 and \$225.42 per square foot of living area, land included, respectively. The subject's assessment reflects a market value of \$457,662 or \$193.51 per square foot of living area, including land, which is below the two comparable sales in the record on a per

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square foot basis. The subject is larger than each of the comparables presented. Accepted real estate valuation theory provides that all factors being equal, as the size of the property increases, the per unit value decreases. In contrast, as the size of a property decreases, the per unit value increases. The Board finds these sales demonstrate the subject's assessment is not excessive and is reflective of the market value of the property as of January 1, 2018.

Although the appellant provided information with respect to the purchase price of the land on September 17, 2017 and the construction costs that were incurred during the construction and subsequent completion of the subject dwelling on October 3, 2017, the Board finds it problematic that the parties presented two separate affidavits associated with the construction of the subject dwelling. Each affidavit reported differing costs associated with the construction of the subject dwelling which discredits the validity of each of these documents. Furthermore, neither affidavit provided general contractor fees, though the appellant noted in Section VI of the appeal petition that the fees were included in the costs. Neither party provided corroborating evidence to support the costs shown in their respective affidavits. Lastly, the appellant failed to provide substantive evidence to establish that the transfer of the subject site on September 17, 2017, which was only 16 days prior to the completion of the subject dwelling on October 3, 2017, was an arm's length transaction.

The Board finds the best evidence of market value to be the comparable sales in the record as they best reflect the actions of buyers and sellers in the marketplace and are more representative of fair cash value than construction costs. In conclusion, the Board finds the assessment of the subject property as established by the Madison County Board of Review is correct and a reduction in the assessment is not justified.

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PROPERTY TAX APPEAL BOARD
SYNOPSIS OF REPRESENTATIVE CASES
2020 FARM DECISIONS



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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2020 SYNOPSIS – FARM CHAPTER

APPELLANT:	Eric Bramlet
DOCKET NUMBER:	15-06713.001-R-1
DATE DECIDED:	January, 2020
COUNTY:	Wabash
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 residential (homestead) farm property valuation issues.)

The subject property consists of approximately 52 acres of land area. The parcel is described as unimproved, mostly wooded area with approximately 2 acres which were cleared and planted with cover crops and corn. The site is located in Lancaster Township, Wabash County.

The appellant appeared before the Property Tax Appeal Board contending that the re-classification of the subject property from farmland to residential property was erroneous. In support of this claim, the appellant submitted a three-page brief along with both aerial and ground-level photographs of the subject property. In addition, the appellant submitted a copy of the Warranty Deed that disclosed that the subject parcel was purchased in November 2013. The appellant asserted in his brief that he began clearing one area and planted fall cover crop in 2013 which he claimed satisfied the two-year farmland use required by the Property Tax Code. Finally, the appellant's evidence included a copy of the notice of property re-assessment and a copy of the board of review Notice of Revised Assessment.

Appellant Eric Bramlet testified that he purchased the subject property in November 2013. Bramlet argued that, prior to his purchase, the subject property was classified as "other farmland" and was receiving a preferential farmland assessment. After his purchase, however, the parcel was re-classified and re-assessed as residential property even though there had been no change in the physical characteristics of the parcel such as construction of residence, outbuilding or structure of any kind. Bramlet further asserted that, after purchasing the parcel, he planted cover crops not for the purpose of harvesting them but for the "enrichment of the soil and conservation of the property." Bramlet testified that he planted legumes, soybeans, peas, clover, alfalfa and corn, along with various fruit trees, which both enrich the soil and prevent erosion. He indicated that the majority of the property is uneven and thus subject to erosion. The two areas that were cleared and planted per the appellant's testimony totaled approximately two acres in size. He asserted the remainder of the parcel consists of timberland, along with some wasteland consisting of ditches and rocky areas which are not tillable. As to the trees, Bramlet stated that the trees were timbered approximately 18 to 20 years prior to his purchase and will again be timbered when they mature in the next 5 to 10 years. There are existing timber trails which were overgrown at the time of purchase. Bramlet indicated he mowed those trails so that they could be used again for timbering in the future.

Based on this evidence, the appellant requested that the Property Tax Appeal Board restore the classification of the entire subject property to farmland.

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Under cross-examination, Bramlet clarified that he planted “fall cover crop” in 2013, immediately after purchasing the subject parcel. Upon further questioning, Bramlet stated that the primary purpose of the subject parcel is “farmland” pursuant to the Illinois Department of Revenue [IDOR] definition. Also, Bramlet testified that the purpose of planting the various cover crops was for “conservation of soil” rather than for harvesting the crops or the production of income. Mr. Bramlet argued, however, that there is no statutory requirement that the crops produce income or be harvested in order to be classified as “farmland” according to the IDOR guidelines in Publication 122. Bramlet admitted that he used the subject parcel occasionally for hunting, however, he argued that other uses of the subject parcel do not negate a farmland use pursuant to the Illinois Property Tax Code and the Illinois Department of Revenue guidelines in Publication 122.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject parcel's total assessment of \$36,395 was disclosed. The subject's assessment reflects a market value of \$109,988 or approximately \$2,115 per acre of land area when using the 2015 three-year average median level of assessment for Wabash County of 33.09% as determined by the Illinois Department of Revenue. It is undisputed in this record that the subject is assessed at 1/3 of fair market value rather than a preferable farmland assessment. Furthermore, the appellant made no argument besides disputing the classification of the parcel.¹

In support of its contention of the correct classification and assessment, the board of review submitted information on four comparable parcels located within 14 miles of the subject parcel. The parcels range in size from 8.19 acres to 20 acres. The board of review also submitted property record cards and aerial photographs of the four comparable parcels which indicate that each of the four parcels was re-classified from farmland to residential property after they were sold and ceased being used for agricultural purposes.

The board of review also submitted a memorandum prepared by the Supervisor of Assessments and the Clerk of the Board of Review, Deborah Gittings, setting forth the arguments in support of the subject's re-classification and assessment. In the memorandum, the board of review argued that, under Illinois law, any land that changed ownership after October 2007 that does not meet the IDOR's definition of “farmland” must be assessed at 1/3 of fair market value. The board of review contended that the appellant's use of the parcel does not meet the Illinois Department of Revenue's definition of “farmland” and thus it is not entitled to a preferential farmland assessment. The board of review further noted that appellant acknowledged there is no income produced by the subject parcel and there was no forestry management plan in place for the year in question.

Gittings appeared before the Property Tax Appeal Board on behalf of the Wabash County Board of Review and testified that the parcel purchased by Bramlet had previously been classified as “farmland” due to being contiguous to a parcel of cropland farmed by the previous owner of both parcels. Gittings further testified that Bramlet's parcel is treated the same as the four comparable parcels which were each re-classified and re-assessed as residential land after being sold and after no longer being used for agricultural purposes. Gittings noted that this is reflected on the property record cards for the comparable parcels. Gittings cited Illinois Department of Revenue Bulletin

¹ The board of review's evidence revealed the property was purchased for \$109,200 in November 2013.

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810 which mandated that any property sold after October 2007 which does not meet the Department of Revenue definition of farmland should be assessed at 1/3 of fair market value. Gittings argued that the aerial photographs of the subject property showed that the subject property was not being used for any agricultural purpose and therefore the decision to re-assess the subject at 1/3 of market value as of January 1, 2015 was supported. Furthermore, Gittings noted that the board of review applied the same policy to all sold parcels, i.e. reviewing each parcel after a sale to determine whether it should be re-classified; therefore, all parcels in the county are treated equitably. Finally, Gittings suggested that there are other options to lower the subject's assessment available to the appellant such as enrolling in a Conservation Stewardship Plan or Forestry Management Plan.

Based on this evidence, the board of review requested that the subject's classification and assessment be confirmed.

Conclusion of Law

The appellant contends that the re-classification of the subject property from farmland to residential property after he purchased the subject parcel was erroneous. Section 10-15 of the Illinois Administrative Procedure Act (5 ILCS 100/10-15) provides:

Standard of Proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The Board finds that the evidence and testimony in the record supports the board of review's decision to change the classification of the subject property to that of non-farmland and assess the subject parcel at 1/3 of fair market value.

In order to receive a preferential farmland assessment, the property at issue must meet the statutory definition of a "farm" as defined in 35 ILCS 200/1-60 of the Illinois Property Tax Code which provides:

...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.]

35 ILCS 200/1-60. The Property Tax Appeal Board historically and in accordance with case precedent has found as a general rule that portions of a parcel may be classified as farmland for tax purposes, provided those portions of property so classified are used solely for the growing **and harvesting** of crops and/or the raising of livestock. Senachwine Club v. Putnam County Board of Review, 362 Ill.App.3d 566 (3rd Dist. 2005), *Citing Kankakee County Board of Review*, 305

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Ill.App.3d 799 at 802 (3rd Dist. 1999). Based on the evidence presented, the Property Tax Appeal Board finds that the appellant did not prove by a preponderance of the evidence that the subject parcel qualifies for farmland classification and assessment.

The main issue is whether the subject parcel's primary use in the 2015 assessment year conforms to the requirements of Section 1-60 of the Property Tax Code. In Senachwine Club v. Putnam County Board of Review, 362 Ill.App.3d 566 (3rd Dist. 2005), the Illinois Appellate Court, in affirming the finding of the Property Tax Appeal Board, held that the primary purpose of the subject parcel was for hunting ducks; the planting of cover crops in the Senachwine case was incidental to this purpose as the objective of planting the crops was to attract ducks and facilitate the hunting of ducks, not the "growing and harvesting of crops." The court in Senachwine held that the portion of the parcel which was planted with cover crops may only be classified as farmland provided that those portions of the property so classified are used solely for agricultural purposes, even if the farm is part of a parcel that has other uses. *Citing* Kankakee County Board of Review, 305 Ill.App.3d 799 at 802 (3rd Dist. 1999). Additionally, multiple uses of a parcel may be made so long as the uses are not inconsistent with and are incidental to the primary purpose. McLean County Board of Review v. PTAB, 286 Ill.App.3d 1076, 1078, 222 Ill.Dec. 701, 678 N.E.2d 313 (1997).

Initially, as to the two-acre lot in question, the Property Tax Appeal Board finds that the two-acre area that the appellant cleared and planted with various cover crops does not meet the definition of "farm" contained in Section 1-60 of the Code as it was not **"used solely for the growing and harvesting of crops."** Bramlet's testimony is that he planted cover crops for the purpose of "enriching the soil and preventing erosion." The appellant further testified on cross examination that the primary purpose of the subject parcel as a whole is for "farming." The Board finds that the appellant's own stated primary purpose for the subject parcel amounts to a mere legal conclusion rather than a persuasive explanation as to how the parcel is being used and harvested for agricultural purposes as required by Section 1-60 of the Property Tax Code and thus the claim fails for lack of substantive evidence. The Board recognizes the appellant's attempt to satisfy the Code by planting cover crops and corn, however, the appellant failed to harvest any crops, which is a requirement of the Code and case law.² Bramlett's acknowledgement that he has not done anything with the crops nor does he have any plans to use the enriched soil or the crops grown therefrom detracts from his argument that the subject parcel is a farm. Therefore, the Board finds that the appellant did not **use or harvest the crops** in any meaningful manner for any agricultural purpose within Section 1-60 of the Property Tax Code.

The next question is whether the appellant's entire 52-acre parcel is used primarily for agricultural purposes. The uncontested fact in evidence is that the subject parcel was timbered several years prior to the appellant's purchase of the parcel; moreover, the appellant intends to timber the trees again in the future when the trees mature. The Board finds that it is the present (not anticipated) use of the parcel that determines whether it receives agricultural or non-agricultural assessment. Santa Fe Land Improvement Co. v. PTAB, 113 Ill.App.3d 872,875,69 Ill.Dec. 708, 448 N.E.2d 3

² In support of his claim, the appellant cited IDOR Publication 122, however, as expressly stated on the first page of said publication, "[t]he contents of this publication are informational only and do not take the place of statutes, rules or court decisions." (*Publication 122, Instructions for Farmland Assessments*, Illinois Department of Revenue, January 2019, p.1)

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(1983). Although the appellant testified to mowing some paths which were used for logging or timbering before he purchased the property, there is no evidence in this record that the appellant himself timbered any trees, maintained the trees, pruned them, obtained any logging contracts, sawmill contracts, estimates of value for the size and type of trees, etc., which diminishes the appellant's contention that the trees will be timbered in the future. Therefore, the Board finds that the appellant has not proved by a preponderance of the evidence that the subject property meets the statutory criteria for a "farm" and thus a farmland assessment is not warranted.

As to the board of review's comparable land sales, the Board gave little weight to comparables #1 and #4 as their 2007 and 2009 sales are dated compared to the subject's January 1, 2015 assessment date and thus less likely to be reflective of fair market value as of January 1, 2015. The remaining two comparable land sales sold in August and October 2014 which is more proximate in time to the subject's assessment date. These two comparable land sales sold for prices of \$57,575 and \$83,000 or for \$3,500 and \$5,903 per acre of land. The subject's assessment reflects a market value of \$109,988 or approximately \$2,115 per acre of land area which is markedly lower than the best comparable sales in this record on a per acre of land basis. After considering adjustments to the two comparables for characteristics such as the size of the parcel and location, the Board finds that the subject's assessment is supported.

In conclusion, the Property Tax Appeal Board finds that the subject property is not entitled to a farmland classification and, furthermore, no change in the subject's assessment is justified on this record. Therefore, the Property Tax Appeal Board finds the subject property's assessment as established by the board of review is correct and no reduction in assessment or change in classification is warranted.

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APPELLANT:	Robert Burnside
DOCKET NUMBER:	18-00847.001-F-1
DATE DECIDED:	September, 2020
COUNTY:	Schuyler
RESULT:	Reduction

The subject property consists of a fenced 40-acre farmland parcel that is improved with a small outbuilding. The subject property is with a small outbuilding. The subject property is located in Rushville, Bainbridge Township, Schuyler County.

Robert Burnside appeared before the Property Tax Appeal Board claiming that the productivity in the farmland assessment was incorrect.¹ The appellant did not dispute the assessment of the subject's small outbuilding. In support of this appeal, the appellant submitted his board of review complaint, definition of a farm page, maps, farmland valuation card, and a soil inventory report. The appellant testified that he rents this fenced 40 acres for \$500 per year and it is used for cows and calves. The appellant testified that this property should be valued as woodland pasture. The appellant later recanted and stated that the property should be valued as wasteland because it does not have any productivity. The appellant testified that his assessment is wrong because the total 40 acres is being assessed as permanent pasture and based on the permanent pasture definition according to the Department of Revenue's PTAX-227 (Farm Property Assessment Complaint), permanent pasture includes any pastureland except woodland pasture.

In support of the classification issue, the appellant submitted a letter addressing the board of review, a 2018 assessment change notice, a 2018 Farm Property Assessment Complaint for Schuyler County, a soil inventory report for a different parcel that is not under appeal, several maps, and a farmland valuation card depicting the 40 acres is being valued as permanent pasture.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$2,135 was disclosed. Representing the board of review was the Chief County Assessment Officer and Clerk of the Board of Review, Suzette Rice. In support of the subject's assessment the board of review submitted an aerial photo of the subject, a soil map of the subject property, a farmland valuation card, and the 2018 certified farmland values. The Board of Review also submitted an addendum to their Notes on Appeal. In the addendum it was disclosed that a board of review member viewed the subject property and verified that the parcel was fenced, and it included a three-sided shed. The board of review also included a copy of section 35 ILCS 200/10-125 of the Property Tax Code which explains the assessment level by type of farmland. Rice testified that the 40 acres is being assessed as permanent pasture.

After the hearing, Suzette Rice, CCAO and Clerk to the Board of Review, sent an email to the Administrative Law Judge correcting the farmland classification and assessment on parcel 14-04-400-004 with the new measurements and adjusted farmland assessment. The board of review

¹ The appellant marked productivity under farmland in his appeal, but his argument was classification of the farmland from pasture to woodland pasture or wasteland.

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reclassified 19.57 acres as other farmland for the woodland pasture and the remaining 20.43 acres was left as permanent pasture.

In written rebuttal, the appellant reiterated that the farmland is other farmland and not permanent pasture.

CONCLUSION

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 the appeal. The Board further finds the evidence, testimony and maps in this record indicate the subject's 40 acres assessed as permanent pasture is incorrect. First, the Board finds that the appellant argued that the wooded acreage should be valued as wasteland or woodland pasture but did not submit any documentation that the wooded acreage is wasteland. The Board finds the appellant testified that the 40 acres is used to pasture cows and the maps submitted indicate that approximately 50% of the land is woodland pasture. The Board finds that the 2018 Illinois Department of Revenue's Publication 122 – Instructions for Farmland Assessments, page 1, the definition of land use describes "**Permanent Pasture** includes any pastureland **except** woodland pasture and **Other Farmland** includes woodland pasture." In conclusion, the Board finds that approximately 50% of the 40 acres is wooded and should be reclassified as woodland pasture and not wasteland. Furthermore, the Board finds a reduction in the farmland assessment is appropriate based on woodland pasture. The Board finds the revised assessment of the subject property submitted by the board of review following the hearing is correct and a reduction is appropriate.

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APPELLANT:	Daniel Glynn, Jr.
DOCKET NUMBER:	17-00352.001-F-1 to 17-00352.004-F-1
DATE DECIDED:	December, 2020
COUNTY:	Schuyler
RESULT:	Reduction

The subject property is comprised of four parcels (PINS) containing a total of 106.53 acres. The subject has two conservation stewardship parcels [PINS 14-29-200-007 (58.44 acres) and 14-20-400-006 (9.41 acres)] containing a total of 67.85 acres and two conservation rights public benefit parcels [PINS 14-28-100-011 (29.86 acres) and 14-21-300-004 (8.82 acres)] containing a total of 38.68 acres. The subject property is located in rural Bainbridge Township, Schuyler County.

Daniel Glynn Jr. appeared before the Property Tax Appeal Board alleging the Schuyler County Board of Review erred, as a matter of law, in the interpretation of applicable statutes or of their own authority to add qualifications, which are not provided by statute in the classification and assessment of farmland of approximately 107 acres as the basis of the appeal. The appellant is arguing that this acreage should be assessed as farmland. The subject property has no buildings and has tillable ground, land in the conservation reserve enhancement program (CREP) that is permanently enrolled in the program, and woodlands. In support of the farmland contention, the appellant submitted a letter, maps, photographs, report of commodities from FSA for years 2014 through 2017, farm definition, Publication 135 from the Illinois Department of Revenue, and letters from the one of the prior owners (F. Eugene Strode) and current farmer (Tristan Dupoy) stating that the land was in crops and harvested from 2014 through 2017. The appellant testified that the four parcels are contiguous and make up the 107-acre farm. Glynn testified that 39+ acres are in a CREP program for which the payments have already expired, 20 acres of tillable acres, and the remainder is woods. The appellant stated that his property is still in CREP and following the procedures of the CREP program. The appellant testified that CREP should be treated the same as Conservation Reserve Program (CRP). The appellant testified that the plan did not expire but the federal payments were for 15 years and they expired in 2014. The appellant is requesting that the property be assessed as one farm the way it was prior to his purchase.

Under cross-examination, Glynn acknowledged that the farmland purchased from Stroud has approximately 49.7 acres in trees and 18.15 acres in row crops. Glynn agreed that the 49.7 acres is assessed under the Conservation Stewardship program and the 18.15 acres is assessed as cropland. Glynn testified that the CREP contract is a perpetual contract that never expires, and the information is included in the evidence that the board of review supplied.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$14,033 was disclosed. The total assessment for PIN 14-29-200-007 is \$7,016; PIN 14-20-400-006 is \$1,456; PIN 14-28-100-011 is \$4,293 and PIN 14-21-300-004 is \$1,268.

Representing the board of review was Schuyler County State's Attorney, Ramon Escapa. Present at the hearing were Suzette Rice, Chief County Assessment Official/Clerk to the Board of Review, and Schuyler County Board of Review members Linda Ward, Barb Botts and Chuck Bainter.

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In support of the subject's assessment the board of review submitted a response to the appellant's appeal, Conservation Stewardship Plan Certification (exhibit A), Conservation Right Public Benefit Certification (exhibit B), Affidavit of Matt Peterson, District Forester (exhibit C), Grant of Conservation Right and Easement (exhibit D), Conservation Reserve Program Contract (exhibit E), Forest Stewardship Plan for the Illinois Forestry Development Act Certification (exhibit F), CREP (exhibit G), CREP Easement (exhibit H), Illinois Department of Revenue Publication 135 (exhibit I), (765 ILCS 120/) Real Property Conservation Rights Act (exhibit J), Maps (exhibit L) and Wooded Acreage Assessments (exhibit M). In support of the current assessment, the board of review stated that the appellant purchased the property in 2016 in two separate transactions (Strode and Crum properties) and prior to the purchase these parcels were assessed as farmland. In 2017, the county re-classed the subject to non-farm due to less than 51% active agricultural use. The board of review also disclosed that part of the land was encumbered in perpetuity by a Conservation Right and Easement which was filed October 5, 2000.

Schuyler County State's Attorney Ramon Escapa called Matt Peterson, District Forester, as a witness on behalf of the board of review. Peterson testified that he signed an affidavit and he acknowledged that all things were still true to the best of his knowledge. Peterson testified that the Strode property was in the Forestry Management Plan from 2002 to 2013 and re-enrolled in 2016. Peterson explained that CRP is the federal program and it receives a farmland assessment. Peterson testified that neither the Strode or Crum properties are in any Forestry Management Plans, which is now the Glynn property.

Under-cross-examination, Glynn asked Peterson if he knew where in the Illinois statutes it is written "that CREP once the CRP payments stop the CREP changes in any way, shape or form?" Peterson responded that to his knowledge that is when it loses its farmland status and that he does not know the federal statute.

Conclusion of Law

The appellant raised a contention of law regarding the classification of the subject's land. Unless otherwise provided by law or stated in an agency's rules, the standard of proof in any contested case shall be the preponderance of the evidence. (See 5 ILCS 100/10-15). The rules of the Property Tax Appeal Board are silent with respect to the standard of proof when a contention of law is raised, therefore, the standard of proof in this appeal shall be the preponderance of the evidence. The Board finds the appellant met this burden of proof.

The Property Tax Appeal Board finds that the 106.53 acres of land under contention are entitled to a farmland classification and assessment. The Board finds the board of review's argument that the appellant's property should be classified as non-farm due to less than 51% active agricultural use is not in accordance with the Property Tax Code.

Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) defines "farm" in part as:

[A]ny 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,

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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. (35 ILCS 200/1-60)

In order to qualify for an agriculture assessment, the parcel must be farmed at least two years preceding the date of assessment (35 ILCS 200/10-110). Based on the appellant's evidence, the property has been used for agriculture purposes for the current year and at least two years prior to January 1, 2017. The Board finds the board of review properly classified 18.15 acres as cropland pursuant to the Property Tax Code (35 ILCS 200/1-60 and 35 ILCS 200/10-125).

Second, the board of review argued that the appellant was no longer eligible for a farmland assessment for his CREP acres due to the expiration of a CRP contract. The Board finds that the appellant's CREP acreage is eligible for a farmland assessment based on page 10 of Illinois Department of Revenue Publication 135 which states:

Land enrolled in Conservation Programs Land enrolled in certain conservation programs may qualify for preferential assessment depending upon the program in which the property is enrolled.

Land in Conservation Reserve Enhancement Program (CREP) Land in the CREP is eligible for a farmland assessment provided it has been in the CREP or another qualified farm use for the previous two years and is not a part of a primarily residential parcel. Land in CREP is assessed the same as CRP.

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. 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.

The board of review also argued that part of the appellant's acreage is encumbered in perpetuity by a Conservation Right and Easement and is not entitled to a farmland assessment whereas the appellant argued that this acreage is in CREP/Woodlands. The Property Tax Appeal Board finds that the fact that a portion of the property is encumbered by an easement does not preclude the property from receiving an agricultural assessment. The court in KT Winneburg, LLC v. Roth, 2020 Ill.App (4th) 190274, ¶48 in construing section 1-60 of the Property Tax Code (35 ILCS 200/1-60) determined "the statute [does not] require that the land be free of restrictive covenants" in order to be considered farmland. The Board finds that a portion of the property having a conservation easement does not prevent the property from being eligible for a farmland assessment.

In conclusion, the Property Tax Appeal Board finds the board of review's assessment of the subject property is incorrect and a reduction is warranted. The Board hereby orders the Schuyler County Board of Review to compute a farmland assessment in accordance with this decision. The board

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of review is hereby ordered to submit the revised farmland assessment to the Property Tax Appeal Board within **21 days** from the date of this decision.

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APPELLANT:	Donald Martin
DOCKET NUMBER:	16-00344.001-F-1
DATE DECIDED:	April, 2020
COUNTY:	Cumberland
RESULT:	Reduction

The subject property consists of two improved buildings. Improvement #1 is a wood pole frame building of metal exterior construction containing 1,500 square feet of building area. The building features a dirt floor, 12-foot eaves, two 12-foot by 12-foot sliding doors, and a walk-in door. The building was constructed in approximately 1980. Improvement #2 is a one-story dwelling of wood frame construction with a vinyl exterior and contains 576 square feet of living area. The dwelling was constructed sometime prior to 1970 and features a concrete pier foundation. The property has a 19.75-acre site and is located in Crooked Creek Township, Cumberland County.

The appellant's appeal is based on both overvaluation and assessment equity. In support of the overvaluation argument the appellant submitted an appraisal estimating the subject property and an adjoining property had a market value of \$256,900 as of December 6, 2016.

The appellant's appraisal was completed using the sales comparison approach to value in estimating a market value for the subject property and the adjoining property which total 91.59 acres. The appellant's appraisers selected four farmland sales that were located within Cumberland County. The comparables had land sizes ranging from 23 to 49.93 acres. The comparables had sale dates ranging from March to October 2016 and sold for prices ranging from \$57,500 to \$150,000 or from \$2,353 to \$3,681 per acre of land area. After making qualitative adjustments to the comparables, the appraisers opined that the subject and the adjoining property would have a unit price of \$2,750 per acre of land area or a total indicated land value of \$251,900. The appraisers opined that the outbuildings had a contributory value of \$5,000. Based on this sales analysis, the appraisers estimated that the subject's indicated land value and the outbuildings would have a value of \$256,900 as of December 6, 2016.

The appellant also contends assessment inequity as an alternative basis of the appeal. In support of this argument the appellant submitted limited information on two suggested equity comparables that were located within the same neighborhood code as the subject and "next to" the subject property. The comparables have land sizes of 80 or 10 acres. The comparables were improved with one-story dwellings with aluminum exterior siding containing 1,527 or 1,036 square feet of living area. The dwellings were 96 years old or "old". One comparable has a 1,974 square foot garage and two pole sheds. The other comparable has a shed of unknown size. The comparables have land assessments of \$6,936 and \$9,539 and improvement assessments of \$6,613 and \$7,701 or \$4.34 and \$7.43 per square foot of living area. The appellant submitted no supportive evidence as to the breakdown of the assessments or where the assessment data originated.

The appellant submitted a brief stating that the subject is a working farm with farm buildings and is not a residential property as listed by the assessor's office. The appellant further argued that improvement #1 is used for storing a tractor and implements and improvement #2 is an

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uninhabitable shelter with no running water, electricity, sewer or plumbing. The appellant argued that the assessor has this improvement listed incorrectly as being built with 6-foot logs and disclosed that it has a 2,500 square foot site encompassing it. The appellant's evidence also included "Reports of Commodities" filed with the Farm Service Agency (FSA) from 2011 to 2016 and photographs of the subject's land and buildings.

Based on this evidence the appellant requested that the subject's total assessment be reduced to \$2,526.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$17,341. The subject has a farmland assessment of \$821 and a land and improvement assessment totaling \$16,520, which reflects a market value of \$51,114, when using the 2016 three-year average median level of assessment for Cumberland County of 32.32% as determined by the Illinois Department of Revenue. The subject has 17.15 acres of farmland, which has an assessment of \$821. The subject has 2.60 acres or 113,256 square feet of non-farmland, which has an assessment of \$4,594 or \$.27 per square foot of non-farmland. The subject has a non-farm improvement assessment of \$11,926. Improvement #1 has an improvement assessment of \$3,732 or \$2.49 per square foot of building area, when using 1,500 square feet of building area. Improvement #2 has an improvement assessment of \$8,194 or \$14.23 per square foot of living area, when using 576 square feet of living area.

In support of its contention of the correct assessment the board of review submitted a grid analysis containing the same two comparables submitted by the appellant. The board of review's grid displayed different data from that submitted by the appellant. However, the board of review submitted the property record cards (PRC's) for the comparables as support. The comparables were described as containing 1,524 or 952 square feet of living area. The comparables have total land assessments of \$4,898 and \$9,588 and improvement assessments of \$7,811 and \$7,966 or \$5.12 and \$8.36 per square foot of living area.

The board of review's evidence included a brief in which the board of review conceded that the subject's improvement #1 should be assessed as a farm building and the subject's improvement #2 was listed incorrectly as a log building. In addition, the board of review submitted the PRC's for the subject property showing the corrected sizes for the subject's improvements, however, the PRC's did not have corrected assessment calculations reflecting the revised sizes. The board of review also submitted the "Description Of Properties & Tracts" from the subject's 2008 auction. Of importance is the description of improvement #2 as having a kitchen, living room and 2-bedrooms. Furthermore, the ad states, "This tract would make a good house site, hunting cabin, weekend get-a-way cabin, recreation area." Based on this evidence the board of review requested that the subject's assessment be confirmed.

Conclusion of Law

The appellant contends in part that 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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an **appraisal** of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the

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appellant met this burden of proof and a reduction in the subject's assessment is warranted on the grounds of overvaluation.

The appellant submitted an appraisal estimating the subject property and an adjoining property had a market value of \$256,900 as of December 6, 2016. However, the Board finds the land portion of the appraisal was regarding two parcels of land, which would be of little value in determining the separate values for the parcels. Furthermore, farmland is assessed by a preferential assessment based on the land's productivity and not market value as estimated by the appellant's appraisal. The Board also finds that improvement #2 is not being used solely for farm use as required by section 1-60 of the Property Tax Code (35 ILCS 200/1-60), and therefore should not receive a preferential farmland assessment. Market value should only apply to the 2,500 square feet of land area or approximately .057 acres surrounding improvement #2, as well as improvement #2 itself. In assigning a residential land and improvement value, the Board has analyzed the evidence submitted by the parties. The Board finds the best evidence was submitted by the board of review in calculating a land value of \$.27 per square foot of non-farmland for the subject, which would correspond to a residential land assessment of \$675, when using 2,500 square feet of residential land. The Board finds the remainder of the subject's land should be returned to the farmland classification of "other farmland", which would increase the subject's farmland assessment to \$862.

As to the subject's improvements, the appellant's appraisers determined a contributory value for the outbuildings of \$5,000 for the buildings under appeal. The appraisers reported that improvement #1 is an older metal pole building and has minimal contributory value due to its present condition. The appraisers report that improvement #2 lacks water and electric service but does have a propane stove and a wood burning stove. The appraisers opined that improvement #2 has very minimal contributory value due to its functional obsolescence. Based on the appraisers' valuation, the Board finds each of the subject's improvements should have a market value of \$2,500 or an assessed value of \$833 each.

Based on this evidence, the Board finds a reduction in the subject's assessment is warranted based on the appellant's appraisal.

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

2020 SYNOPSIS – FARM CHAPTER

APPELLANT:	Richter Farms, Inc.
DOCKET NUMBER:	16-07202.001-F-1
DATE DECIDED:	April, 2020
COUNTY:	St. Clair
RESULT:	Reduction

The subject property consists of a one and one-half story dwelling of frame construction that has 1,800 square feet of living area. The dwelling is approximately 95 years old. The home features a partial basement, central air conditioning, and a two-car detached garage. The subject parcel is also improved with six grain bins and a farm building. The subject property has a 2.86-acre site of which 1 acre is a dedicated home site and 1.86 acres are assessed as farmland and is located in Mascoutah Township, St. Clair County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property, inclusive of the farm buildings. The appraiser developed the sales comparison approach to value in arriving at an opinion of value of \$110,000 as of May 5, 2017. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject property's final equalized assessment of \$43,984. The subject's homesite, residential improvements, and farm buildings have a total assessment of \$43,929, which reflects an estimated market value of \$131,998 when applying St. Clair County's 2016 three-year average median level of assessment of 33.38%. The board of review argued the appellant did not file a complaint with the board of review and the appraisal was for the house only at \$110,000 whereas the subject dwelling and homesite, excluding farmland and farm buildings, reflects an estimated market value of \$98,631. Based on this response, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and no reduction in the subject's assessment is warranted.

The appellant submitted an appraisal estimating the subject property, including the home site and farm buildings, had a market value of \$110,000 as of May 5, 2017. The value conclusion was not refuted by the board of review. The subject's assessment, excluding the farmland assessment, reflects an estimated market value of \$131,998, greater than the appraisal submitted by the appellant. Therefore, the Board finds a reduction in the subject's assessment is supported.

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However, the record indicates that the appellant did not file a complaint with the board of review but appealed the subject's assessment directly to the Property Tax Appeal Board based on notice of an equalization factor. Since the appeal was filed after notification of an equalization factor, the amount of relief that the Property Tax Appeal Board may grant is limited. Section 1910.60(a) of the rules of the Property Tax Appeal Board states in part:

If the taxpayer or owner of property files a petition within 30 days after the postmark date of the written notice of the application of final, adopted township equalization factors, the relief the Property Tax Appeal Board may grant is limited to the amount of the increase caused by the application of the township equalization factor. 86 Ill.Admin.Code §1910.60(a).

Additionally, section 16-180 of the Property Tax Code (35 ILCS 200/16-180) provides in pertinent part:

Where no complaint has been made to the board of review of the county where the property is located and the appeal is based solely on the effect of an equalization factor assigned to all property or to a class of property by the board of review, the Property Tax Appeal Board may not grant a reduction in the assessment greater than the amount that was added as the result of the equalization factor. (35 ILCS 200/16-180).

These provisions mean that when a taxpayer files an appeal directly to the Property Tax Appeal Board after notice of application of an equalization factor, the Board cannot grant an assessment reduction greater than the amount of increase caused by the equalization factor. Villa Retirement Apartments, Inc. v. Property Tax Appeal Board, 302 Ill.App.3d 745, 753 (4th Dist. 1999). Based on a review of the evidence contained in the record, the Property Tax Appeal Board finds a reduction in the assessment of the subject property is supported; however, the reduction is limited to the increase in the assessment caused by the application of the equalization factor.

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APPELLANT:	<u>U.S. Bank A/T/U/T #8331 (Douglas C. Hancock, Beneficiary)</u>
DOCKET NUMBER:	<u>16-04207.001-F-1</u>
DATE DECIDED:	<u>February, 2020</u>
COUNTY:	<u>Kane</u>
RESULT:	<u>Reduction</u>

The subject parcel consists of approximately 3.99 acres which are improved with an 80 square foot shed. The property is located in Wayne, St. Charles Township, Kane County.

The appellant in this appeal contends the entire subject parcel should be assessed under the preferential farmland assessment provisions of the Property Tax Code. The appellant did not contest the 2.03 acres that have been afforded a farmland assessment nor was the appellant contesting the assessment applied to the shed located on the subject parcel. The only dispute raised by the appellant in this appeal concerns the classification of 1.96 acres which were not afforded a preferential farmland assessment and instead were assessed as "extra land, incidental to the adjacent homesite parcel." Based upon the harvesting of seeds for native grasses and forbs/flowers, the appellant argued in his brief that the disputed acreage was entitled to a cropland assessment.

In a detailed brief filed with the appeal, the appellant reported from 2010 through 2013 the subject parcel was cleared of all invasive species such as buckthorn, bush honeysuckle, and multiflora rose. The appellant also removed approximately 500 to 600 soft wood trees, leaving oaks, hickories, walnuts and large sugar maple trees. The brief reported the object of the clearing was to open the canopy and allow enough sunshine to reach the ground to grow grasses, native grasses, forbs and native flowers. The clearing was also required to prepare the parcel for horse pasture. The appellant also reported that two beehives have been maintained on the subject parcel since 2013.

In further support of the farming activity, the appellant reported an additional objective of harvesting seeds from native grasses and forbs. The appellant reported spending in excess of \$3,000 on native seeds. (Group Exhibit A depicting purchases of seeds in 2013 and 2014)

Upon receipt of the 2016 tax year reassessment notice, the appellant was informed the subject parcel was reassessed as a class 0040 Residential Improved Lot. After inquiring with the township assessor, the appellant was advised the farmland assessment was revoked since the parcel was not fenced. The assessor indicated the "lot must be fenced at least 51% of it." Therefore, the appellant subsequently had approximately 53% of the subject parcel fenced. As a consequence, the appellant was issued a revised reassessment notice reducing the assessment from \$47,525 to \$23,418. Upon further inquiry with the township assessor, the appellant was advised the reduction was based upon the percent of the lot which was fenced. The appellant contends in the brief that he was never advised that partial fencing would only result in a partial reduction of the assessment. (Group Exhibit B attached).

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In support of the contention that the subject native seeds are a valuable and marketable crop, the appellant referenced Group Exhibit C purportedly consisting of pages from Prairie Moon Nursery in Winona, Minnesota, depicting retail prices for native seeds. No such exhibit was provided with the appeal.

Based on the foregoing evidence and argument, the appellant seeks to obtain a farmland assessment for the disputed 1.96 acres of the subject parcel which have been assessed as residential land.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject parcel of \$23,418 was disclosed. The subject has a farmland assessment of \$35 for 2.03 acres and the remaining 1.96 acres have a land assessment of \$23,213 which were assessed as "extra land, incidental to the adjacent homesite parcel." The parcel also has an improvement assessment of \$170 for the shed.

In a memorandum prepared by the St. Charles Township Assessor's Office,¹ the assessor noted the subject parcel was purchased by the appellant in 2008 for \$550,000. At the time of purchase, the parcel was improved with a residence. In 2009, the appellant demolished the residence leaving an 80 square foot shed as the only remaining structure on the parcel. The appellant is also the owner of a parcel adjacent to the subject; the adjacent parcel is improved with a residence, a stable, a barn and a shed. The adjacent parcel consists of 5.65 acres of which 4.04 acres have been assessed under the preferential farmland assessment provisions as pasture.

For tax years 2012, 2014 and 2015, the subject parcel was assessed under the preferential farmland assessment provisions of the Property Tax Code. The assessing officials now contend the previous preferential farmland assessment of the subject parcel was erroneous since the property did not meet the guidelines set forth for the Township. For tax year 2016, the assessor revalued the subject parcel "taking into consideration the guidelines used throughout St. Charles Township that property is not considered for pastureland assessment unless it is fenced in for the horses and is at least 51% of the property."

As to the appellant's assertion that in tax year 2016, the subject parcel was used to grow wildflowers, the board of review through the township assessor contended this "is not a harvested crop." The memorandum further stated:

Per the Illinois Department of Revenue at least 51% of the property must be used for farm in order to qualify for a Farmland Assessment.

The memorandum next acknowledged that the appellant installed a fence on 51% of the property in September 2016. Thus, the assessor classified 2.03 acres of land as woodland pasture for tax year 2016.

¹ The memorandum is dated October 18, 2016 and was filed in this matter by both the appellant and by the board of review.

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In further support of this interpretation of the farmland assessment provisions of the Property Tax Code, in the memorandum the assessor cited to Publication 122, Instructions for Farmland Assessment, prepared by the Illinois Department of Revenue (page 3) stating:

A farm homesite is the part of the farm parcel used for residential purposes and includes the lawn and land on which the residence and garage are situated. Areas in gardens, non-commercial orchards, and similar uses of land are also included.

Based on the foregoing argument and evidence, the board of review requested confirmation of the subject's current assessment classifications.

By a letter dated March 15, 2018, the appellant was afforded 30 days to file rebuttal. (86 Ill.Admin.Code §1910.66). On May 8, 2018, the appellant filed a rebuttal brief with a cover letter requesting "this evidence be accepted at this date." No request for an extension of the rebuttal deadline was filed seeking additional time to file rebuttal evidence. On this record, the appellant's rebuttal filing is untimely and shall not be considered on its merits.

Conclusion of Law

The appellant contends the 1.96 acres of the subject parcel have been incorrectly assessed as residential land. The appellant contends, based upon the use of the land for bees, harvesting of seeds for native grasses, native flowers and forbs, the disputed acreage, based upon its present use, should properly be classified as farmland under the Property Tax Code.

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.]

In order to qualify for an agriculture assessment, the parcel must be farmed at least two years preceding the date of assessment (35 ILCS 200/10-110). Based on the appellant's unrefuted submissions, the Property Tax Appeal Board finds credible evidence that the property has been used for agriculture purposes for at least two years prior to January 1, 2016.

Here, the primary issue is whether the disputed acreage of the subject parcel is used primarily for agricultural purposes as required by Section 1-60 of the Property Tax Code. In Senachwine Club v. Putnam County Board of Review, 362 Ill. App. 3d 566 (3rd Dist. 2005), the court stated that a parcel of land may be classified as farmland provided that those portions of the property so classified are used solely for agricultural purposes, even if the farm is part of a parcel that has other uses. *Citing* Kankakee County Board of Review, 305 Ill. App. 3d 799 at 802 (3rd Dist. 1999).

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The appellant's evidence, without any contradictory evidence from the board of review, shows that the disputed 1.96 acres of the subject parcel has been consistently used for cropland for the two years preceding the assessment date. Evidence on this record indicated that two beehives have been maintained on the subject parcel since 2013. Additionally, the appellant expended more than \$3,000 on native seeds and has since grown grasses, native grasses, forbs and native flowers on the parcel. Based on this record, the Board finds that the appellant established deliberate and ongoing farming activity was being performed in the disputed area.

The Property Tax Appeal Board gives little weight to the board of review/township assessor's contention that the subject parcel should be assessed as additional "lawn" or land acreage to the appellant's adjacent parcel which contains his dwelling and other improvements. In Santa Fe Land Improvement Co. v. Property Tax Appeal Board, 113 Ill.App.3d 872 (3rd Dist. 1983), the court held "it is the use of real property which determines whether it is to be assessed at an agricultural valuation" and that "the present use of land determines whether it receives an agricultural or nonagricultural valuation." The Board finds the "present use" controls the classification of farmland under the Property Tax Code and has been codified several times under Illinois case law. See Oakridge Development Co. v. Property Tax Appeal Board, 405 Ill.App.3d 1011 (2nd Dist. 2010); Senachwine Club v. Putnam County Board of Review, 362 Ill.App.3d 556, 568 (2005); Bond County Board of Review v. Property Tax Appeal Board, 343 Ill.App.3d 289, 292 (5th Dist. 2003); Kankakee County Board of Review v. Illinois Property Tax Appeal Board, 305 Ill.App.3d 799 (3rd Dist. 1999); Du Page Bank & Trust Co. v. Property Tax Appeal Board, 151 Ill.App.3d 624, 627 (2nd Dist. 1986). The Property Tax Appeal Board further finds no support in the Property Tax Code for the board of review/township assessor's determination to treat the subject parcel and the appellant's adjacent residential parcel as 'combined' or 'related' for purposes of assessment. The Property Tax Appeal Board finds the actual use of land is the determining factor in its correct classification and assessment. Property that is used solely for the growing and harvesting of crops/horticulture or the raising of bees is properly classified as farmland, even if the farmland is part of a parcel that has other uses. Santa Fe Land Improvement Co. v. Illinois Property Tax Appeal Board, 113 Ill.App.3d at 872 (3rd Dist. 1983).

Based on the evidence presented, the subject disputed acreage of 1.96 acres is entitled to a farmland classification as cropland. Therefore, the Property Tax Appeal Board finds the entire 2.99 acres of the subject parcel are entitled to appropriate farmland classification(s). See also McLean County Board of Review v. Property Tax Appeal Board, 286 Ill.App.3d 1076 (4th Dist. 1997).

In conclusion, the Property Tax Appeal Board finds the board of review's assessment of the disputed 1.96 acres of the subject parcel is incorrect and a reduction is warranted. The Board hereby **ORDERS** the Kane County Board of Review to compute a farmland assessment for the disputed 1.96 acres of the subject parcel in accordance with this decision along with the existing farmland assessment of the remaining 2.03 acres of the subject parcel. The board of review is to submit the revised assessment(s) reflecting appropriate farmland assessments for both the 2.03 acres and the 1.96 acres of this parcel to the Springfield Office of the Property Tax Appeal Board **within 30 days from the date of this decision.**

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APPELLANT:	David Warren
DOCKET NUMBER:	15-01512.001-F-1
DATE DECIDED:	September, 2020
COUNTY:	Montgomery
RESULT:	No Change

The subject property consists of a vacant farmland parcel of 80 acres that is comprised of 52.65 acres cropland, 26.74 acres other farmland and .61 acres of roadway. The subject property is located in rural Ramsey, Audubon Township, Montgomery County.

David Warren appeared before the Property Tax Appeal Board contesting the farmland assessment productivity as the basis of the appeal.¹ In support of this appeal, the appellant submitted his farmland valuation card, property assessment notice that disclosed the amount of increase being 45.60%, parcel information report from 2006 to 2015, map, soil survey map, certified values for assessment year 2014 and 2015, soil map and legend and actual production history. Warren argued that the farmland assessment increased from tax year 2014 to tax year 2015 by 45.60%. Warren stated that pursuant to the farmland assessment law the assessment could only be increased up to 10%. Warren testified that he thought it was improper to raise the median cropped productivity index (PI) soil to 111 when his farmland PI was 92.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment \$2,810 was disclosed. Representing the board of review was the Chief County Assessment Officer and Clerk of the Board of Review, Ray Durston.

In support of the subject's farmland assessment the board of review submitted the 2015 Farmland Valuation Card, a Parcel Information Report, land use and aerial maps of the parcel, a listing of the Certified Values from the Department of Revenue and a copy of the farm appeal. Durston testified that the statute had changed for 2015. Durston testified that after receiving the Certified Values for Assessment Year 2015, which is based on a dollar amount per acre, \$15.33 had to be applied to each PI for the assessed valuation per acre for the 2015 assessment year.

Under cross-examination, Durston testified that the County applied the 2015 Certified Values from the Department of Revenue to the farmland productivity indexes to arrive at the 2015 assessments for farmland.

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 the appeal. The Board finds the evidence and testimony in this record indicate that the 2015 farmland values were correct based on the application of the Certified Values for Assessment Year 2015 from the Illinois Department of Revenue. The Board finds that the 2015 certified values were based on a change to the Property Tax Code for the tax year 2015. Section 10-115(e) of the Property Tax Code (35 ILCS 200/10-115(e)) provides:

¹ The appellant is also arguing contention of law.

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the equalized assessed value per acre of farmland for each soil productivity index, which shall be 33-1/3% of the agricultural economic value, or the percentage as provided under Section 17-5; but any increase or decrease in the equalized assessed value per acre by soil productivity index shall not exceed 10% from the immediate preceding year's soil productivity index certified assessed value of the **median cropped soil**; in tax year 2015 only, that 10% limitation shall be reduced by \$5 per acre.

The Board finds that based on the evidence and testimony, the Certified Values for Assessment Year 2015 were applied correctly based on the Property Tax Code and a reduction of the farmland assessment is not warranted.

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APPELLANT:	Vanessa Wendt, Sea Change LLC
DOCKET NUMBER:	17-06307.001-R-1
DATE DECIDED:	September, 2020
COUNTY:	Lake
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 residential (homestead) farm property valuation issues.)

The subject property consists of an improved farmland parcel containing approximately 217,377 square feet or 4.99-acres of land area.¹ The subject property consists of a one-story dwelling of wood siding exterior construction with 3,048 square feet of building area. The dwelling was constructed in 1988 and features a full unfinished basement, central air conditioning, a fireplace, and a 550 square foot garage. In addition, the property is improved with three outbuildings/farm buildings which consist of a 2,880 square foot pole building, a 2,592 square foot pole building, and a 13,248 square foot arena. The property is located in Zion, Newport Township, Lake County.

The appellant contends assessment inequity with respect to the improvement as the basis of the appeal. In support of this argument the appellant submitted information on 11 equity comparables located in the same neighborhood code as the subject as assigned by the assessor and from .41 of a mile to 1.98 miles from the subject property. The comparables consist of one-story dwellings ranging in size from 1,705 to 2,683 square feet of living area that were built from 1978 to 1993. Each home has a basement. The comparables have improvement assessments ranging from \$56,704 to \$87,445 or from \$32.03 to \$38.91 per square foot of living area. Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$145,209. The subject property has a farm residence improvement assessment of \$72,647 or \$33.94 per square foot of living area and an outbuilding/farm building improvement assessment of \$61,501 which consists of the values allocated to the two pole buildings and arena.

In support of its contention of the correct assessment the board of review submitted a grid analysis and property record cards for four improved farmland equity comparables located in the same neighborhood code as the subject as assigned by the assessor and from 1.704 to 3.675 miles from the subject property. Comparables #1 and #2 are the same properties as the appellant's comparables #8 and #9, respectively. The comparables are improved with one-story dwellings of

¹ The appellant's grid analysis provided limited descriptive information of the subject property. The Board finds the best evidence of the subject's description is located in the property record card submitted by the board of review which described the property as partially agricultural and had schematic diagrams of the dwelling and ancillary buildings located on the subject property, along with measurements and calculations of their respective sizes, which were unrefuted by the appellant.

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brick or wood siding exterior construction ranging in size from 1,705 to 2,350 square feet of living area. The dwellings were constructed from 1983 to 1993. Each comparable has an unfinished basement, central air conditioning, a fireplace, and a garage ranging in size from 576 to 775 square feet of building area. The farm residence improvement assessments range from \$55,778 to \$81,502 or from \$32.71 to \$34.68 per square foot of living area. In addition, each comparable has ancillary buildings which consist of a pole building or a flat barn ranging in size from 1,584 to 5,040 square feet of building area. Comparable #1 also has a 448 square foot lean-to. Three comparables have outbuilding/farm building assessments that range from \$2,530 to \$25,554. Based on this evidence, the board of review requested that the subject's assessment be sustained.

Conclusion of Law

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

The record contains 13 assessment comparables for the Board's consideration, with two comparables being common to both parties. The Board gives the analysis presented by the appellant less weight as the appellant failed to provide descriptive information on all of the buildings situated on the subject site and did not segregate the improvement assessment attributed to each building. Furthermore, the Board finds the appellant's evidence did not contain information about the dwellings' features or amenities, other than size and basement area, which would assist the Property Tax Appeal Board in conducting a meaningful analysis to determine their comparability or similarity to the property under appeal. In order for the Board to properly evaluate the comparables, it is necessary to have the salient characteristics associated with the dwellings so as to be able to determine the degree of comparability and possible adjustments needed to the properties to make them more equivalent to the subject property. Conversely, the board of review's analysis included salient facts about the comparables, including a copy of the property record card for each comparable, which adds credibility to its evidence.

The Board finds the best evidence of assessment equity to be the comparables submitted by the board of review. These four comparables have farm residences that are similar to the subject in dwelling size, design, age and features. The comparables have farm residence improvement assessments ranging from \$55,778 to \$81,502 or from \$32.71 to \$34.68 per square foot of living area. The subject has a farm residence improvement assessment of \$72,647 or \$33.94 per square foot of living area, which falls within the range established by the most similar assessment comparables in the record. As to the subject's outbuilding/farm building improvement assessment of \$61,501, the Board finds the assessment appears to be supported given the subject is superior to the comparables in that it has two pole buildings and a 13,248-square foot arena. After considering any necessary adjustments to the comparables for differences when compared to the subject, the Board finds the evidence demonstrates the subject's farm residence and farm building improvement assessments are justified. Based on this record the Board finds the appellant did not

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demonstrate with clear and convincing evidence that the subject was inequitably assessed and no reduction in the subject's assessment is warranted.

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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)
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APPELLANT:	AKER Realty Corp.
DOCKET NUMBER:	15-00021.001-C-1
DATE DECIDED:	August, 2020
COUNTY:	Coles
RESULT:	No Change

The subject property consists of a two-story building (condominium clubhouse) of frame construction with vinyl siding and brick veneer exterior construction containing 8,992 square feet of building area. The subject was constructed in 2007 on a concrete slab foundation. Features include various office spaces/treatment rooms, a reception area, an apartment, common area restrooms, central air conditioning and a sauna. The property is situated on a 0.94-acre lot in the Park Hills PUD phase one development and is located in Charleston, Charleston Township, Coles County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$177,000 as of May 6, 2008. The appraiser, Stanley D. Gordon, an Illinois Certified General Real Estate Appraiser, developed the income approach to value. Gordon described the subject downstairs area containing 22,656 square feet of building area featuring four treatment rooms, an x-ray room and reception area for the clubhouse building with the upstairs containing an apartment featuring 3,656 square feet of living area. The subject was appraised in fee simple ownership.

The appraisal report incorrectly describes the subject as a one-story building (Appraisal, page 23). In developing the income approach, the appraisal depicts 14 rental properties located in Mattoon or Charleston, Illinois with rentable area ranging from 1,760 to 12,818 square feet with rents ranging from \$8.57 to \$16.15 per square foot of building area. The appraisal incorrectly states the range of rent was from \$8.57 to \$15.00 per square foot per year for office area. The appraisal indicates the median rental is \$11.48 per square foot per year, however, since the subject rental is not in a commercial development, and the upstairs is rented as an apartment that is less rent per square foot, the appraiser estimated the fair market rent of the subject at \$4.66 per square foot per year or potential annual gross income of \$29,400, rounded.

Vacancy was estimated to be 10% or \$2,940 per year with fixed expenses estimated to be \$5,000 (real estate taxes) and \$2,000 (insurance) for a total fixed expense estimate of \$7,000 per year. Operating expense for maintenance and repairs were estimated to be 5% of effective gross income or \$1,325 per year with management fees of 7.5% of effective gross income or \$2,000 and replacement reserves of \$167.00 per year. Total annual expenses were estimated to be \$10,492 with annual net operating income depicted at \$15,968.

An overall capitalization rate derived from the mortgage equity premise was estimated to be 9%. Dividing the net operating income by the overall capitalization rate indicated a value by the income approach of \$177,000. (Appraisal, page 44). The income approach was the only approach evaluated in the final reconciliation of value due to the remainder of the clubhouse being used by the condominium owners and tenants. The Homeowner Association fees pay for all the expenses

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for the remainder of the clubhouse space. Based on the appraisal, the appellant requested a reduction in the subject's assessment commensurate with the estimated value of \$177,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$116,330. The subject's assessment reflects a market value of \$355,315 or \$39.51 per square foot of building area, land included, when using the 2015 three-year average median level of assessment for Coles County of 32.74% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted information on five comparable sales. The comparables were located in Charleston or Mattoon, Illinois within 8.7 miles of the subject. The comparables were situated on lots of various sizes up to 4.51-acres. The comparables were either two-story, one-story or part one-story and part two-story buildings with two comparables featuring basements. The comparables were constructed of brick, frame, masonry or frame and brick and were built from 1974 to 1993. The structures ranged in size from 5,026 to 17,278 square feet of building area and featured central air-conditioning. One comparable has a service garage containing 980 square feet of building area. The comparables sold from April 2012 to September 2016 for prices ranging from \$245,000 to \$1,850,000 or from \$14.18 to \$191.83 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

Initially, the Board finds the final value conclusion found in the appraisal report is not credible nor a reliable indicator of value for the subject as of January 1, 2015. The appraisal report is dated (over six years prior to the assessment date in question), is replete with errors along with estimates that are not well supported in the report. Therefore, the Board gives the final value conclusion little weight in its analysis.

The Board finds the best evidence of market value to be board of review comparable sales #1 and #4. These board of review comparable sales sold for prices of \$300,000 and \$590,000 or for \$54.05 and \$99.16, respectively, per square foot of building area. The remaining comparables were given less weight based on their dissimilar size and/or the date of sale was too remote for a January 1, 2015 assessment date. The subject's assessment reflects a market value of \$355,315 or \$39.51 per square foot of building area, which is below the best comparable sales in this record. Based on this evidence the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	Blaw Knox Credit Union
DOCKET NUMBER:	16-05083.001-C-1
DATE DECIDED:	August, 2020
COUNTY:	Coles
RESULT:	Reduction

The subject property consists of a one-story commercial bank facility of brick construction with 2,612 square feet of above-grade building area. The subject was constructed in approximately 1970 with modifications in 1998. Features of the subject include a full finished basement situated on an approximately 8,634 square foot site in Mattoon, Mattoon Township, Coles County.

The appellant, through counsel, appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal (Appellant's Exhibit 1) estimating the subject property had a market value of \$205,000 as of January 1, 2016. The appraisal was prepared by Eric B. Romager, an Associate Real Estate Appraiser Trainee and Barry W. Taft, MBA, MAI, a State Certified General Real Estate Appraiser.

Romager was called as a witness. Romager testified he has been on contract with Taft Appraisals Inc. since February 2000 and is licensed with the State of Illinois as an appraiser. Romager stated they visited the subject property in preparation of the appraisal, gathered neighborhood data and spoke with various property owners.

Romager described the subject as being in phase 2 of a TIF District. Romager described the subject's neighborhood as generally containing older properties with a mix of commercial and residential properties along with some retail offices.

Rents for the subject's area were described as being typical based on conversations with owners, agents and brokers. Rents were described as "take what you could get" for individual properties. Rents ranged from \$6.00 to \$15.00 per square foot of building area on a triple-net-basis. The subject's immediate area was described as not being in a high demand location. Romager described the subject as being near a major artery but lacked visibility with relatively small parking available (12 spaces total). Romager described the subject as being much smaller than typical financial institutions, He stated the subject does not have a vault nor a drive-up facility. He stated the subject would not be able to build a drive-up facility as it is currently situated. Romager described the subject as having a passageway to an adjacent police department building. The passageway has been sealed on both levels of the subject and is used as storage area. The subject's basement is finished and is used for storage only because there is only stairway access with no elevator access and no windows. Romager stated the current above grade building area was built over the foundation of an older building which was demolished. The subject has a toilet, sink and shower located in the basement. Romager then detailed a crack in the basement wall foundation along with floor covering damage being apparent.

He stated the appraisal was prepared in accordance with USPAP and testified that within the last 12-24 months the commercial market for the subject's area has remained flat. He stated they

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considered a cost approach to value for the subject; however, it was not utilized because the type and age of the subject property made it difficult to determine depreciation and also there was a lack of land sales. In addition, investors would not generally consider the cost approach for the subject property.

Romager testified they did develop an income approach to value. Highest and best use of the subject as vacant would be to leave the land vacant until such time that the level of rents could be obtained to support the cost of new construction with demand being sufficient enough as indicated by the market. Highest and best use as improved is for commercial office use.

The subject was described as being situated in an older section of Mattoon, in average condition with some items of deferred maintenance. Romager stated that although the subject has a full finished basement, that according to local brokers, there is not a significant, or notable market for basement office space in Mattoon. Furthermore, there is no direct access between the basement and the exterior of the building, thereby reducing the probability of renting the basement space separately from the first floor. Rather, the basement is seen as an amenity of the subject property. Romager testified that the parking space limitations reduces the functionality of the building as zoning regulations required one parking space for every three persons.

In developing the income approach to value, the appraisers estimated the subject's market rents to be \$11.00 per square foot of building area, which was applied to the subject's first-floor area (2,612 square feet). Reimbursable expenses of property insurance, real estate taxes, repairs and maintenance were added to the potential gross income ($\$11.00 \times 2,612 = \$28,732$) to arrive at total potential gross income of \$38,702 or \$14.82 per square foot of building area. Vacancy and collection losses of 12% (\$4,644) was deducted which indicated effective gross income of \$34,058. Total operating expenses for management fees, accounting and legal fees, miscellaneous fees and reserves were subtracted to arrive at a total net operating income of \$19,097 or \$7.31 per square foot of building area.

In developing the overall capitalization rate, the band of investments technique was utilized. The appraisers considered the *Fourth Quarter 2015 PwC Real Estate Investor Survey*, and the *February 2016 Appraiser News Online* along with the *Fourth Quarter, 2015, Price Waterhouse Coopers Real Estate Investor Survey*. Conversations with real estate brokers and lending officers yielded rates ranging from 6.00% to 6.75%. *RealtyRates.com Investor Survey – 1st Quarter 2016* indicated a rate of 9.09% for office properties. The subject was described as being located in a location that is not in high demand resulting in additional risk. Therefore, a rate of 10.15% was used. Applying the 10.15% overall capitalization rate to the subject's net operating income indicated a retrospective fair cash value for the subject of \$188,148 or \$190,000, rounded, as of January 1, 2016.

The appraisers next developed the sales comparison approach to value for the subject using sales of similar utility. The appraisers analyzed six sales located in Mattoon, Charleston and Taylorville Illinois. The comparables ranged in size from 1,680 to 5,100 square feet of building area and ranged in age from 7 to 42 years old. One comparable had a partial finished basement. The comparables had land-to-building ratios ranging from 3.12:1 to 8.97:1. The comparables sold from February 2014 to November 2016 for prices ranging from \$107,500 to \$350,000 or from \$58.06 to \$120.39 per square foot of building area.

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Comparable #1, of similar utility to the subject, was considered superior to the subject. Comparable #2 was used for retail purposes and was considered inferior to the subject. Comparable #3, a leased fee property, was also considered inferior to the subject based on its location along a less traveled roadway. Romager explained the lease was not a part of the sale transaction. Sale #4, also a leased fee sale, was considered superior to the subject based on age and land-to-building ratio and inferior as to all other characteristics. Improved sale #5, a former bank, was converted to a multi-tenant building and required a positive net adjustment. Comparable #6 required a negative net adjustment due to its quality, extra partitioning, design and plumbing fixtures for medical office supplies. The appraisers made qualitative adjustments to the comparables for location, size, age, basement area, land-to-building ratio, condition, quality, marketability, functional utility and appeal to arrive at an estimated value for the subject at \$80.00 per square foot of building area, or \$208,960 or \$210,000, rounded.

Romager, testified they followed USPAP guidelines in making the various adjustments. He then reiterated that the subject's basement has no rental value but is a minor amenity which added value.

In reconciliation, the appraisers afforded more weight to the sales comparison approach to value because the sales used for comparison were considered to be representative of the current market for commercial office properties. Romager testified that they were able to estimate the subject's fair market value with a reasonable degree of professional appraisal grade certainty.

Romager reiterated the subject does not have ADA access with no access to the basement, other than the stairs. He found no rental value for the basement, but, only as a value to the subject property as an amenity. Romager testified that Taft reviewed the appraisal report wherein necessary changes were made. He stated that from 2008 to 2016 the commercial real estate market was flat with decreasing rental rates based on his interviews with real estate brokers. He considered Charleston and Mattoon to be similar markets. He found the subject was limited in appeal because of its small lobby area and limited parking. Romager testified that his overall capitalization rate was higher than the surveys indicated based on his conversations with local brokers and the local market being a secondary market whereas the surveys utilized larger markets.

Barry Taft was next called as a witness. He is self-employed as Taft Appraisals Inc. He testified that he reviewed and assisted in preparation of the appraisal. Taft stated that sale #3 and #5 were adjusted based on a sale price per square foot using economies of scale. The record depicts sale #3 was approximately 1,000 square foot smaller and sale #5 was approximately twice the size of the subject.

Based on this evidence, the appellant requested a reduction in the subject's assessment commensurate with the estimated value found in the appraisal report.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$112,168. The subject's assessment reflects a market value of \$337,855 or \$129.35 per square foot of above grade building area, land included, when using the 2016 three-year average median level of assessment for Coles County of 33.20% as determined by the Illinois Department of Revenue.

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In support of its contention of the correct assessment the board of review submitted information on five comparable office sales. The report was prepared by Robert B. Becker who was called as a witness. Becker testified that comparable sale #2 had a basement similar to the subject. Becker stated that comparable #2 was inferior to the subject and sold for \$99.16 per square foot of building area in February 2014. Becker is a licensed appraiser in the State of Illinois; however, he was not testifying as an appraiser. He only assisted in the gathering of data. Becker stated he did appraise three of the five comparable sales at one time in his career, however, he could not recall the dates. Becker has the MAI and SRA designations from the Appraisal Institute. Becker issued a rebuttal to the Taft appraisal (Appellant's Exhibit 1) outside of his appraisal license, but within his capacity as a deputy assessor. Becker found that Romager under-estimated the subject property by 100%. Becker further found that the appellant's appraisers did not account for the basement being included in the total square footage. Becker agreed that his report does not apportion a value to the subject property, but, felt that his conclusion that the board of review's estimated assessment of \$112,168 was appropriate. He stated that comparable sale #2 was similar to the subject in that it was an office building in average condition and quality. He did not visit each comparable for this appeal. His report was based on data gathered from the township assessor. The report depicts five sales which sold from December 2011 to December 2016 for prices Ranging from \$132,500 to \$590,000 or from \$50.35 to \$99.92 per square foot of building area. Becker testified that he was called in to basically fill in the rest of the report for the appeal.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant. The subject's assessment reflects a market value of \$337,855 or \$129.35 per square foot of above grade building area, land included, which is above the appraised value. The Board finds the appraisers made logical adjustments to the comparables and supported their adjustments and estimates within the appraisal report and through the credible testimony herein.

The Board further agrees that the basement of the subject property offers little to no rental value to the subject and is properly treated as an amenity of the subject for storage. The Board finds the subject property has a unique layout given its adjacent closed corridors, lack of a vault, lack of a drive through and lack of public access to the basement. The testimony herein reveals updates to the subject property for access to the basement and parking are needed to bring the property up to date to be compared to other financial institutions or for use as an office space. The record disclosed the subject property was purchased in 2008 by the appellant for \$280,000, however, the testimony from Romager was that the commercial market was flat with declining rents. The Board further finds the appraisers used due diligence in accurately reflecting the unique value afforded the subject based on its inherent characteristics. The Board gave less weight to the board of review's report of unadjusted sales as only one property was truly similar to the subject and was

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reported without adjustments thereto. The Board finds the board of review's report was not well supported at the hearing and does not account for the unique layout or characteristics of the subject.

Therefore, the Board finds the subject property had a market value of \$210,000 (value indicated by the sales comparison approach) as of the assessment date at issue. Since market value has been established, the 2016 three-year average median level of assessments for Coles County of 33.20% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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APPELLANT:	<u>Jeffery Copeland</u>
DOCKET NUMBER:	<u>17-02094.001-C-1</u>
DATE DECIDED:	<u>June, 2020</u>
COUNTY:	<u>Lake</u>
RESULT:	<u>Reduction</u>

The subject property consists of a two-story four-unit office/medical building of brick exterior construction with 5,758 square feet of building area that was constructed in 2007. The property has a 34,730, square foot site and is located in Hawthorn Woods, Ela Township, Lake County.

The appellant's appeal is based on overvaluation. In support of this argument, the appellant provided a brief of counsel and supporting documentation but failed to complete Section IV – Recent Sale Data of the Commercial Appeal petition. The brief argued that the subject property was purchased on December 14, 2016 for \$790,000. Attached closing documents related to the sale included a copy of the Settlement Statement reiterating the sale date and the sale price. The buyer was reported as the appellant, Jeffrey Copeland, and the seller was listed as HWDM Building, LLC. A copy of the PTAX-203 Illinois Real Estate Transfer Declaration also reiterated the sale date and sale price noting the transfer occurred via Warranty Deed and the property was advertised prior to the sale transaction; the seller and buyer address information on the PTAX-203 are both identical being the subject property's address. A Lake County printout concerning the subject property was provided depicting the sale price, sale date and that it was denoted as "qualified" and a CoStar printout reiterated the sale date and price.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$290,008. The subject's assessment reflects a market value of \$874,836 or \$185.82 per square foot of building area, land included, when using the 2017 three year average median level of assessment for Lake County of 33.15% as determined by the Illinois Department of Revenue.

In a responsive letter to the appeal, the board of review asserted the subject property was a sale between related individuals and was not therefore a typical arm's length transaction. In support of this contention, the board of review noted that the Settlement Statement did not depict the distribution of any broker's fees related to the transaction. Furthermore, the board of review argued that while the PTAX-203 was marked the property had been advertised, there was no copy of a listing or advertisement provided nor discovered by the assessing officials; "CoStar reports that the sale was between individuals and offers no validation of any marketing activity." As to the Lake County printout denoting the subject's sale as "qualified," the board of review contends "the Assessment website is not warranted as being correct – a disclaimer encourages parties using the data to contact the township assessor to obtain the correct property record cards and characteristics."

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In further support of the argument concerning the relationship between the parties, the board of review provided a single page of the subject's property record card which the assessor noted that "the 2016 purchase is unqualified related party/internal business transaction." (See notes, lower left corner of landscape document) The assessor's notes further state:

Dr. Edgar is one of the 3 dentists within the practice who made this purchase. All 3 original dentists still remain in the practice. No one has left.

(Subject property record card, page 1) A copy of the Warranty Deed depicts the sale from HWDM Building LLC and signed by Gail Edgar, Manager/Member. The board of review supplied a printout from the Illinois Secretary of State depicting Gail Edgar as one of the Managers of HWDM Building, LLC which was voluntarily dissolved as of December 28, 2016. To further depict the relationship, the board of review submitted a Quit Claim Deed for the subject property recorded in November 2006 granting the property from John C. Edgar and Gail A. Edgar to HWDM Building, LLC where the listed addresses of the Grantees and the Taxpayers were identical.

The board of review submitted twelve pages of printouts from Hawthorn Woods Family Dental Care depicting the appellant as one of the dental practitioners and that John C. Edgar retired from the dental practice in October 2017. A CoStar printout related to the sale transaction depicts the sale as individual to individual.

Based on the foregoing argument and evidence disputing the purported arm's-length nature of the subject's sale transaction, the board of review requested that no change be made in the subject's estimated market value as reflected by its assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant contends the subject's assessment should be reduced based on the unrefuted sale evidence disclosing that the subject sold in December 2016 for a price of \$790,000. The information provided by the appellant indicated the sale had several of the elements of an arm's-length transaction and the sale occurred only a month before the assessment date at issue of January 1, 2017. The board of review's responsive evidence contested the arm's-length nature of the sale of the subject property as it was sold by HWDM Building LLC, an entity managed by Gail Edgar, the wife of John Edgar, a dentist within the Hawthorn Woods Family Dental Care practice, where the appellant Jeffrey Copeland is also a practicing dentist. The Lake County Board of Review presented no substantive evidence to support any implication that the sale was under duress or in some manner a compulsory sale due to the sale by HWDM Building LLC. Moreover, and more importantly, the Lake County Board of Review provided no market value evidence to otherwise support the subject's estimated market value as reflected by its assessment of \$874,836.

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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 Illinois Supreme Court 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 so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Our supreme court has at least indicated that a sale of property during the tax year in question is a "relevant factor" in considering the validity of an assessment. [citations omitted]. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

The Property Tax Appeal Board finds the best evidence of the subject's fair market value in the record is the December 2016 sale for \$790,000 despite the issues raised by the board of review concerning the transaction. The Property Tax Appeal Board finds there is little substantive evidence that the sale was a transfer between related parties. The PTAX-203 indicated that the property was advertised for sale. Furthermore, and most critically, the Property Tax Appeal Board finds there is no evidence in the record that the sale price was not reflective of the subject's market value as of the sale date. Most notably, the Lake County Board of Review wholly failed to provide any substantive market value evidence to support the estimated market value of the subject property of \$874,836 as of January 1, 2017. It has also been held there is no presumption of correctness accorded to an original assessment or that of a board of review (Western Illinois Power Cooperative, Inc. v. Property Tax Appeal Board, (1975), 29 Ill. App. 3d 16, 22). A taxpayer seeking review before the Property Tax Appeal Board from a decision of the board of review does not have the burden of overcoming any presumption that the assessed value was correct. Mead v. Board of Review of McHenry County, 143 Ill.App.3d 1088, 1094 (2nd Dist. 1986). Having examined the entire submission, the Board further finds that the board of review did not adequately contest the arm's-length nature of the subject's sale. Thus, based on the foregoing facts, the Property Tax Appeal Board finds the subject's December 2016 sale price of \$790,000 was reflective of market value.

As the subject's assessment reflects an estimated market value of \$874,836, which is higher than its December 2016 sale price and in the absence of any other market value evidence, the Board finds that a reduction is warranted. Based on the foregoing evidence, a reduction in the subject's assessment commensurate with the appellant's request is warranted.

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APPELLANT:	Neil Dahlmann
DOCKET NUMBER:	16-02495.001-C-1
DATE DECIDED:	February, 2020
COUNTY:	Lake
RESULT:	Reduction

The subject property consists of a first-floor office condominium unit in a three-story masonry-constructed office/residential building containing 2,933 square feet of building area. The building was constructed in 1949 with a renovation done in 1989. The subject unit has central air conditioning and is serviced by municipal water and sewer. The property is located in Highland Park, Moraine Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal report of the subject property prepared by Martin S. Siegel, MAI, of S. Siegel & Associates, Ltd. The purpose of the appraisal was to estimate the fair cash value of the subject property as of January 1, 2016 as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). The intended use of the appraisal is for the sole purpose of assisting the client in connection with the estimate of market value of the subject property in order to arrive at an equitable assessed valuation for purposes of real estate taxation. The interest valued is the fee simple estate. The final conclusion was that the subject property had a market value of \$265,000 or \$90.35 per square foot of building area, including land, as of January 1, 2016.

Siegel determined the highest and best use of the property as improved was continued use as commercial office space. In estimating the market value of the subject property, the income capitalization approach and the sales comparison approach were developed.

Under the income capitalization approach, Siegel first estimated the market rental rate for the subject property. In doing this, Siegel reviewed rental information and leases of office spaces of three rental properties located in Deerfield and Highland Park which were considered to be in the subject's general market area. The rental comparables ranged in size from 1,231 to 3,352 square feet of building area and rented from \$16.11 to \$21.00 per square foot of building area on a net basis. After adjusting for size, condition and location, Siegel estimated the subject's market rent to be \$18.00 per square foot on a net basis resulting in a potential gross income of \$52,794. Siegel estimated the subject's vacancy and collection loss at 10% of potential gross income or \$5,279, resulting in an effective gross income of \$47,515. The appraiser then deducted the estimated expenses for common area maintenance (\$16,865), management fees (\$950) and insurance (\$440) totaling \$18,255 from the effective gross income to arrive at an estimated net operating income of \$29,260.

The next step in the income approach was to estimate the capitalization rate. The band of investment method and published sources were used to estimate an overall base capitalization rate of 8.0%, rounded. Siegel took into consideration the subject's location which in his opinion would not be attractive to smaller investment groups and would be far too small in size to attract institutional investors even as part of a larger portfolio. Therefore, the most likely buyer in Siegel's

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opinion would be an owner-user. Because the real estate taxes were not included in the stabilized estimate of expenses listed above, a load factor of 2.56% was added to the base capitalization rate to arrive at a loaded capitalization rate of 10.65%. Capitalizing the net operating income of \$29,260 by dividing it by the loaded capitalization rate of 10.65% resulted in an estimated market value under the income capitalization approach of \$275,000, rounded, or \$93.76 per square foot of building area, including land.

The second approach developed was the sales comparison approach to value. Three comparable sales and one listing were used by the appraiser in this approach. The comparables were located in Chicago, Libertyville and Glenview. The comparable sales ranged in size from 1,180 to 2,500 square feet of building area and were constructed from 1942 to 1997, with one comparable having renovations made in 2004. The listing comparable contained 4,190 square feet of building area and was constructed in 2006. The sale comparables sold from January 2015 to January 2016 for prices ranging from \$105,000 to \$272,500 or from \$88.98 to \$109.00 per square foot of building area, including land. The listing comparable had a listing price of \$450,000 or \$107.40 per square foot of building area, including land. The appraiser then made adjustments to the comparables for size, location, age and physical condition. Siegel estimated the subject property had a market value under the sales comparison approach of \$265,000, rounded, or \$90.00 per square foot of building area, including land, as of January 1, 2016.

In reconciling the two approaches to value, less weight was given to the income approach as office condominiums like the subject are typically purchased for owner-occupancy and rarely purchased by investors for their income producing capability. Therefore, the sales comparison approach was given primary weight in arriving at the final market value conclusion of \$265,000 as of January 1, 2016.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$123,911. The subject's assessment reflects a market value of \$373,676 or \$127.40 per square foot of living area, land included, when using the 2016 three-year average median level of assessment for Lake County of 33.16% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted information on four comparable sales located in Glenview, Vernon Hills and Libertyville. The comparables consisted of single-unit office condominiums ranging in size from 2,380 to 3,100 square feet of building area. The buildings were constructed from 1999 to 2007. The comparables sold from April 2015 to January 2017¹ for prices ranging from \$430,000 to \$675,000 or from \$140.32 to \$238.10 per square foot of building area, including land. The board of review also submitted Multiple Listing Service (MLS) sheets for two listing comparables and three lease comparables, along with appellant's comparables. The board of review also submitted a narrative report critiquing the appraiser's income approach to value. The board of review also critiqued the comparables contained in the appellant's appraisal report and called into question the credibility

¹ The board of review's grid analysis contains sale data for comparables #1 and #4 which differs from the data contained on the MLS sheets provided by the board of review. The Property Tax Appeal Board will use the data contained in the MLS for purpose of analysis.

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and reasonableness of the appraiser's value conclusion. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant submitted a narrative brief arguing that the board of review's comparables consist of Class A properties which are superior to the subject's Class C designation. The appellant submitted a definition of the three classes of office buildings describing Class A office spaces as being of "highest quality" and Class C described as being of "poorest quality". The appellant argued that, unlike the board of review, the appraiser used comparables which are of the same class properties as the subject. The appellant noted that the differences in the class designations affected both market value and income approach to value and, therefore, the board of review comparables are inaccurate and unreliable. The appellant also submitted photographs depicting the comparables submitted by both parties.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the appraisal submitted by the appellant estimating the subject property had a market value of \$265,000 or \$90.00 per square foot of building area, including land, as of January 1, 2016.

The appraisal contained two approaches to value to support the market value conclusion. With respect to the income approach, the appraisal report included rental comparables to support the market rental rate. The appraisal also included a detailed analysis of the comparable rental data, costs/expenses, vacancy rates, and capitalization of net operating income. In contrast, the board of review provided Multiple Listing Service (MLS) sheets for two listing comparables and three lease comparables without an in-depth analysis of market rent, vacancy and collection loss or expenses used to calculate the net income. Based on this record, the Board finds the income approach developed by the appellant's appraiser, although given minimal weight, was more credible than the income approach argument contained in the narrative submitted by the board of review.

With respect to the sales comparison approach, the appraiser used three sales comparables and one listing comparable which were similar to the subject in class, size and utility. The appraiser made appropriate adjustments to the comparables for size, location, age and condition. In contrast, the board of review provided information on four properties but did not adjust for any differences when compared to the subject property. Furthermore, the board of review's use of superior class of properties when compared to the subject in addition to errors regarding the sale dates contained in the board of review's grid analysis detract and diminish the credibility of the board of review's argument. Based on this record, the Board finds the sales comparison approach developed by the appraiser was better supported and more credible than the evidence provided by the board of

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review and, therefore, a reduction to the subject's assessment to reflect the appraised value is warranted.

In summary, after considering the evidence in this record, the Board finds the best evidence of market value was presented by the appellant. Based on this record, the Board finds the subject property had a market value of \$265,000 or \$90.00 per square foot of building area, including land, as of January 1, 2016. Since market value has been determined, the 2016 three-year average median level of assessment for Lake County of 33.16% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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APPELLANT:	Dika-Windmill Lakes, LLC
DOCKET NUMBER:	17-00586.001-C-2 thru 17-00586.002-C-2
DATE DECIDED:	September, 2020
COUNTY:	Kane
RESULT:	Reduction

The subject property consists of two parcels of land totaling 276,913 square feet of land area which have been improved with a one-story 11-unit strip shopping center of masonry construction. The center, commonly known as Windmill Lakes Shopping Center, contains a total of 70,949 square feet of building area and was built in 2001. The center is divided into three anchor units of 20,829, 10,000 and 18,000 square feet, respectively, or totaling 48,829 square feet which are occupied respectively by a Sears Hardware retail store, a furniture store and a retail fitness facility. There are also eight inline units ranging in size from 1,200 to 7,000 square feet which total 22,120 square feet of building area four of which (totaling 14,700 square feet) were vacant at the time of the appraisal with a nail salon, optical shop, second-hand clothing shop and a sandwich shop. (Appraisal, p. 20). The subject presents a land-to-building ratio of 3.90:1 and is located in Batavia, Geneva Township, Kane County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a rental roll, vacancy affidavits for 2016 and 2017, data on spaces for lease, an article about closures of K-Mart stores and a 75-page appraisal prepared by Keith J. Steward and Edward V. Kling, Certified General Real Estate Appraisers, each of whom also have the MAI designation. The appraisal was prepared for property assessment appeal purposes (Appraisal, p. 4). The appraisers estimated the subject property had a market value of \$6,700,000 as of January 1, 2017. The appraisers utilized all three traditional approaches to value to estimate the subject's market value.

The appraisers reported the subject property is located in a commercial corridor along an arterial street. The area was described as consisting of numerous big box anchor tenants located on both sides of Randall Road with numerous out lots containing smaller retail and restaurant users. It was further noted that nearby is a 1,000-acre childcare facility/campus that "essentially creates a large area of vacant land" which the appraisers reported "would limit the potential residential traffic which would utilize the shopping center. Access was deemed to be good along with exposure and the property benefits from a high traffic count. In terms of local market conditions, the appraisers noted there are some vacancies along this stretch of Randall Road in Batavia and Geneva, just to the north. It was reported that Sam's and Gander Mountain "just closed" adding two big box vacancies, a former Office Depot was still vacant but for a seasonal Halloween store and a former White Castle was being renovated for a new user (Appraisal, p. 16).

The subject building was deemed to be in average overall condition by the appraisers who determined the building has been reasonably well maintained. The appraisers noted that external factors were average, although the property owner indicated that the developer of the subject shopping center and the adjacent shopping center to the south "which contains Target and Jewel also put in additional restrictions which limit the size and type of retail user which is allowed in

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the shopping center." The appraisers wrote, "This reportedly has cost them some existing tenants and limited the pool of potential tenants which can utilize the subject shopping center." (Appraisal, p. 22).

Under the cost approach, the appraisers estimated the subject had a site value of \$2,220,000 or \$8.00 per square foot of land area based on five comparable land sales. Noting that there was limited market data available due to the lack of land sales activity in recent years due to adverse real estate and economic conditions (Appraisal, p. 33). The appraisers estimated the cost new of the improvements to be \$8,966,434 with 54% depreciation from all causes (Appraisal, p. 37-38). Thus, the appraisers estimated a depreciated improvement value of \$4,124,560. The appraisers also estimated the site improvements had a value of \$169,000 (Appraisal, p. 38). Within the cost approach, the appraisers also applied an entrepreneurial incentive of 7% or \$300,549. Adding the various components, the appraisers estimated the subject property had an estimated market value of \$6,810,000, rounded, under the cost approach to value (Appraisal, p. 39).

Using the sales comparison approach, the appraisers provided information on five comparable sales located in St. Charles, Carol Stream, Elgin, Glendale Heights and North Aurora. The comparables are described as retail shopping centers that range in size from 38,924 to 134,212 square feet of building area. The comparables were from 7 to 37 years old. The comparables have land-to-building ratios ranging from 3.15:1 to 6.76:1. At the time of sale, the comparables had occupancy levels ranging from 40% to 100% as described by the appraisers and the comparables sold from March 2014 to March 2017 for prices ranging from \$2,450,000 to \$9,875,000 or from \$61.68 to \$134.88 per square foot of building area, including land. The appraisers prepared a qualitative adjustment chart addressing various factors and differences between the subject and the comparable properties (Appraisal, p. 51). Among the differences noted were the levels of occupancy at the time of sale and, although sales #1 and #5 had identical occupancy levels, the appraisers made inconsistent adjustment determinations on this aspect. After making adjustments ranging from a downward 10% to an upward 45%, the appraisers opined adjusted values ranging from \$89.44 to \$100.83 per square foot of building area, including land. Based upon this data, the appraisers thus opined a value for the subject of \$95.00 per square foot of building area, including land, resulting in an estimated market value of \$6,740,000, rounded (Appraisal, p. 41-53).

Under the income approach, the appraisers analyzed the subject's contract rent consisting of seven signed leases with a vacancy of 20.7% as of January 1, 2017 (Appraisal, p. 54). The appraisers further reported that, while the tenants are responsible for a pro-rata share of real estate taxes, building insurance, and common area maintenance, the rent roll indicates that not all of the common area maintenance costs are fully reimbursed by the tenants (Appraisal, p. 55).

For two of the existing tenants, the appraisers provided additional information concerning the units occupied by Sears Hardware and a furniture company. It was reported that the owner of Sears Hardware "indicated that they were unsure if this lease would be extended due to the financial problems with Sears" and noted closure of a great number of stores in the past several years with continuing closures. As to the furniture store tenant, who occupied a larger space and was unable to pay the rent forcing a closure of the store, through negotiation, the size of the store was reduced to nearly half with a new lower rental rate of \$12.00 per square foot of building area being charged as of April 1, 2012. (Appraisal, p. 55).

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Based on the data gathered from the subject's rent roll, the appraisers found the contract rents of the subject property anchor tenants reportedly have rental rates ranging from \$12.00 to \$17.27 per square foot of building area on a gross basis. The appraisers further concluded the subject's rental rates range from \$20.60 to \$32.96 per square foot of building area on a gross basis for inline units. Therefore, the appraisers determined the average rent within the subject strip center was \$16.21 square feet of a gross basis when reimbursements were included. (Appraisal, p. 56 & 58).

The appraisers next examined market rent as reflected by current rents paid and asked for comparable anchor space as of the appraisal date (Appraisal, p. 56). The five "anchor" rental comparables were located in Wheaton, Aurora, Carol Stream, North Aurora and Elgin. The lease dates were from 2014 to 2017 for units ranging in size from 6,500 to 27,204 square feet of building area. The rents range from \$5.75 to \$14.09 per square foot of building area on a gross basis. The appraisers next on page 57 summarized data gathered on five "inline" rental comparables that were located in North Aurora, Aurora, Batavia, Geneva and Naperville. The lease dates were from 2014 to 2016 for units ranging in size from 1,200 to 2,161 square feet of building area. The rents range from \$16.00 to \$25.19 per square foot of building area on a gross basis.

Given the foregoing data on retail spaces in the far west suburban market area, the appraisers opined that the market rent comparables were deemed to be the closest comparison to the subject property if it were placed on the open market. The appraisers further found these to be reasonable lease rate ranges for the subject and confirmed the data, although exact lease terms were not available (Appraisal, p. 58).

In light of an analysis of both the contract rent and market rent data, the appraisers opined a market rent for the subject of \$12.00 per square foot of building area on a gross basis for the three anchor units and \$22.00 per square foot of building area on a gross basis for the inline units (Appraisal, p. 58). Therefore, the appraisers estimated income for anchor units to be \$585,948 and for inline units to be \$486,640 for a total potential gross income of \$1,072,588. The appraisers next applied a vacancy and collection loss of 11% or \$117,985 which results in an effective gross income estimate of \$954,603. Next, the appraisers estimated expenses of management at 3%, insurance at \$0.27 per square foot, maintenance at \$2.25 per square foot, reserves at \$0.35 per square foot, legal and accounting of \$5,000 which resulted in total estimated expenses of \$237,262. Deducting the estimated expenses from the estimated effective gross income resulted in a net operating income of \$717,342. (Appraisal, p. 59-61).

Utilizing direct capitalization, the appraisers considered data from three of the comparable sales and from published investor surveys (Appraisal, p. 62-63). The appraisers chose to apply a capitalization rate in the middle portion of the range based on the sources or 7.75% for the subject building. To the chosen capitalization rate, the appraisers added 3.01% to account for real estate taxes resulting in a loaded capitalization rate of 10.76%. Therefore, the appraisers concluded an indicated value for the subject by the income approach of \$6,670,000, rounded, under the income approach to value.

In reconciling the three approaches to value, the appraisers gave most consideration to the income approach and secondary consideration to the sales comparison approach. After considering these value conclusions, the appraisers opined an estimated market value for the subject of \$6,700,000 as of January 1, 2017.

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Next, attached to the appellant's evidentiary submission were copies of a Rent Roll Report for the subject property depicting a date of May 31, 2017 along with two detail pages of vacant and occupied units and multiple pages of Cash Flow Statements for years 2014, 2015, 2016 and through May 31, 2017. Also submitted were two Commercial Building Vacancy Affidavits for tax years 2016 and through June of 2017. A copy of a broker's rental listing for portions of the subject strip center was provided along with a printout of a CNN article concerning the closure of Sears and K-Mart stores in Illinois.

Based on the foregoing evidence in the Commercial Appeal petition, counsel for the appellant requested a total assessment of \$1,811,672 which would reflect a market value of approximately \$5,435,016 which pursuant to procedural rules is what establishes the appellant's claim amount (86 Ill.Admin.Code §1910.30(j)). While no amended petition was filed in this proceeding by counsel for the appellant with the evidentiary submission, the Board recorded the appellant's total requested assessment reduction to \$2,233,110 as set forth in counsel's brief which reflects the appraised value conclusion at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" for the two parcels in this appeal and disclosing the total assessments for the subject property of \$2,490,401. The subject's total assessments reflect a market value of \$7,474,193 or \$105.35 per square foot of building area, land included, when using the 2017 three year average median level of assessment for Kane County of 33.32% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a six-page detailed memorandum prepared by Denise LaCure, Geneva Township Assessor along with a spreadsheet of three comparable land sales with additional documentation, a copy of the May 31, 2017 Rent Roll Report of the subject property, a broker listing sheet for four units in the subject strip center and a one-page spreadsheet entitled Income Analysis. Also submitted was a copy of a three-page letter prepared by LaCure to the Kane County Board of Review.

In the memorandum, LaCure described the subject strip center as a "Target anchored, neighborhood center" although Target is not one of the tenants of the subject property; based on the broker's listing data for the subject supplied by the appellant, Target is located immediately to the east of the subject strip center. As to the Sears Hardware store referenced in the appellant's appraisal report, the assessor noted this is strictly an appliance and hardware store; not the type of Sears and K-Mart stores referenced in the article supplied by the appellant. LaCure's memorandum goes on to itemize space that has been vacated in 2017 and then occupied in 2018 contending, without supporting evidence, that the subject property was 95% occupied as of January 1, 2017.

In response to the appraisers' cost approach data, LaCure provided three additional land sales located from 4.48 to 7.52-miles from the subject; the parcels range in size from 147,284 to 207,781 square feet of land area and sold from September 2015 to December 2017 for prices ranging from \$2,283,000 to \$3,041,000 or from \$11.72 to \$15.72 per square foot of land area. The assessor further reported her land sale #1 included a vacant building that was demolished; land sale #2 was purchased by an adjacent property owner; and land sale #3 was smaller than the subject site. To these new land sale comparables, the assessor applied various adjustments and she also criticized the appraisers' land sales noting that land sale #1 was not advertised (see attached PTAX-203

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transfer declaration) and sold in 2015; the property consisted of 33,750 square feet of wetland and had a demolition permit issued with an estimated cost of \$230,000 and appraisal land sale #3 sold in 2014 as the result of a buyer exercising an option to purchase, the terms of which were unknown. LaCure contends that appraisal land sale #4 was not advertised. On the spreadsheet of both parties' land sales submitted by the board of review a range of "adjusted" land sale prices was reported to be from \$6.72 to \$14.21 per square foot of land area with the "exclusion of non arm's length sales" ranging from \$11.63 to \$14.21 per square foot of land area. Based on this data, LaCure opined that the subject's value should be \$11.50 per square foot of land area.¹

LaCure then applied her land value conclusion of \$3,184,500 to the appraisers' improvement value of \$4,594,109 to opine a value under the cost approach for the subject of \$7,780,00, rounded, or \$109.66 per square foot of building area, including land.

As to the sales comparison approach presented by the appellant's appraisers, LaCure asserted the properties presented were the "best available sales for a comparative analysis of the subject based on sales." LaCure next summarily asserted that "sales have improved since 2014, so those sales" should be upwardly adjusted. She further reported the township equalization factors that were utilized for 2016, 2017 and 2018 of 5.18%, 1.37% and 2.74%, respectively. LaCure then itemizes disagreements with adjustments applied to the comparable sales by the appraisers and sets forth her own adjusted sales prices for the five comparables of \$100.44, \$109.90, \$102.91, \$107.27 and \$94.99 per square foot of building area, including land, respectively. Based upon her own adjustment process, LaCure contended the average sale price was \$103.10 per square foot which would result in an estimated market value for the subject of \$7,315,000, rounded.

As to the income approach to value in the appraisal report, LaCure first reiterated the difference between Sears Hardware, a franchise which is located at the subject center, and the national Sears stores referred to in the article about store closures. Likewise, as to the reduction in space use by the furniture store in the subject center, LaCure contends the relinquished 8,000 square feet "was immediately leased to the adjacent tenant, X-Sport Fitness (Capital Fitness) that wanted to expand their space."

Next, LaCure utilized the May 2017 Rent Roll to contradict data on page 55 as to the gross rental amounts for both Sears Hardware and the furniture store (one being lower than reported and the other being higher than reported on page 55). Citing to the much higher asking rents for the subject property as produced by LaCure, she recalculated the triple net lease rates for the subject units along with the Cash Flow Statements supplied by the appellant and concluded the subject's potential gross income to be \$842,010. From this, LaCure deducted an 11% vacancy and collection loss or \$92,621 resulting in an effective gross income conclusion of \$749,389. Next, LaCure set forth an analysis of administrative, management fee, reserves and vacancy related expenses totaling \$125,136, which when deducted from the effective gross income resulted in a net operating income of \$624,253. Next, LaCure applied a loaded capitalization rate of 8.08% to the net operating income conclusion in order to arrive at an estimated market value of the subject property under the income approach to value of \$7,726,000, rounded.

¹ Calculated based on the current 2017 land assessments for the two subject parcels, the assessing officials have an estimated market value for the subject parcels of \$12.15 per square foot of land area ($1,005,879 + 115,949 = 1,121,828$ x 3 = 3,365,484 ÷ 276,913 sq. ft. of land area = \$12.15).

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In closing, the memorandum from LaCure asserted the most relevant approach to value was the income approach and thus, the assessor "asks that the Board of Review recommend that the Property Tax Appeal Board uphold the 2017 assessed values as" \$1,950,398 for parcel 12-20-230-022 and as \$516,022 for parcel 12-20-230-023.²

Based on the foregoing evidence prepared by the township assessor, the board of review requested confirmation of the subject's assessment.

In rebuttal, counsel for the appellant vehemently argued using highlighting and underlying that the subject's 2018 tax year assessment was reduced by agreement with the appellant and the township assessor's consideration of the instant appraisal report "along with additional data submitted." Counsel therefore contends that "since [the] 2017 assessment year is within the quadrennial year and relief was granted based on the same evidence" submitted herein, this subsequent year reduction should be given the most weight.

The rebuttal disputes the criticisms of the land sales in the appraisal report and further addresses the additional land sales presented by the township assessor. Based on CoStar data, counsel contends that appraisal land sale #1 was advertised prior to sale for more than 1,000 days contrary to the assertion the property was not advertised. The appellant contends that LaCure's land sale #1 was part of a portfolio sale and included improved properties in less desirable locations which, without an allocation for land only, should be given little weight. Additionally, LaCure's land sale #2 should not be given weight as the property is located in a less desirable commercial area and is located in a TIF district.

The rebuttal addresses criticisms of the comparable sales adjustment process presented by the appraisers and notes the details in the report which further explain the process, contrary to the statements made by LaCure.

Next, as to the assessor's notation of the re-rental of vacated space, counsel for the appellant disputed this assertion with citation to page 55 of the appraisal. As to LaCure's analysis of asking rental rates for the subject property, the appellant responds with citation to the appraisal report concerning area rental rates on pages 56-58. The appellant further noted that LaCure's income analysis failed to account for insurance and common area maintenance expenses. Counsel for the appellant applied the missing expenses and, otherwise using the same data as LaCure, arrived at a value of \$5,513,131 under the income approach.

In light of the foregoing arguments, the appellant contended that the data presented by the board of review through LaCure was inferior and unreliable as compared to the appellant's appraisal report submitted in this matter.

² Each of these proposed assessments set forth for the subject parcels are less than the Final Decisions for tax year 2017 issued by the Kane County Board of Review reflecting total assessments of \$1,969,362 and \$521,039, respectively.

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Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

As an initial matter, the Board gives no weight or consideration to the appellant's argument concerning the application of the 2018 tax year assessment reduction(s) for the subject property being applied for the 2017 tax year and/or justifying a reduction in the subject's pending appeal. The Property Tax Code (hereinafter "Code") is very specific in providing that:

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 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). The terms of the Code are clear that such 'rollover' within the general assessment cycle is applicable only to (a) residential owner-occupied real estate and (b) derives from decisions rendered by the Property Tax Appeal Board for a prior year or years. In this instance, the argument concerns a subsequent year reduction in the subject property's assessment that was given by the township assessor. Thus, there is no legal principle applicable to the appellant's argument to consider the 2018 assessment of this property in determining the 2017 assessment by the Property Tax Appeal Board.

The appellant submitted an appraisal of the subject property with an opinion of value as of January 1, 2017 and the board of review submitted data to criticize the appraisal and did its own calculation of a cost approach, a sales comparison approach and an income approach based mostly upon using modified data from the appellant's appraisal report.

On this record, the Property Tax Appeal Board has given little weight to the estimates of value under the cost approach, the sales comparison approach and the income approach as prepared by the township assessor on behalf of the board of review. The Board finds that there was insufficient analysis in the assessor's memorandum to fully understand how the estimates were developed in several instances. Ultimately, the board of review presented criticisms of the appellant's appraisal report as developed by the township assessor along with documents depicting the efforts of the Geneva Township Assessor to perform the three traditional approaches to value in order to arrive at and justify an estimated market value of the subject property. However, in the assessor's conclusion of value, the subject's assessment has not been justified; instead, the assessor's data conclusion supports a reduction in the subject's assessment.

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Moreover, while the main thrust of the response presented by the board of review were perceived deficiencies in the appraisal submitted by the appellant, the Board finds that the efforts of the board of review to refute an appraisal's valuation conclusion with criticisms does not nullify or shift the burden of proof or demonstrate the subject's assessment is correct. The Property Tax Appeal Board is not to afford *prima facie* weight to the findings and conclusions of fact made by the board of review (Mead v. Board of Review of McHenry County, 143 Ill. App. 3d 1088 (2nd Dist. 1986); Western Illinois Power Cooperative, Inc. v. Property Tax Appeal Board, 29 Ill. App. 3d 16 (4th Dist. 1975). The decision of the Property Tax Appeal Board must be based upon equity and the weight of evidence. (35 ILCS 16-185; Commonwealth Edison Co. v. Property Tax Appeal Board, 102 Ill. 2d 443 (1984); Mead, 143 Ill. App. 3d 1088.) A taxpayer seeking review at the Property Tax Appeal Board from a decision of the board of review does not have the burden of overcoming any presumption that the assessed valuation was correct. (People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill. App. 3d 316 (2nd Dist. 1974); Mead, 143 Ill. App. 3d 1088.)

The Board finds that the appellant's appraisal and the concluded analysis by LaCure presented on behalf of the board of review both support the contention that the subject property is overvalued based on its assessment. The appellant presented an appraisal with an estimated market value for the subject of \$6,700,000 or \$94.43 per square foot of building area, including land, with primary reliance upon the income approach to value and support from the sales comparison approach to value. The board of review through the township assessor presented a value conclusion of \$7,402,221 or \$104.33 per square foot of building area, including land. The subject's assessment reflects a market value of \$7,474,193 or \$105.35 per square foot of building area, including land, which is above both parties' value conclusions on a square foot basis.

On this record and without adequate contradictory evidence from the board of review, the Property Tax Appeal Board finds that the subject property is overvalued and a reduction in the subject's assessment commensurate with the appellant's request set forth in brief reflecting the appraised value conclusion is warranted.

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APPELLANT:	Shawn Fee
DOCKET NUMBER:	18-01156.001-C-1
DATE DECIDED:	September, 2020
COUNTY:	Will
RESULT:	No Change

The subject property consists of a part two-story and part one-story multi-family four-flat apartment building of wood siding exterior construction with approximately 2,930 square feet of living area.¹ The building was constructed in approximately 1900. The apartments consist of a two-bedroom/one bath and three, one-bedroom/one bath units that range in size from 560 to 778 square feet of living area. Features of the building include an unfinished basement, central air conditioning and a detached garage of approximately 631 square feet of building area. The property has a 6,957 square foot site² and is located in Monee, Monee Township, Will County.

The appellant contends both overvaluation and lack of assessment uniformity as the bases of the appeal concerning the improvement assessment. In support of these arguments, the appellant submitted an appraisal, equity comparables, sales data and a brief asserting unfair treatment by the township assessor.

Appraisal/recent sale price

As part of the submission, the appellant completed Section IV – Recent Sale Data of the Commercial Appeal petition reporting the May 19, 2016 purchase price of the subject property for \$117,500 from First Midwest Bank/Synergy Property Holdings, LLC. The appellant reported the parties to the transaction were not related and the property was sold by the bank without the use of a Realtor/real estate agent and without advertising the property for sale. The property was reported to have been sold in settlement of a foreclosure action. The appellant failed to provide a copy of the Settlement Statement, sales contract and/or Real Estate Transfer Declaration concerning the transaction as directed in Section IV of the petition.

The appellant submitted an appraisal prepared for Howard Bank by Jerome T. Dea, Jr., a Certified Residential Real Estate Appraiser, who prepared the report based upon fee simple rights and for purposes of refinance transaction. The appraiser utilized all three traditional approaches to value in estimating the subject property had a market value of \$117,000 or \$29,250 per apartment unit or \$39.93 per square foot of building area, including land, as of December 10, 2016.

¹ The appellant reported a dwelling size of 2,881 square feet of building area as set forth by the appellant's appraiser who provided a schematic drawing to support the calculation. The board of review submitted a copy of the subject's property record card which also includes a schematic drawing and depicts a dwelling size of 2,930 square feet. The Board finds this slight size discrepancy on this record does not prevent a determination of the correct assessment in light of the entire evidence of record.

² The appellant's appraiser reported a site size of 6,836 square feet as compared to the board of review's evidentiary submissions. Again, the Board finds this discrepancy does not prohibit a determination of the correct assessment.

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The appraiser described the subject building as having an effective age of 25 years as compared to its actual age of 116 years at the time of the report. Dea reported the subject apartment building to be in average overall condition upon inspection of the premises; the owner was unable to grant interior garage access to the appraiser. Dea did not find any indication of functional depreciation and "no repairs were noted."

The appraiser acknowledged the recent purchase of the subject property by the appellant on May 2, 2016 for \$117,500. Dea reported there was no public listing of the subject property and details of the sale were private. He also stated, "An additional transfer of the subject took place on December 1, 2015 between Trust 9-1375 to Synergy Property Holdings, LLC. There was no recorded sale price on this transfer."

Under the cost approach (Appraisal, p. 4), the appraiser estimated the subject had a site value of \$10,000. The appraiser estimated the reproduction [*sic*] cost new based upon Marshall & Swift Residential Cost Handbook of the improvements to be \$346,581.³ Dea estimated physical and external depreciation in total to be \$243,759 resulting in a depreciated improvement value of \$102,822. The appraiser also estimated the site improvements had a value of \$8,000. Adding the various components, Dea estimated the subject property had an estimated market value of \$120,800 under the cost approach to value.

Using the income approach and after examination of three rental comparables, Dea estimated the subject had a market value of \$117,000 or \$29,250 per apartment unit or \$39.93 per square foot of building area, including land. The appraiser opined a monthly rental of the subject property of \$2,600 and a gross rent multiplier (GRM) of 45 under the income approach.

For the sales comparison approach, Dea analyzed six sales and three listings. The sales occurred from June 2015 to August 2016 and at the time of the report, written as of December 13, 2016, the listings had been on the market from 48 to 319 days. The comparables were located from .18 of a mile to 12.92-miles from the subject property and consist of either two-flat or four-flat buildings. The comparables were in the communities of Matteson, Manteno, Crete, Peotone and Monee and presented sales or asking prices ranging from \$78,000 to \$198,900 or from \$23,750 to \$99,450 per apartment unit or from \$23.05 to \$96.26 per square foot of building area, including land. After making adjustments to the comparable sales and listings, Dea estimated the subject property to have a market value of \$117,000 under the sales comparison approach to value.

In reconciling the value approaches, Dea gave most weight to the comparable sales approach with support from the other two estimates in order to arrive at a final estimate of market value for the subject of \$117,000 or \$29,250 per apartment unit or \$39.93 per square foot of building area, including land.

³ The appraisal report was clearly marked as being based upon reproduction cost despite that this method is typically not applicable to a property such as the subject but rather would apply to very unique or historically significant structures.

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Equity evidence

In support of the inequity argument, the appellant submitted a grid analysis with information on three comparable properties located .1 of a mile from the subject. The comparables consist of multi-family frame dwellings that were either 97 or 117 years old. The appellant was unable to report the number of apartments in each comparable building. The buildings range in size from 2,144 to 2,916 square feet of building area. The comparables depict improvement assessments ranging from \$24,300 to \$27,350 or from \$9.38 to \$12.05 per square foot of building area.

Comparable sales evidence

The appellant submitted sales in a grid analysis with the same data as presented for the equity comparables along with documentation for sale #1. The comparables sold from April 1995 to October 2017 for prices ranging from \$37,000 to \$114,000 or from \$17.25 to \$44.84 per square foot of building area, including land.

Assessment/revaluation process issues

The last portion of the appellant's appeal consists of a narrative outlining the assessment history of the subject property and discussions with the township assessor after successful appeals before the Will County Board of Review for tax years 2016 and 2017. The appellant contends the township assessor has "repudiated" these prior assessment reductions by issuing revised assessments the following tax year. With regard to this latter complaint of the appellant, it must be noted that the Property Tax Appeal Board has no jurisdiction with regard to the actions of an individual township assessor in revaluing property and is limited to determining the correct assessment of the subject property that is appealed to the Board (35 ILCS 200/16-185). Therefore, this aspect of the appellant's appeal will not be further analyzed in this decision.

Based on the foregoing evidence, the appellant requested a total assessment of \$39,000 which would reflect a market value of approximately \$117,000, including land, and a requested reduced improvement assessment of \$24,600 or \$8.40 per square foot of building area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$52,250. The subject's assessment reflects a market value of \$156,860 or \$39,215 per apartment unit or \$53.54 per square foot of building area, land included, when using the 2018 three year average median level of assessment for Will County of 33.31% as determined by the Illinois Department of Revenue. The subject property has an improvement assessment of \$37,850 or \$9,462.50 per apartment unit or \$12.92 per square foot of building area.

In response to the appellant's recent sale evidence, the board of review through the township assessor argued that the May 2016 sale of the subject for \$117,500 was "not a market sale" and cites Section 16-55 of the Property Tax Code (35 ILCS 200/16-55) for this proposition. The referenced provision of the Code is applicable to appeals before the local county board of review concerning compulsory sales. For purposes of determining assessments using the mass appraisal approach, the township assessor outlined that valuation is performed by examination of recent area sales, not the sale of a single property such as the subject's sale price.

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As to the appellant's appraisal report, the township assessor criticized the report as relying upon dated sales, sales that were "non-market" and/or were listings that had not yet sold. Reportedly appraisal listing #8 actually sold in September 2018 for \$177,000 which the assessor contends supports the subject's estimated market value as of the assessment date of January 1, 2018.

As to the appellant's equity/sales comparables, the township assessor contends each of these comparables are two-flat units which differ from the subject's four-flat design/use. Therefore, the assessor contends that these comparables are dissimilar and carry different values than the subject given the fewer number of apartments in each building. Moreover, only comparable #1 sold proximate in time to the assessment date at issue, but due to the two-unit design the property is still dissimilar to the subject for purposes of comparison.

In support of its contention of the correct assessment, the board of review through the township assessor submitted a spreadsheet with information on four comparable sales and three equity comparables (Exhibit 7).

The comparable sale properties are located in Lockport, Frankfort and Joliet. The comparable four-unit buildings range in size from 1,530 to 3,840 square feet of building area. The comparables sold from April 2017 to December 2018 for prices ranging from \$220,000 to \$400,000 or from \$55,000 to \$100,000 per apartment unit or from \$80.15 to \$143.79 per square foot of building area, including land.

The three equity comparables were each located in Monee and consist of four-unit buildings like the subject. The comparables range in size from 2,719 to 4,230 square feet of building area and have improvement assessments ranging from \$46,550 to \$57,600 or from \$11,637.50 to \$14,400 per apartment unit or from \$13.62 to \$17.90 per square foot of building area.

Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted an appraisal, the sale of the subject and one recent comparable sale to establish the appellant's overvaluation argument. The Property Tax Appeal Board has given little weight to the value conclusion contained within the appraisal report as the opinion of market value was as of a date 13 months prior to the valuation date at issue in this appeal of January 1, 2018. Moreover, the basis for the appraiser's opinion of value was reliance upon sales and listings of comparable properties that were further removed from the valuation date at issue. Similarly, the Board has given little weight to the May 2016 purchase price of the subject property as the date of sale is sufficiently removed in time to the valuation date of January 1, 2018 to be less likely to be

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indicative of its market value as of the assessment date. The only recent comparable sale presented by the appellant was of a two-flat building as compared to the subject's four-flat design which indicates the property has significantly less earning potential as a rental property than the subject and would thus be dissimilar for market value purposes when compared to the subject.

The Board finds the best evidence of market value to be board of review comparable sales #1 through #4. The comparables were similar four-unit buildings that sold from April 2017 to December 2018 for prices ranging from \$220,000 to \$400,000 or from \$55,000 to \$100,000 per apartment unit or from \$80.15 to \$143.79 per square foot of building area, including land. The subject's assessment reflects a market value of \$156,860 or \$39,215 per apartment unit or \$53.54 per square foot of building area, land included, which is below the range established by the best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified on grounds of overvaluation.

The taxpayer also contended assessment inequity as a basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted a total of six equity comparables to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to appellant's equity comparables due to their two-flat design as compared to the subject's four-flat design.

The Board finds the best evidence of assessment equity to be the three board of review equity comparables. The comparables have improvement assessments ranging from \$46,550 to \$57,600 or from \$11,637.50 to \$14,400 per apartment unit or from \$13.62 to \$17.90 per square foot of building area. The subject has an improvement assessment of \$37,850 or \$9,462.50 per apartment unit or \$12.92 per square foot of building area which falls below the range of the most similar comparables in the record both in terms of its improvement assessment, on a per-apartment basis and on a per-square-foot basis. Based on this evidence, the Board finds no reduction in the subject's assessment is warranted on grounds of lack of assessment uniformity.

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APPELLANT:	First American Bank Trust Department
DOCKET NUMBER:	17-02601.001-C-1
DATE DECIDED:	June, 2020
COUNTY:	Lake
RESULT:	Reduction

The subject property consists of a one-story retail store operated as a fast food restaurant of masonry exterior construction with 2,100 square feet of building area¹ which was built in 1969. Features include a concrete slab foundation and central air conditioning. The property has a 17,000 square foot site and is located in Libertyville, Libertyville Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Robert S. Kang, a Certified General Residential Real Estate Appraiser. The 57-page appraisal report with addendum pages, written as of September 2017, was developed for a real estate tax appeal and estimated the subject property had a market value of \$370,000 as of January 1, 2017.

As to the subject building, Kang described it to be in average condition, but with some signs of wear and tear on the flooring and wall treatments along with the mechanicals being at the end of their physical lives which will require repair or replacement in the near future (Appraisal, p. 39). The appraiser's comments on condition were further supported with color photographs in the report. Kang stated the functional utility of the subject was below average as it was tailored to the special needs of the current owner which creates inutility for the typical user with the possibility of considerable costs to convert the building to an alternative commercial use (Id.).

Using the sales comparison approach, the appraiser considered five comparable sales in arriving at the value opinion. The comparables were located in Libertyville, Lake Zurich, Grayslake, Mundelein and Waukegan. The comparables have sites that range in size from 16,797 to 81,557 square feet or from .39 of an acre to 1.87-acres of land area. The comparable properties are each improved with a commercial one-story masonry building having been built between 1969 and 2002. The structures were used either as fast food restaurants or restaurants, with one noted as a "former" fast food property and one noted a full-service. The buildings range in size from 1,725 to 4,821 square feet of building area and each comparable has on-site parking. The comparables have reported land-to-building ratios ranging from 6.42:1 to 19.96:1. The comparables sold between January 2015 and January 2017 for prices ranging from \$275,000 to \$880,000 or from \$137.50 to \$207.98 per square foot of building area, land included. (Appraisal, pages 46 to 53).

Next, Kang applied adjustments to the comparables for differences when compared to the subject. On page 54 of the report, the appraiser began to describe the adjustments that were applied and noted that each of the comparables were located near the subject's general market area and were similar type buildings. Qualitative adjustments were analyzed for building size, construction

¹ The appellant's appraiser further described the building as having 1,950 square feet of restaurant area and 150 square feet of storage area (Appraisal, p. 38).

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quality, land-to-building ratio and age/condition as set forth in a chart on page 56 of the appraisal. Further discussion of the adjustments considered as to each comparable were further detailed by Kang on pages 56 and 57 of the appraisal report. After analyzing various potential categories for differences, Kang applied adjustments only for land-to-building ratio and age/condition differences to several of the comparables. Through this process, he opined downward adjustments ranging from 5% to 15% which resulted in adjusted sale prices ranging from \$130.63 to \$186.77 per square foot of building area, including land. As part of the final analysis, Kang reported sale #1 was closest in proximity to the subject and sales #1, #3 and #5 required the least amount of net adjustments. As a result, he opined the subject had a value bracketed between \$170.00 and \$180.00 per square foot and thus, the appraiser arrived at an estimated market value for the subject of \$175.00 per square foot of building area, including land, or \$370,000, rounded, as of January 1, 2017.

At the end of the sales comparison approach, Kang noted the subject fast food restaurant was "smaller in size" and to find similarly sized comparables, the geographic market was expanded and both fast food and other restaurants were utilized as the appraiser was "unable to locate any smaller comparables in the subject's immediate area." (Appraisal, p. 57).

Based on this evidence, the appellant requested an assessment reflective of the appraised value conclusion at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$143,530. The subject's assessment reflects a market value of \$432,971 or \$206.18 per square foot of building area, land included, when using the 2017 three year average median level of assessment for Lake County of 33.15% as determined by the Illinois Department of Revenue.

As to the appellant's appraisal evidence, the board of review asserted that appraisal sale #1 has resold in November 2016 for a higher sale price than reported in the appraisal; the new sale price was \$450,000 or \$260.87 per square foot of building area, including land (board of review comparable sale #1). The board of review further argued that the subject's estimated market value as reflected by its assessment falls within the range of the unadjusted sale prices contained within the appraisal report.

Additionally, the board of review noted that there was a prior stipulation for this property executed between the parties before the Property Tax Appeal Board for tax year 2015 (Docket No. 15-02896.001-C-1) and for tax year 2016, the Lake County Board of Review carried that 2015 agreed assessment forward, with application of the township equalization factor. For this pending tax year 2017 appeal, the board of review noted that "the appellant's attorney is asking for a lower assessment than the agreed upon value in 2015."

In support of its contention of the correct assessment the board of review submitted four Costar sales data sheets. The board of review failed to set forth the comparables in a grid analysis. From the data sheets, the Board finds the comparables were located in Libertyville, Waukegan and Lake Zurich and board of review comparable #1 is the same property as appraisal sale #1. The comparable parcels range in size from 18,731 to 80,586 square feet of land area or from .43 of an acre to 1.85-acres of land area. Each parcel has been improved with a "retail – fast food" building.

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Comparables #1 and #4 were built in 1969 and 1980, respectively; no dates of construction were provided for comparables #2 and #3. The buildings range in size from 1,725 to 2,904 square feet of building area. Three of the comparables were noted as having a "drive-thru" and comparable #4 was noted as a corner lot. The comparables have land-to-building ratios ranging from 6.9:1 to 27.8:1. The properties sold between November 2016 and August 2018 for prices ranging from \$450,000 to \$700,000 or from \$198.60 to \$315.60 per square foot of building area, including land. Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

In rebuttal, the appellant argued that the board of review's sales data consisted of raw sales with no adjustments for differences, consideration of market conditions and/or other factors. In contrast, the appellant's evidence consisted of an appraisal where the appraiser selected, analyzed and adjusted the comparables to arrive at an opinion of value of the subject property. The appellant's counsel further detailed differences between the subject and board of review comparables #2, #3 and #4 such as larger land size, larger land-to-building ratio and/or the date of sale being 1.5 years after the assessment date at issue.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted an appraisal of the subject property and the board of review submitted four suggested comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given little weight to board of review comparables #3 and #4 which sold in July and August 2018, over 1.5 years after the valuation date at issue of January 1, 2017 and thus less likely to be indicative of the subject's estimated market value as of the assessment date. The Board also lacks detailed information as to board of review comparable #2 in terms of proximity to the subject, age and/or use other than the property has a drive-thru which is not a feature of the subject property. Furthermore, comparable #2 has a larger parcel more than twice the size of the subject and a larger land-to-building ratio again approximately twice that of the subject.

While the appraisal adjustment process was somewhat questionable and not particularly well-analyzed for some of the various categories, the Property Tax Appeal Board finds the best evidence of market value in this record to be the appraisal submitted by the appellant with a final value opinion of \$370,000. As the board of review failed to adequately present more similar and more recent comparable sales to overcome the appraised value conclusion, the Board finds the subject property had a market value of \$370,000 as of the assessment date at issue. The subject's assessment reflects a market value of \$432,971 or \$206.18 per square foot of building area, including land, which is higher than the value conclusion in the appraisal. Additionally, the Board finds the November 2016 sale of board of review comparable #1/appraisal sale #1 for \$260.87 per square foot of building area, including land, alone does not overcome the appraised value

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conclusion where the record contains no additional details concerning the property to explain the differences between the January 2015 sale price and the November 2016 sale price and whether, for instance, remodeling or rehab took place between the dates of sale. Based on this evidence, the Board finds a reduction in the subject's assessment commensurate with the appellant's request is justified.

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APPELLANT:	First Midwest Bank
DOCKET NUMBER:	17-01195.001-C-1
DATE DECIDED:	April, 2020
COUNTY:	Grundy
RESULT:	Reduction

The subject property consists of a one-story commercial bank/office building of masonry exterior construction with 5,123 square feet of building area which was constructed in 2006. Features include a partial unfinished basement, wet sprinkler system, central air conditioning and a passenger elevator along with a 1,680 square foot canopy covering the area containing four drive-up teller lanes, one of which is a drive-up ATM lane. The property has a 53,143 square foot site with approximately 40 asphalt paved parking spaces with the property having a land-to-building ratio of 10.37:1.¹ The subject site is zoned B2, Commercial District and is located in Minooka, Aux Sable Township, Grundy County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal prepared by Thomas Grogan, MAI, and John T. Setina, III of Sterling Valuation, both of whom are Certified General Real Estate Appraisers. The appraisal estimated the subject property had a market value of \$640,000 or \$124.93 per square foot of building area, including land, as of January 1, 2017. The appraisers utilized both the sales comparison and income approaches to value in arriving at their conclusion. In defining market value, the appraisers recognized that Illinois statutes mandate that property is to be assessed based upon its "fair cash value" or market value as set for in both the Property Tax Code and case law.

The purpose of the appraisal was to estimate the market value of the fee simple interest of the subject property as of January 1, 2017. At page 11 of the appraisal report, the appraisers cited to the Illinois Appellate Court decision in Chrysler Corporation v. State Property Tax Appeal Board, 69 Ill.App.3d 207, 211-212 as the basis for their determination to place most weight upon the sales comparison approach to value in this report.

The appraisers reported the subject property was owner-occupied and noted the property was in average overall condition. As part of the appraisal analysis, the appraisers set forth data on the "Banking Market Overview" (Appraisal, p. 16-17) reporting that the banking industry was trimming down the number of branches due to current technologies where customers do not need to enter a bank facility to transact banking business. The analysis included data on the closures of bank branches in Chicago and suburban locations. The analysis concluded with the assertion that "overall the number of bank branches have declined approximately 11.0% since 2010." (Appraisal, p. 17)

¹ All descriptive data has been drawn from the appellant's appraisal report as the board of review failed to provide a copy of the subject's property record card as required by the procedural rules of the Property Tax Appeal Board. (86 Ill.Admin.Code §1910.40(a))

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The first approach to value developed was the sales comparison approach. The appraisers utilized six sales located in Plainfield, Montgomery, Homer Glen, Yorkville, Oswego and Morris. Due to the lack of local bank sales, the appraisers' search for sales comparables was expanded geographically. For the comparables the land sizes range from 37,026 to 110,207 square feet of land area. As shown on individual descriptive sheets, the parcels were improved with bank/office buildings consisting of a three-unit building (one unit having been a 3,000 square foot bank facility); a part one-story and part two-story building; two, one-story buildings and two, two-story buildings that were built between 1993 and 2007. The buildings range in size from 2,328 to 11,520 square feet of building area and have land-to-building ratios ranging from 4.49:1 to 15.90:1. As part of the individual descriptions of the sales, the appraisers reported four of the properties were on the market for 1 month, 8 months, 2 years 3 months and 3 years 3 months, respectively, with sale #6 having sold within a month to an adjacent property owner; sale #6 was also converted to medical office use due to a two-year deed restriction from use by a financial institution. Sales #1 and #5 also sold with deed restrictions. Each of the sales were confirmed with public records and/or brokers involved in the transactions as further described concerning the individual sales. The comparables sold between September 2014 and October 2017 for prices ranging from \$337,500 to \$1,050,000 or from \$62.39 to \$154.64 per square foot of building area, including land. (Appraisal, p. 31-44)

The appraisers next considered adjustments to the comparables for differences involving conditions of sale concerning deed restrictions which applied upward adjustments to sales #1, #5 and #6. An upward adjustment was also applied for financing for sale #3, economic trends (date of sale) resulted in an upward adjustment to sale #6 and downward adjustments were applied to sales #1 through #5 for their locations outside of Grundy County. When considering adjustments for building size, the appraisers applied downward adjustments to sales #2, #5 and #6 due to their smaller sizes and made upward adjustments to sales #1, #3 and #4 for their larger building sizes. As to age and condition adjustments, upward adjustments were made to sales #1, #2, #3 and #6 for their advanced ages/inferior conditions and upward adjustments were made to sales #2, #4 and #5 for lack of a basement. Adjustments were also applied to the comparables for differences in land-to-building ratios. Based on the foregoing adjustment analysis as set forth on pages 45 to 47 of the appraisal report, sales #1, #3 and #4 were given overall upward adjustments and sales #2, #5 and #6 were given overall downward adjustments. From this data and analysis, the appraisers opined the value of the subject as \$125.00 per square foot of building area resulting in an estimated value of \$640,000, rounded, under the sales comparison approach to value.

The next approach to value was the income capitalization approach. The first step under this approach was to estimate the subject's market rent. Due to the lack of local bank rentals, the appraisers expanded their search to typical office rentals and also expanded the search geographically for bank rentals (Appraisal, p. 50). The six comparables were located in DeKalb, Morris, Dixon, Oswego and Naperville. Rental comparables #1 through #4 were leased or available for lease in banks and rental comparable #5 was a single-tenant office building in Morris. Rental comparable #6 was described as a free-standing former bank was an expired listing as of August 2016. The buildings range in leased square footage from 900 to 8,640 square feet of building area. The buildings were constructed between 1925 and 2007 and have land-to-building ratios ranging from 1.05:1 to 15.90:1. These six rental comparables had net or gross rental rates ranging from \$10.00 to \$18.50 per square foot of building area. With the analysis set forth on page 51, the appraisers concluded on page 52 of the appraisal report that the subject would have a market

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rent of \$12.50 per square foot of annual net rental which would include the contributory value of the basement space resulting in a total net rent of \$64,038.

With reliance upon survey data, the appraisers concluded a 5% vacancy and collection loss would be best representative of the conditions for office properties within the subject submarket as of the date of the appraisal resulting in an effective gross income of \$60,836. Assuming a net lease, the appraisers estimated operating expenses for the subject for a management fee, insurance and replacement reserves of \$4,435 resulting in net operating income of \$56,401.

The final step under the income approach was to estimate the capitalization rate to be applied to the subject's net income (Appraisal, p. 54-57). Using the direct capitalization technique resulted in an 8.50% overall capitalization rate while the band of investment method resulted in an 8.72% overall capitalization rate. Due to difficulty in estimating equity dividend rates, the appraisers placed more weight on the direct capitalization technique and concluded an overall capitalization rate of 8.50% for the subject property. Capitalizing the subject's estimated net operating income of \$56,401 by 8.50% resulted in an estimated value under the income approach of \$660,000, rounded.

In reconciling these two value approaches, the appraisers placed primary emphasis upon the sales comparison approach and due to the lack of local capitalization rates, the appraisers gave secondary consideration to the income approach value conclusion. Therefore, the appraisers opined an estimated market value for the subject property as of January 1, 2017 of \$640,000.

Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the appraised value conclusion.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$266,298. The subject's assessment reflects a market value of \$793,971 or \$154.98 per square foot of building area, land included, when using the 2017 three year average median level of assessment for Grundy County of 33.54% as determined by the Illinois Department of Revenue.

In response to the appellant's evidence, the board of review submitted a two-page memorandum from Thomas L. Hougas, Clerk of the Board of Review along with a spreadsheet of Grundy County Recorded Sales. In the memorandum, the board of review noted that the subject property was last sold in August 2000 for \$2 million.

As to the appraisal, the board of review contends the comparables were "used only as banking institutions," consisted of properties outside of Grundy County, not every sale had been recorded and the comparables "did not document the improvement value separate from the land value." As to appraisal sale #6 of a property located in Grundy County, the board of review noted the property transferred by "Special Corporation Deed" and was not deemed to be a "good sale" by the Illinois Department of Revenue along with the applicable deed restriction.

Apparently at the local board of review hearing, the Chief County Assessment Officer (CCAO) provided summary data that there had been 184 sales between January 1, 2014 and July 1, 2017 of Commercial Business (0060) and Commercial Office (0070) properties.

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A spreadsheet was filed with the Property Tax Appeal Board of 35 properties listed with parcel numbers, sale date, 'property class,' sale price, year built, building size, land assessment, 'sale less (3x land AV),' 'improvement sale/sf,' and 'imp sale/sf divided by 3.' The 35 properties on the spreadsheet are summarized as either Commercial Business or Commercial Office properties that were built between 1970 and 2016. The buildings range in size from 2,640 to 7,200 square feet of building area. No details concerning story height, exterior construction, foundation and/or features for these 35 properties was provided as would be necessitated by completion of page 2 of the "Board of Review – Notes on Appeal" grid analysis. These 35 properties sold between March 2014 and June 2017 for prices ranging from \$65,000 to \$3,720,000.

The memorandum further reported that of these 35 sales were "within 50% size of the subject (from 2,560 sf to 7685 sf . . .) AND built within 24 years of the subject (from 1969 to 2017)." The memorandum further describes the analysis provided in the spreadsheet as "deducting the full assessed value of the land from the sale price of these 35 sales, and dividing the resulting price by their respective building sf, the average assessed value per square foot of the improvements was \$68.93." Since the subject's assessed value per square foot of improvement is \$48.81, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

In this appeal, the appellant submitted an appraisal report estimating a fair market value for the subject property of \$640,000 or \$124.93 per square foot of building area including land as of January 1, 2017. The board of review submitted 35 suggested comparable sales to support its assessed valuation of the subject property.

The Property Tax Appeal Board finds the appellant's appraisal report provided a credible estimate of value of the subject property. The appraiser placed greatest weight upon the sales comparison approach to value and gave less weight to the income approach to value due to the lack of local capitalization rates. In support of the concept of placing greatest weight upon the sales comparison approach to value as stated by the appraisers on page 11 of the appraisal report, 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. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. Therefore, the Board finds greater weight shall be given to the appellant's appraiser's bases for valuing the subject property.

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Both parties to this appeal submitted comparable sales data. Only the appellant's appraisers made adjustments to the six comparable sales presented in the appraisal report to account for differences when compared to the subject property in arriving at an estimated market value of the subject property of \$640,000. The appraisers' estimated value of \$125.00 per square foot of building area, including land, is well within the range of the six raw sales comparables set forth in the appraisal report on a per-square-foot basis.

The Grundy County Board of Review presented a spreadsheet of 35 raw, unadjusted comparable sales of 'Commercial Business' or 'Commercial Office' properties. Nothing in the board of review submission indicates whether these properties are office buildings, retail buildings or some other type of structure. Twenty-two of these 35 sales occurred in 2014 or 2015, dates remote in time to the assessment date at issue of January 1, 2017. After giving reduced weight to 22 of the board of review sales for being dated transactions, the Board finds that the remaining 13 suggested comparable sales were built between 1972 and 2016 and range in size from 3,096 to 6,560 square feet of building area. These 13 sales occurred from January 2016 to June 2017 sold for prices ranging from \$26,500 to \$2,204,404, including land or from \$5.30 to \$449.88 per square foot of building area, including land. In the absence of any comparable characteristic data of these buildings besides the age and size, the Board can determine no substantive market value evidence for comparison with the subject property or for appropriate application to the subject property given this drastic range of sales price data. Considering the sales comparison approach to value developed by appellant's appraisers and the sales presented by the board of review, the Property Tax Appeal Board gives more weight to Sterling Valuation appraisal report presented by the appellant.

In conclusion, the subject's assessment reflects a market value of \$793,971 or \$154.98 per square foot of building area, including land, which is above the appraised value. The Board finds the subject property had a market value of \$640,000 as of the assessment date at issue. Since market value has been established the 2017 three year average median level of assessments for Grundy County of 33.54% as determined by the Illinois Department of Revenue shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

2020 SYNOPSIS – COMMERCIAL CHAPTER

APPELLANT:	Hotcakes LLC
DOCKET NUMBER:	16-04815.001-C-1
DATE DECIDED:	August, 2020
COUNTY:	Lake
RESULT:	Reduction

The subject property consists of a one-story commercial building of masonry exterior construction with 6,401 square feet of building area which operates as a restaurant. The structure was built in 2001 and features a large dining area, a large kitchen and central air conditioning. The property has a 51,401 square foot corner site with an asphalt paved parking lot suitable for approximately 105 cars and is located in Lake Zurich, Ela Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Gregory Nold, MAI and a Certified General Real Estate Appraiser, which was prepared for a property tax assessment appeal. The 75-page appraisal sets forth an estimated market value for the subject property of \$995,000 as of January 1, 2017.

As to the subject building, the appraiser reported on page 37 of the report that the property has access which is restricted to a side street and not directly from Rand Road. Two valuation methods were utilized by Nold.

Using the sales comparison approach, the appraiser analyzed five comparable sales of commercial buildings in Lake Zurich, Long Grove, Mundelein and Fox River Grove. The comparables have sites that range in size from 12,110 to 86,205 square feet of land area and were improved with one-story buildings that were built between 1965 and 2006. The structures range in size from 3,800 to 6,012 square feet of building area. Sales #4 and #5 are four-unit and two-unit buildings, respectively. The comparables sold from May 2015 to March 2017 for prices ranging from \$400,000 to \$880,000 or from \$83.15 to \$195.92 per square foot of building area, land included.

Nold applied quantitative adjustments as set forth on page 51 of the appraisal concerning differences in building size, physical characteristics, construction quality, land-to-building ratio and/or age/condition. The adjustments were further discussed on pages 52 through 55 of the report. Through this process, the appraiser opined adjusted sales prices ranging from \$103.94 to \$157.71 per square foot of building area, including land. As a result and as depicted on page 55, Nold arrived at an estimated market value for the subject of \$992,155 or \$155.00 per square foot of building area, including land, as of January 1, 2017.

Under the income approach, Nold analyzed seven rental comparables which were modified gross leases which were described on page 57 of the appraisal as consistent with current market expectations. The units ranged in size from 1,600 to 4,960 square feet of building area with rents ranging from \$14.00 to \$25.83 per square foot of building area. The appraiser estimated a rental rate of \$23.00 per square foot due to the subject's large size and balanced by its quality construction and available parking, based on a modified gross lease arrangement where the tenant is responsible for their own utility expenses.

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Therefore, as summarized on page 62 of the report, Nold estimated potential gross income to be \$147,223 less vacancy and collection loss of 8% or \$11,778 which results in an effective gross income estimate of \$135,445. Next, the appraiser estimated expenses of management at 5% of effective gross income, common area maintenance (CAM) at \$3 per square foot, legal and professional at 1.8% of effective gross income or \$2,500 and replacements for reserves of 1.2% of effective gross income or \$1,600 which resulted in total estimated expenses of \$30,076. Deducting the estimated expenses from the estimated effective gross income resulted in a net operating income of \$105,370.

Utilizing direct capitalization, the appraiser set forth a chart on page 61 of the appraisal report and concluded an 8% capitalization rate with a 2.58% tax load factor resulting in an overall capitalization rate of 10.58%. Once applied to the resulting net operating income, Nold reported an indicated value for the subject by the income approach of \$995,000, rounded.

In reconciliation as outlined on page 63 of the appraisal report, Nold gave primary emphasis to the sales comparison approach and gave the income approach secondary emphasis when concluding an opinion of value for the subject as of January 1, 2017 of \$995,000. Based on this evidence, the appellant requested a total assessment of \$331,634 which would reflect a market value of approximately \$995,000 at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$417,938. The subject's assessment reflects a market value of \$1,260,368 or \$196.90 per square foot of building area, land included, when using the 2016 three year average median level of assessment for Lake County of 33.16% as determined by the Illinois Department of Revenue.

In response to the appellant's appraisal evidence, the board of review reported that a revised appraisal prepared by Nold was "submitted" as of October 2, 2017 with an estimated market value of the subject of \$1,055,000 or \$164.81 per square foot of building area, including land. A copy of this "revised" appraisal report was presented with the board of review's evidentiary submission.

In the cover letter accompanying the revised appraisal report, Nold stated the document was "developed as a result of corrected local sales data considered for analysis." In comparing the data in the sales comparison approach to value, the revised report removed original sale #2 and analyzed four sales. In summary, the comparables were improved with one-story buildings that were built between 1965 and 2006. The structures range in size from 3,800 to 6,012 square feet of building area. Sales #3 and #4 are four-unit and two-unit buildings, respectively. The comparables sold from May 2015 to February 2017 for prices ranging from \$400,000 to \$880,000 or from \$90.65 to \$195.92 per square foot of building area, land included. Nold analyzed appropriate adjustments for differences when compared to the subject and through this process, he opined adjusted sales prices ranging from \$142.11 to \$166.54 per square foot of building area, including land. As a result, Nold arrived at an estimated market value for the subject of \$1,055,000 or \$164.82 per square foot of building area, including land, as of January 1, 2017. In a summary page submitted by the board of review, Nold presented a modified conclusion under the income approach to value for the subject of \$1,050,000.

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The record fails to reveal how, when or why the board of review came into possession of this revised appraisal of the subject property prepared by Nold. The submission by the board of review also fails to indicate whether it is complete based upon examination of page numbers in the document.

As part of its memorandum addressing the appellant's revised appraisal report, the board of review noted the date of valuation is January 1, 2017 instead of the year on appeal of 2016. Appraisal sale #1 was described by the board of review as a rehabbed former bank REO property that was advertised as including "both business and real property" although this data was not reported or accounted for in the appraisal. Citing four PTAX-203 Illinois Real Estate Transfer Declarations related to original appraisal sale #2, the board of review argued that the documentation indicates the property was not advertised prior to sale and contradicts the assertion the sale was an arm's length transaction. Citing CoStar and listing data related to revised appraisal sale #2 (originally sale #3) as a bank REO sale the board of review contends the documentation indicates the "price was affected by the fact it was an REO sale." As to revised appraisal sale #3 (originally sale #4), the board of review argued as a four-unit retail strip center and a transaction as part of a 1031 exchange, the board of review questions the comparability of this transaction. As to revised appraisal sale #4 (originally sale #5), the board of review notes its three-unit retail strip center design which differs from the subject single-unit commercial building and was not advertised as cited in the applicable PTAX-203 Illinois Real Estate Transfer Declaration related to the sale.

Based on the foregoing criticisms of the sales data in the appraisal report, the board of review contends it "does not believe that the appraisal is accurate or complete, and that the concluded value is not reasonable."

In support of its contention of the correct assessment, the board of review submitted information on five comparable sales along with supporting documentation. Each comparable is described as a restaurant oriented commercial building which are located from 4.22 to 12.05-miles from the subject in the communities of Vernon Hills, Arlington Heights or Streamwood. The comparables have sites that range in size from 32,234 to 100,587 square feet of land area and were improved with one-story brick or frame buildings that were built between 1980 and 2006. The structures range in size from 5,298 to 6,380 square feet of building area. The comparables sold from July 2014 to December 2017 for prices ranging from \$1,250,000 to \$1,455,000 or from \$209.68 to \$246.29 per square foot of building area, land included.

In written rebuttal, counsel for the appellant waived the request for an in-person hearing in this matter and requested a reduced assessment in accordance with the appellant's appeal petition.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

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The appellant submitted an appraisal of the subject property dated August 21, 2017 with an opinion of value of \$995,000 and the board of review submitted a "revised" appraisal prepared by the appellant's appraiser dated October 2, 2017 with an opinion of value of \$1,055,000 along with five suggested raw, unadjusted comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given little weight to the original appraisal report presented by the appellant as the document presumably has been supplanted by the "revised" report, a portion of which was submitted by the board of review in this appeal.

The Board has given little weight to the board of review's criticisms of the "revised" Nold appraisal report. In this matter, the Board finds the date of valuation is proximate in time to the assessment date at issue and little weight can be afforded the raw, unadjusted sales presented by the board of review given their diverse lot sizes, ages, building sizes and/or dates of sale.

On this limited record, the Board finds the best evidence of market value to be the appellant's "revised" appraisal report with an estimated market value of \$1,055,000 as of January 1, 2017. The subject's assessment reflects a market value of \$1,260,368 or \$196.90 per square foot of building area, including land, which is above the "revised" appraised value. Based on this evidence of the appellant's "revised" appraisal report, the Board finds a reduction in the subject's assessment is justified.

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APPELLANT:	Daniel L. Jenkins
DOCKET NUMBER:	16-05208.001-C-1
DATE DECIDED:	February, 2020
COUNTY:	Winnebago
RESULT:	No Change

The subject property consists of a vacant parcel of 5.15-acres or 224,334 square feet of land area. The property is zoned Commercial General and is located in Roscoe, Roscoe Township, Winnebago County.

The appellant contends both assessment inequity and overvaluation as the bases of the appeal. In support of these arguments, the appellant submitted information on five comparable properties in a grid analysis with both assessment information and data that four of the properties had sold. The comparable parcels are vacant and range in size from 2.49 to 13.06 acres of land area or from 108,464 to 568,894 square feet of land area. The comparables have land assessments ranging from \$91 to \$62,184 or from \$13.28 to \$9,759.04 per acre or from \$0.0003 to \$0.224 per square foot of land area. Comparables #1, #2, #3 and #5 sold between October 1997 and August 2015 for prices ranging from \$66,257 to \$205,000 or from \$9,026.84 to \$82,329.32 per acre or from \$0.2072 to \$1.89 per square foot of land area.

Based on this evidence, the appellant requested a land assessment of \$17,581 or \$3,413.79 per acre or \$0.07837 per square foot of land area. The requested reduced assessment would reflect a market value of approximately \$52,743 or \$10,241.36 per acre or \$0.24 per square foot of land area.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total land assessment for the subject of \$29,911 or \$5,808 per acre or \$0.13 per square foot of land area. The subject's land assessment reflects a market value of \$89,688.16 or \$16,306.94 per acre or \$0.40 per square foot of land area, when using the 2016 three year average median level of assessment for Winnebago County of 33.35% as determined by the Illinois Department of Revenue.

The board of review provided no equity data to respond to the appellant's lack of uniformity argument.

In support of its contention of the subject's correct market value, the board of review submitted data prepared by the township assessor. The assessor's grid provides information on three comparable sales located in Loves Park, Machesney Park and Rockford. Each comparable is described as vacant land for retail/general, industrial and office/retail/general use, respectively. The zoning is Agriculture, IG and Commercial General District, respectively. The parcels range in size from 5.24 to 6.2 acres or from 228,254 to 270,072 square feet of land area. The comparables sold between September 2014 and October 2016 for prices ranging from \$210,000 to \$2,041,000 or from \$40,076.34 to \$329,193.54 per acre or from \$0.92 to \$7.56 per square foot of land area.

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

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Conclusion of Law

The taxpayer contends assessment inequity as a basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted on grounds of lack of assessment uniformity.

The appellant submitted five comparables to support his inequity argument before the Property Tax Appeal Board. The Winnebago County Board of Review failed to provide any equity data in response to this appeal. The appellant's five comparables have varying degrees of similarity to the subject parcel; most of the comparables are larger than the subject property. The appellant's equity comparables have land assessments ranging from \$0.0003 to \$0.224 per square foot of land area. The subject parcel has a land assessment of \$0.13 per square foot of land area, which falls within the range of the appellant's comparables. Based on this evidence, the appellant has failed to establish lack of assessment uniformity by clear and convincing evidence and thus a reduction in the subject's assessment is not warranted on grounds of lack of uniformity.

The appellant also 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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted a total of seven comparable sales to support their respective positions before the Property Tax Appeal Board. The Board has given little weight to appellant's comparable #5 as this property sold in October 1997, a date remote in time to January 1, 2016, the valuation date at issue in this appeal. The Board finds a sale that occurred approximately 19 years ago is unlikely to be indicative of current market value. Given differences in land size, the Property Tax Appeal Board has also given reduced weight to appellant's comparables #1 and #3 as each of these properties are significantly larger than the subject parcel.

The Board finds the best evidence of market value to be appellant's comparable sale #2 along with the board of review comparable sales. The comparables range in size from 2.49 to 6.2 acres of land area. These most similar comparables sold between September 2014 and October 2016 for prices ranging from \$0.92 to \$7.56 per square foot of land area. The subject's assessment reflects a market value of \$0.40 per square foot of land area, which is below the range established by the best comparable sales in this record.

Based on this evidence, the Board finds a reduction in the subject's assessment is not justified on grounds of overvaluation.

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APPELLANT:	Ted Kastrand
DOCKET NUMBER:	16-04824.001-C-2
DATE DECIDED:	August, 2020
COUNTY:	Winnebago
RESULT:	Reduction

The subject property consists of two structures situated on one parcel. Building #1 is a one-story strip mall of masonry and steel frame construction containing 13,115 square feet of building area currently divided into ten units ranging in size from 600 to 1,950 square feet of building area per unit and was built in 1989. Building #2 is a free-standing retail building of masonry and steel frame construction currently built out as a restaurant which contains 6,044 square feet of building area and was built in 1994. With common utility area in the multi-tenant building, there is 18,734 square feet of net rentable area and 19,159 square feet of building area for both structures combined. The property has a 3.48-acre or 150,508 square foot site, a land-to-building ratio of 7.86:1 and is located in Roscoe, Roscoe Township, Winnebago County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Jennifer J. Kleckner, Peter D. Helland and Edward V. Kling, each of whom is a Certified General Real Estate Appraiser and where Kling also holds the MAI and MRICS designations, estimating the subject property had a market value of \$1,350,000 as of January 1, 2016.

In estimating the market value of the subject property, the appraisers developed the sales comparison and income capitalization approaches to value. The appraisers on page 13 of the report indicated that the exterior of the building was in average condition; the roof was reported to be 22 years old and the appraisers noted signs of leaks on the interior. The internal condition was deemed to be average with updates to the units over the years and being well-maintained. As to external obsolescence, the appraisers noted the subject was average to below average due to "minimal growth occurring." The appraisers noted that rental rates were low. (Appraisal, p. 13)

Using the sales comparison approach, the appraisers provided information on six comparable sales located in Belvidere, Loves Park, Rockford and Woodstock. Each of the comparables were described as a multi-tenant retail center. The buildings were from 7 to 20 years old and range in size from 11,208 to 19,336 square feet of building area. The comparables have from 1.11 to 1.66-acres of land area and land-to-building ratios ranging from 3.13:1 to 5.32:1. These comparables sold from October 2014 to October 2016 for prices ranging from \$800,000 to \$1,855,000 or from \$65.19 to \$101.09 per square foot of building area, including land. After making qualitative adjustments to the comparables as described in the appraisal and set forth on a chart on page 33, the appraisers applied adjustments to the comparables ranging from 5% to -25% resulting in adjusted sales prices ranging from \$68.45 to \$80.87 per square foot of building area, including land. Based on this data the appraisers estimated the subject had an estimated value under the sales comparison approach of \$75.00 per square foot of building area or \$1,440,000, rounded (Appraisal, p. 34).

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Under the income approach to value, the appraisers analyzed both contract rents at the subject property and market rents for 12 rental comparables. Of the eleven total units at the subject property, as of January 1, 2016 nine were being leased for rental rates ranging from \$8.65 to \$15.70 per square foot. The highest rental rate applied to Building #2. The appraisers on page 36 of the appraisal summarized data on current and asking rents for comparable spaces. The comparables range in size from 850 to 9,000 square feet of building area. These comparables had either modified gross or triple net rental rates/asking rates of \$7.25 to \$13.94 per square foot of building area. The appraisers wrote on page 37 that asking rates were as high as \$18.74 per square foot.¹ The appraisal report indicated the subject's average lease rate was \$12.97 per square foot.

After considering both the contract rents and the market rental data, the appraisers opined a market rent for the subject property of \$12.00 per square foot for units in Building #1 and \$16.00 per square foot for Building #2. Therefore, the subject's potential annual income was estimated to be \$248,984. Vacancy and collection loss were estimated to be 10% or \$24,898. The appraisers thus estimated an effective gross income of \$224,086. Next, expenses for management, insurance, common area maintenance, legal/accounting and reserves for replacements were calculated to be \$48,256 resulting in a net operating income of \$175,830. Using the direct capitalization technique and after examining various sources, the appraisers opined a capitalization rate of 10% and then applied the effective tax rate for an overall capitalization rate of 13.66% to be applied to the subject's net operating income. As a result, the appraisers concluded a value under the income approach of \$1,290,000, rounded.

In reconciling the two approaches to value the appraisers estimated the subject property had a market value of \$1,350,000 as of January 1, 2016. Based on this evidence, the appellant requested a reduction in the subject's assessment to approximately reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$633,871. The subject's assessment reflects a market value of \$1,900,663 or \$99.20 per square foot of building area, land included, when using the 2016 three year average median level of assessment for Winnebago County of 33.35% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review submitted a memorandum from the board of review and a memorandum with supporting documentation prepared by the Roscoe Township Assessor's Office. The board of review memorandum inexplicably asserted the 2016 appeal was based "on an appraisal dated May 1, 2013." The Property Tax Appeal Board presumes this assertion was simply a typographical error. The board of review further asserted that of the six comparable sales presented in the appraisal, the appraisers made downward adjustments to five of the comparables and four of those adjustments were 20% or more.

The township assessor noted that the unadjusted median sale price of the appraisal sale comparables was \$97.26 per square foot of building area, including land. The assessor noted that applying the median unadjusted sale price to the subject would reflect a market value of \$1,863,404.

¹ The Board recognizes that the chart on page 36 does not depict this highest asking rental rate.

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The memorandum from the township assessor outlined data in the appraisal concerning various capitalization rates reflected by four of the comparable sales. The township assessor wrote, "Our research (See Attached) indicates average cap rate of 10.16% which equates to \$1,730,610. Applying the above cap rate yields \$90.33 PSF." As such, the assessor indicated a willingness to stipulate to the income approach using a cap rate of 10.16% for assessment year(s) 2016 and 2017."

As to the income approach to value in the appraisal report, the board of review relied upon the township assessor's analysis expressed as "research and correct reading of the appraisal indicates an assessed value of \$576,870." Based on this information, the board of review proposed to reduce the subject's total assessment to \$576,870 which would reflect a market value of approximately \$1,730,610 or \$90.33 per square foot of building area, including land.

The appellant was informed of this proposed assessment reduction and rejected the offer and requested a decision on the evidence of record.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the appraisal of the subject property submitted by the appellant. The appellant's appraisers developed the sales comparison and income capitalization approaches to value. The sales utilized by the appraisers were similar to the subject in size, style, exterior construction, features, age and/or land area with adjustments made for differences. These properties also sold proximate in time to the assessment date at issue. The appellant's appraisers also examined the subject's income and contrasted that with market data to arrive at stabilized income. Next the appraisers outlined the applicable expenses resulting in a net operating income calculation. Using various publications and analyses, the appraisers opined a loaded capitalization rate to apply to the net operating income calculation which the Board finds to be well reasoned and justified. After reconciliation of the two approaches to value, the appraised value conclusion for the subject property of \$1,350,000 is below the market value reflected by the assessment of \$1,900,663.

In summary, the board of review failed to provide any comparable sales to support the subject's assessment. The sole basis presented by the board of review to disagree with the appellant's appraisal report was the chosen capitalization rate. Through the township assessor, the board of review contends that applying a capitalization rate of 10.16% (without accounting for the tax load) when applied to the net operating income calculation would result in an estimated market value under the income approach of \$1,730,610. The Property Tax Appeal Board finds this income approach prepared by the township assessor to be fatally flawed for not adding the substantial local tax load of 3.66%. Under the theory of an income approach to value, the property tax expense must be accounted for either within the expenses before determining the net operating income or

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as a load factor to be added to the selected capitalization rate. The Board finds it is wholly inappropriate to simply ignore the property tax expense as occurred in the analysis presented by the board of review.²

Based on this record and the determination that the appraisal represents the best evidence of the subject's estimated market value, the Board finds the subject property had a market value of \$1,350,000 as of January 1, 2016. Since market value has been determined the 2016 three year average median level of assessment for Winnebago County of 33.35% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

² Based on the data presented by the township assessor the loaded capitalization rate would be 13.82% which when applied to the net operating income calculation would reflect a market value of \$1,272,287 under the income approach.

2020 SYNOPSIS – COMMERCIAL CHAPTER

APPELLANT:	Marquardt School District No. 15
DOCKET NUMBER:	16-05866.001-C-3
DATE DECIDED:	December, 2020
COUNTY:	DuPage
RESULT:	No Change

The subject property consists of a one-story, multi-tenant, industrial/flex/retail building of masonry and fixed glass in metal frames exterior construction containing 42,341 square feet of building area. The building was constructed in 1998 on reinforced poured concrete foundation. The property has a land area of 2.72 acres or 118,406 square feet, reflecting a land-to-building ratio of 2.8:1. The subject property is located in Addison, Addison Township, DuPage County.

The appellant, Marquardt School District No. 15, contends the market value of the subject property is not accurately reflected in its assessed valuation and that the subject property is under-assessed. In support of this argument, the appellant submitted an appraisal report of the subject property prepared by Dale J. Kleszynski, a Certified General Real Estate Appraiser. The stated purpose of the appraisal was to "...estimate the retrospective market value of the fee simple estate in the subject property as of the effective date of value for a real estate tax appeal". The final conclusion was that the subject property had a market value of \$3,275,000 or \$77.35 per square foot of building area, including land, as of January 1, 2016.

As to the highest and best use of the property, Kleszynski determined that of the uses that are legally permissible, physically possible, and financially feasible, the current use as a multi-tenant/flex/commercial property appears to return the greatest value to the property and is therefore considered to be the maximally productive use of the subject, as improved. In estimating the market value of the subject property, Kleszynski developed the income capitalization approach and the sales comparison approach to value.

Although Kleszynski did not develop the cost approach to value due to the age of the improvement and, therefore, the need to apply assumptions related to the overall depreciation and/or obsolescence found in the subject property, he evaluated the subject site separate from the improvement. His stated reason for this is because "...the land component of the overall assessment is significant to the intended use of this appraisal and report in the real estate tax appeal". In his analysis of land sales, Kleszynski utilized five land comparable sales located in Addison, Glendale Heights, Hanover Park, Carol Stream, and Bloomingdale. The sites consist of four vacant lots and one partially improved site. The sites range in size from 132,989 to 352,444 square feet of land area. The land comparables sold from December 2012 to May 2015 for prices ranging from \$600,000 to \$1,748,500 or from \$4.30 to \$7.15 per square foot of land area. After considering adjustment to the comparable land sales for factors such as property rights conveyed, financing, condition of sale, time on the market, location, zoning, land area and physical characteristics/current use, the appraiser concluded the adjusted land value of the subject property to be \$650,000.

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Kleszynski then developed the income capitalization approach to value which is an analysis of comparable rentals to derive a net income stream that is then capitalized to estimate the subject's market value. The first step under this approach was to estimate the subject's market rent. The appraiser selected six rental comparables which he considered to be most similar to the subject property in order to determine the appropriate market rates and terms to be applied in the analysis of the subject property. The properties were located in Lombard, Hanover Park, Carol Stream, and Addison. The buildings range in size from 1,030 to 12,000 square feet of building area. No data on age and condition or land-to-building ratios was presented for the comparable rentals. Kleszynski noted that he did not have access to the rental data for the subject property. The rental data from the six rental comparables indicated that as of the effective date at issue, larger commercial space and industrial units in the subject area were leased or listed for lease at rates ranging from \$5.50 to \$20.01 per square foot of building area. Based on this information, Kleszynski derived the rental rate for the subject property at \$8.00 per square foot of building area on a net basis, resulting in a potential gross rental income of \$338,728.

To estimate vacancy and credit loss, the appraiser used the *CoStar* database which indicated that vacancy rate for properties like the subject ranged from 3.0% to 8.0% as of January 1, 2016. Based on this data, in addition to his review of the rental data "located elsewhere in [his] report", Kleszynski concluded that a blended vacancy and collection loss rate of 15% or \$50,809 (13.0% vacancy rate and 2.0% collection loss) is appropriate in the evaluation of the subject property. Subtracting the vacancy and collection loss from the potential gross income, the appraiser arrived at an effective gross income of \$287,919.

Kleszynski next subtracted \$224,895 for expenses which includes \$152,661 for property taxes, \$19,053 for insurance, \$10,077 for management fees, \$31,756 for common area maintenance, \$2,879 for other expenses, and \$8,468 for reserves for replacements. Applying Expense Ratio (Expenses/EGI) of 78.11% and Net Expense ratio of 18.04% after expense reimbursement of \$172,950, resulted in a Net Operating Income (NOI) of \$235,974.

The final step under the income approach is to estimate the capitalization rate to be applied to the subject's net income. To arrive at the capitalization rate, Kleszynski used publishing indicies such as *Korpacz*, *Appraisal Institute* data, and *PricewaterhouseCoopers, LLP Investor Survey* which depicted overall capitalization rates for flex space investments ranging from 5.75% to 9.00%. Using the Band of Investment method, the appraiser applied a mortgage interest rate of 4.75% with a 25-year amortization, a loan-to-value ratio of 75% and an equity return of 8.5% which resulted in a capitalization rate of 7.25%, rounded. Applying this capitalization rate to the net operating income of \$235,974 resulted in an estimated market value for the subject of \$3,250,000, rounded, under the income approach to value.

As an additional analysis, Kleszynski estimated the net income for the subject property by excluding the real estate taxes from the normal expenses. In this process, he adjusted the capitalization rate or "loaded" it to reflect the impact of the statutory assessment level of 33.33%, Illinois equalization factor of 1.0716, and the tax rate for the subject's location of 12.1439% resulting in a loaded factor of .0434, rounded. Added to the basic rate of .0726 which was derived from the Band of Investment analysis, resulted in a loaded capitalization rate of .1160. Applying this rate to the net operating income of \$388,635 resulted in a market value for the subject property of \$3,350,000, rounded, using the loaded capitalization rate.

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Kleszynski also developed the sales comparison approach as part of this appraisal assignment. He noted that this approach relies upon the principle of substitution which is based on a concept that a willing buyer would not pay more for a property than they would pay for a property with similar characteristics and location. As a result, he noted that the sales approach to value is the most reliable indicator of market value because it reflects the actions of buyers and seller in the market. In this approach, the appraiser utilized five “leased fee” sales meaning that “[e]ach sale used in this analysis was fully or partially leased when purchased reflecting the transfer of the leased fee interest”. The comparable sales are located in Lombard, Carol Stream, Bensenville, and Itasca. The appraiser verified the sales as arm's-length transactions through public records. The land sizes range from 111,078 to 1,219,680 square feet of land area which were improved with industrial, industrial/flex, or retail buildings that were built from 1979 to 1997. The structures range in size from 47,376 to 123,182 square feet of building area. The comparables have land-to-building ratios ranging from 2.34:1 to 9.90:1. The sales of the comparables occurred from April 2014 to January 2016 for prices ranging from \$3,520,000 to \$9,200,000 or from \$62.51 to \$111.32 per square foot of building area, including land. Next, Kleszynski considered qualitative adjustments to the comparable sales for property rights, financing, sale conditions, date of sale, location, size/land-to-building ratio, construction/quality, age/condition and other/utility matters when compared to the subject property.

With regard to the adjustment for property rights, Kleszynski contended in the appraisal report that when properties are leased at market rates and terms, the value of the leased fee and the value of the fee simple interest are the same. However, in the grid analysis, the appraiser made “downward” adjustments to four of the five comparable sales each of which conveyed leasehold interests indicating that the comparable sales are superior to the subject property in terms of property rights conveyed, as the subject property was appraised as a fee simple interest meaning that no leases are conveyed.¹ The adjustment process resulted in an estimated unit value for the subject of \$78.00 per square foot of building area, including land, and market value of \$3,300,00, rounded, under the sales comparison approach to value.

In reconciling the three approaches to value, Kleszynski placed primary consideration on the sales comparison approach. Kleszynski noted that the income approach to value was given secondary or supportive consideration because he did not have access to any leases encumbering the subject property as of the effective date at issue and, therefore, he concluded that the analytical technique under the income approach to value is “weakened” due to the limited information available to him about the actual and historic operation of the subject as an income-producing property. The appraiser arrived at a reconciled estimate of market value of \$3,275,000 as of January 1, 2016. (Kleszynski appraisal report, p. 60)

Based on this evidence, the appellant, Marquardt School District No. 15 requested an increase in the subject's total assessment based on the appraised value.

¹ Although the appraiser made no property rights adjustments to comparable #4 in the grid analysis, both the grid and the property information sheet for this sale depicts property rights conveyed as a “leased fee” estate, as are all of the remaining comparable sales.

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The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$747,310. The subject's assessment reflects a market value of \$2,244,848 or \$53.15 per square foot of building area, land included, when using the 2016 three-year average median level of assessment for DuPage County of 33.29% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment, the board of review through the township assessor submitted information on three comparable sales located in Itasca, Hanover Park and Aurora. The comparables are improved with stand-alone retail (strip-center) or storefront/office buildings of various exterior construction. The buildings were constructed from 1986 to 2008 and range in size from 21,596 to 44,300 square feet of building area. The comparable sales have sites ranging in size from 96,703 to 226,512 square feet of land area and have land-to-building ratios ranging from 4.48:1 to 5.69:1. The comparables sold from March 2013 to March 2015 for prices ranging from \$1,200,000 to \$1,640,000 or from \$37.02 to \$55.57 per square foot of building area, including land. Each property was purchased as an investment, and sales #2 and #3 were bank-owned real estate (REO) properties at the time of purchase. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and an increase in the subject's assessment is not warranted.

The appellant, Marquardt School District No. 15, submitted an appraisal report estimating the subject property had a fair market value of \$3,275,000 as of January 1, 2016. The board of review submitted information on three comparable sales in support of their respective positions before the Property Tax Appeal Board.

The Property Tax Appeal Board gave little weight to the appraiser's final value conclusion. The sales comparison approach was given primary consideration by the appellant's appraiser in determining final value conclusion. However, in each of the five comparable sales, the buyer acquired a leased fee interest in the property with each property having variable number of existing tenants. The Board finds unpersuasive the appraiser's contention that when properties are leased at market rates and terms, the value of the leased fee and the value of the fee simple interest are the same. The Board finds that there is nothing in the record to indicate the rental rates or the terms of the leases for the comparable sales used by Kleszynski. The Board further finds that if the sale of a leased property is to be used as a comparable sale in the valuation of the fee simple interest in another property, the comparable sale is most reliable if a reasonable and supportable market adjustment for the difference in rights can be made, i.e., to compare the lease fee interest to the fee simple interest in the subject property in order to determine if the contract rents of the comparable property was above, below or equal to market rent. (*See Final Administrative Decision of the Illinois Property Tax Appeal Board* Docket No.: 15-05646.001-I-3 *Citing Appraisal of Real Estate*, 13th edition, 2008, page 323). Based on Kleszynski's use of leased fee sales without a full examination of the leases calls into question

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whether the sales he used represented fee simple values as leases can have direct impact on the purchase price. The Board finds Kleszynski, therefore, made “downward” adjustments to the comparable sales based on subjective data without evidence of market support in the record.

Additionally, the Board finds that by not examining the leases encumbering the **subject property**, Kleszynski acknowledged that the analytical technique under the income approach to value is “weakened” due to the limited information available to him about the actual and historic operation of the subject as an income-producing property. The Board finds that these factors detract from and undermine Kleszynski’s final value conclusion. However, the Property Tax Appeal Board will analyze the parties’ sale comparables and give them appropriate weight.

The parties submitted a total of eight comparable sales with varying degree of similarity to the subject in support of their respective positions. The only vacant property (i.e., not encumbered by existing leases(s)) is the board of review comparable #3. The Board gave less weight to appellant’s appraiser’s comparables #1 and #2, along with board of review comparables #2 and #3 due to their sales in 2013 and 2014 being less proximate in time to the January 1, 2016 assessment date at issue and therefore less likely to be indicative of market value than the other sales in the record. The board of review comparables #2 and #3 are also bank-owned real estate (REO) properties which calls into question the arms-length nature of their transactions. The Board also gave less weight to the appraiser’s comparable sale #4 based on its building size of 123,182 square feet and site size of 1,219,680 square feet, both of which are significantly larger when compared to the subject’s 42,341 square feet of building area and 118,406-square foot site.

The Board finds the best evidence of market value to be the appraiser’s comparables #3 and #5, along with board of review comparable #1. The Board finds these three comparables to be most similar to the subject in terms of current use/utility, location, age, building size, and land-to-building ratio. These three comparables also sold more proximate to the subject’s assessment date at issue than the remaining comparables in the record. These three best comparables in the record sold from February 2015 to January 2016 for prices ranging from \$1,200,000 to \$4,600,000 or from \$55.57 to \$74.30 per square foot of building area, including land. The subject's assessment reflects a market value of \$2,244,848 or \$53.15 per square foot of building area, including land, which falls within the range established by the best comparable sales in the record on an overall value basis and slightly below the range on a per square foot basis. After considering adjustments to the comparables for building size, current use, and property rights conveyed, the Board finds that subject’s assessment is reflective of the property’s fair cash value as of January 1, 2016 and no change in the subject’s assessment is justified.

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APPELLANT:	Paris Feed and Animal Health, Inc.
DOCKET NUMBER:	16-02838.001-C-1
DATE DECIDED:	February, 2020
COUNTY:	Edgar
RESULT:	Reduction

The subject property is improved with a pole building containing both office and warehouse space and a concrete dock that are not at issue in this appeal. In addition, the property has a two-year-old eight foot by twenty-four-foot "ice house" (also referred to by the parties as an 'ice vending machine')¹ that is the subject matter of this appeal. The property has a 2.3-acre site and is located in Paris, Paris Township, Edgar County.

The appellant contends assessment inequity as the basis of the appeal concerning an ice house which dispenses both purified water and bags of ice to patrons. The subject ice house is located on the subject parcel and a print-out from the assessing officials supplied with the appeal depicts a market value of \$50,000 assigned to the subject ice house.

In a brief supplied with the appeal, the appellant reports that a lease was signed in July 2015 with BHR Ice House, LLC, which owns and operates the subject ice house. The appellant describes that after execution of the lease, the owners of the ice house transported the unit by truck to the subject property and placed it on the leased ground.

A photograph included with the brief depicts a steel-sided "trailer" with an awning on one narrow end and with protective poles imbedded intermittently around the trailer presumably to prevent encroachment/damage from approaching vehicles. The unit has both an electrical hook-up and a water hook-up. There is no sewer attached to the unit and the appellant contended the ice house is not a habitable building.

As part of the brief, the appellant provided photographs and a narrative of the "typical" installation of an ice house depicting the unit being brought to the site on a trailer. The unit is then set on cinderblocks with the use of a crane. The brief explained the reason cinderblocks are used is to ensure the height of the ice house is conducive to the patrons for easy access for the purchase of water and bags of ice from the ice house.

In the brief, the appellant made reference to the definition of real property for purposes of taxation in Illinois, but the appellant contended this appeal is "centered around the value that Edgar County has assigned to the Ice Vending Machine." In support of this argument, the appellant submitted several documents.

¹ Both parties refer to data from Ice House America. The appellant submitted Exhibit #1, an e-mail issued by an employee of Ice House America describing the cost of the building structure. The board of review submitted an FAQ printout from Ice House America which refers to three models of "automated ice machines in different sizes and with different capabilities." (Board of Review Attachment #5)

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Exhibit #1 consists of e-mail correspondence with the dealer from whom BHR Ice House purchased the Ice Vending Machine from known as Ice House America. The appellant summarized the exhibit as detailing the value of the frame, floor, walls, door and roof of the ice house structure to be \$15,000. Any costs above this would reflect the vending equipment located inside of the ice house, including the ice makers, ice bins, water purification systems and related items.

The appellant also completed the Section V grid analysis of the Commercial Appeal petition with data on five comparable properties located from 1 mile to 179 miles from the subject property. Comparables #1 and #2 are located in the Illinois communities of Sparta and Salem which are not within Edgar County. Comparables #3, #4 and #5 are each located in Paris. In the brief and with applicable attachments, the appellant explained the five suggested comparable properties. Based upon data in Exhibit #2 which was information provided to BHR Ice House, LLC, comparable #1 reflects the assessment of an ice house ('Ice Vending Machine') located in Randolph County of \$985 and comparable #2 reflects the assessment of an ice house ('Ice Vending Machine') located in Marion County of \$4,850.² The appellant reports that after doing research, no other 'Ice Vending Machines' were found to be located within Edgar County, but other possible comparable structures were located and presented as comparables #3, #4 and #5.

Comparable #3 consists of a property that is primarily a bowling alley facility but includes "an ice cream stand" located on the parcel as well. A photograph depicts a large shed-type structure with electric service and a large sliding window with a small shelf beneath the window on the exterior for the service of patrons who stand outside. As a food operation, the appellant believes the structure may also have water service. The appellant reported that assessment records do not indicate any assessment of this structure.

Comparable #4 is a property operated as a car wash facility with multiple bays. Included on the property are "money vendors along with canopies in front of the car wash." The appellant included a photograph of the facility which appears to depict two free-standing money vendors with attached canopies. The appellant reported in the brief that reviewing the assessment records did not reveal any assessment placed upon the money vendors which have electric service; the appellant also noted the money vendors are bolted to the concrete parking lot.

Comparable #5 is a multi-tenant building also with an ATM [automated teller machine] unit with electric service and a six to ten-foot canopy located on the parcel. The ATM is located on the outlot of the property as depicted in the photograph contained in the brief. As reported by the appellant, the assessor records depict an assessment of \$5,276 for the ATM structure for an estimated market value of approximately \$15,830.

Based on the foregoing information and argument, the appellant contends that the subject ice house located on the subject parcel should have an assessment of no more than \$5,000 which would reflect its fair market value of \$15,000 for the unit as shown by the manufacturer/dealer of the unit

² Data presented by the appellant also included the applicable tax rates in each of these counties and thus, the estimated tax applied to the ice house. The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation. (86 Ill. Admin. Code §1910.10(f)). Thus, the taxes in these respective counties have not been considered in this decision by the Board.

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in Exhibit #1. However, the appellant also notes that based on the inconsistent treatment of structures such as the subject ice house, perhaps there should be no assessment on the unit at all.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$85,220. The subject property has a land assessment of \$7,900 and an improvement assessment of \$77,320 which consists of three assessed improvements as depicted in the property record card (Attachment #3): a 15,360 square foot pole building built in 1997 with a 16-foot ceiling height, a 144 square foot concrete dock built in 2008 and the ice house that is at issue in this appeal. While the board of review failed to specify the individual improvement assessments for each of these components of the property, the board of review filing appears to depict an improvement assessment of approximately \$59,540 for the pole building; an improvement assessment of approximately \$1,233 for the dock; and an improvement assessment of approximately \$16,667 for the ice house.

As set forth on the property record card, the pole building has an estimated market value of \$178,260, the concrete dock has an estimated market value of \$3,700 and the ice house has an estimated market value of \$50,000. The subject's total assessment reflects a market value of \$255,150, land included, when using the 2016 three year average median level of assessments for Edgar County of 33.40% as determined by the Illinois Department of Revenue.

In response to the appeal, the board of review included a cover letter signed by the members of the Edgar County Board of Review stating, in pertinent part, "the rarity of the structure which the appellant has filed on has made it difficult to prepare the typical comparable sales/assessment grid analysis." The board of review further reported that contact was made with multiple counties and no one reported the sale of a similar structure; likewise a request for research in appraisals held by the Illinois Department of Revenue produced no comparable sales.

In support of its contention of the correct assessment, the board of review submitted numbered attachments, including the notes from the Township Assessor, a copy of the complaint filed at the board of review level, remarks on the appellant's appeal prepared by the board of review, and several different perspectives of an approach to value.

Attachment #1 consists of a memorandum along with the property record card for the subject. The memorandum reports during a discussion with the township assessor, the property owner "remarked that he believed the cost of the structure in debate to be \$60,000." Handwritten notes on the property record card also include: "90 units in IL with only 3 assessments in 3 counties; no concrete footer; does connect to electricity and water; has 3 year lease."

Attachment #2 consists of a memorandum and a copy of the assessment complaint filed before the Edgar County Board of Review. The memorandum asserts the original assessment argument concerned the fact that the "building" was portable and was not owned by the land owner. The memorandum also noted the appellant's opinion of the value of the entire subject property was stated as \$250,000.

Board of review Attachment #3 consists of a memorandum and page one of the Commercial Appeal petition in this matter. The memorandum focuses on the appellant's claim with no change in the land assessment of the subject parcel of \$7,900 and a request for the improvement of \$15,000

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(ice) for a total assessment of \$22,900 [*sic*]. The board of review contends this total assessment request is excessively low given the other improvements on the subject property such as the pole building and the concrete dock.³

Attachment #4 is entitled, "Arguments of Real Value vs. Portability" and consists of a memorandum, an FAQ internet printout from GrandIce.com and documentation from the City of Paris concerning a Building Permit issued regarding the installation of the ice house. In the memorandum, the board of review wrote, "The structure, a free standing ice vending house, is an 8 x 24 aluminum building that has been connected to city water and electricity. There is a concrete pad in the front of the house as well as concrete protection posts surrounding the house." After noting the definition of real property, the board of review contended that removing the concrete, the posts or any plumbing would cause injury to the land and "is certainly an undertaking to complete these tasks, versus moving a portable shed from one side of the yard to another!"

The board of review further contended that an item that would generally be considered as personal property, such as machinery, is not considered to be real property "if it is not intended to remain at the site throughout its useful life." The board of review included no citation for the foregoing definition/interpretation of personal property in Illinois and asserted, "We believe this structure is constructed to remain in this spot for its entire useful life."⁴

Next, the board of review contended the subject structure has created a potential burden upon or liability for the various taxing districts involved. "These districts, which may include fire protection or law enforcement, may be affected financially if utilizing resources to attend to a problem, such as fire or vandalism."

Citing of the internet FAQ data from GrandIce.com, "Ice houses are built and anchored to withstand hurricane winds of up to 150 miles per hour." The board of review noted this would not be the case for a portable building.

Lastly, the city's code enforcement officer indicated the ice house would not have been allowed inside city limits if it were considered portable; a building permit was obtained in order to follow city codes. According to the officer, the ice house was reportedly anchored and the unit was set on a cinder block foundation.

Attachment #5 is a memorandum entitled, "Methods of determining value" which included ten separate pages from sources such as Marshall and Swift, e-bay and others. In this memorandum, the board of review reported valuation assistance was sought from the Illinois Department of Revenue and surrounding counties with no results. No ice vending units were set forth in the Marshall and Swift cost manual, but the board of review looked to the ATM structure in the cost manual and suggested values ranging from \$34,600 to \$38,800 for a fifty foot structure. A 100 foot structure had a range of values from \$38,800 to \$44,100. The board of review indicated that ATM costs would add \$25,800 to \$58,500.

³ The Property Tax Appeal Board recognizes that the appellant's request in the improvement assessment claim concerns only the disputed portion of the assessment related to the ice house and failed to account for the pole building and concrete dock for which no assessment disputes were raised.

⁴ The board of review did not address the fact that the ice unit has a three-year lease at this location.

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Another alternative in the cost manual was "a simple Kiosk" ranging from \$5,100 to \$18,400 with substantial additional value for a refrigerated unit adding \$12,600 to \$31,500.

A listing on the internet for an Ice & Water Vending Machine on e-bay depicted an asking price of \$58,500. Data found on-line for the Bag of Ice Company depicted an item similar to the disputed ice vending unit that did not accept credit and debit cards; adding the water vending feature made for a base price ranging from \$60,900 to \$73,900. Another internet listing for Ice House America Company depicted costs for units ranging from \$23,000 to \$150,000.

Examining data from Grande Ice Company also allowed the board of review to perform an income approach to value based on gross average revenue per Ice House of \$68,000 with a 67% profit margin per year (this did not include income derived from the sale of dispensed water). Lastly, the internet site Unusual Investments depicted a \$20,000 to \$100,000 investment for the structure with an estimated profit generation of \$1,700 per month or \$20,400 per year which does not include profits from dispensed water. The memorandum next outlined speculation as to the profit to be gained from selling 50 one-gallon jugs of water per day or 50 five-gallon jugs of water per day. While the board of review referred to this latter data as an income approach to value, there is no specific income approach outlined in the memorandum with expenses extracted from the market resulting in a concluded net operating income and/or a determination of an appropriate capitalization rate derived from the market.

Lastly, board of review Attachment #6 is entitled Summary and includes color photographs of the subject ice house both at ground level from several perspectives and aerial photography. In this final memorandum, the board of review wrote that the subject ice house is "permanently attached to the ground" and noted the basis for the original assessment appeal that the structure was portable and not owned by the land owner. "The Board of Review disproved the portability issue and argued taxes were something to be discussed between lessor and lessee."

Based on the foregoing evidence and argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The questions posed in this appeal concern the 'installation' of an ice house which was a single contained unit trucked to the subject parcel as a complete unit/structure, placed on cinder blocks, anchored and has electric and water service hooked up to the ice house. The ice house operates as a vending machine of ice and water for paying customers.

As part of this appeal, the appellant implied a contention of law argument with respect to the assessment of the ice house as real estate. The appellant noted that the subject 'ice vending machine' is not permanently fastened to the ground and, given the lack of assessment of some other area comparable structures, should perhaps not be assessed as real estate. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under the Illinois Administrative Procedure Act by an agency shall be the preponderance of the evidence. (5 ILCS 100/10-15). The rules of the Property Tax Appeal Board

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do not provide for the standard of proof where a contention of law is raised; therefore, the standard of proof with respect to this argument is a preponderance of the evidence.

Illinois' system of assessing and taxing real property is founded on the Property Tax Code. (35 ILCS 200/1-1 et seq.). Section 1-130 of the Property Tax Code defines real property in part as:

The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon . . . (35 ILCS 200/1-130.

The court in Ayrshire Coal Co. v. Property Tax Appeal Board, 19 Ill.App.3d 41, 45, 310 N.E. 2d 667, 671 (3rd Dist. 1974) noted that:

A building has been defined as a fabric, structure or edifice, such as a house, church, shop, or the like designed for the habitation of men or animals **or for the shelter of property**. (Citation omitted.) [Emphasis added.]

The court also stated:

A structure has been defined in the broad sense as any construction or piece of work composed of parts joined together in some definite manner. Any form or arrangement of building or construction materials involving the necessity or precaution of providing proper support, bracing, tying, anchoring, or other protection against the pressure of the elements. Id. At 45.

In the case of In re Hutchens, 34 Ill.App.3d 1039, 341 N.E.2d 169 (4th Dist. 1976), a cabin was purchased by a lessee and transported to a leased site where it was set up on pillars of concrete blocks and shimmed up with shingles with the provision of the lease for plumbing connections between the cabin, septic tank and a well. The trial court determined the cabin was sufficiently attached to the land to 'have become part of it.' The Appellate Court of Illinois, Fourth District, found that the trial court's finding that the cabin was part of the real estate was not contrary to the manifest weight of the evidence even though the cabin could be removed without substantial damage to the land and even though the lessee had the right to do that.

In accordance with these precepts, the Property Tax Appeal Board finds the ice house in this appeal is real property as defined in the Property Tax Code subject to real estate assessment and taxation. The structure is composed of steel framing, flooring and a membrane roof covering. The unit was placed on cinder blocks and anchored to the ground. The structure shelters the machinery that produces the ice and water that is dispensed to patrons to the unit.

Nothing in the record evidence suggests that the interior components of the ice house are assessable as real property under the Code. The board of review appeared to agree in its Attachment #5 memorandum that the interior components of the ice house are not assessable. The Edgar County Board of Review analogized the subject to an ATM structure in Attachment #5; "this pricing includes steel frame construction, membrane roof, welded glass and appropriate floor and ceiling finishes." The board of review made no mention of the "interior" machinery of the ATM structure that performs banking transactions for patrons.

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As part of this appeal, the appellant also contends the market value of the subject property, the ice house 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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant provided data that the value of the ice house structure consisting of the frame, floor, walls, door and roof was \$15,000 (Appellant's Exhibit #1). The board of review submitted documentation and set forth several varying estimates of the market value of an ice house like the subject with estimates as high as \$150,000, however, each of those estimates involved purchase or acquisition of the entire ice house as a complete, functional unit. The Property Tax Appeal Board finds under the principles of the Freeze Act that the interior components of the ice house unit are not assessable real property under the Code. As such, on this limited record, the Property Tax Appeal Board finds the best evidence of market value concerning the subject disputed ice house unit was presented by the appellant in the form of a cost estimate of \$15,000 from the supplier of the machine (Appellant's Exhibit #1) for the "exterior components" of the unit consisting solely of the frame, floor, walls, door and roof. As established by the Edgar County Board of Review, the subject ice house has an assessment reflecting a market value of \$50,000, which is above the best market value evidence in this record consisting of appellant's Exhibit #1.

Based on this record the Board finds the appellant established by a preponderance of the evidence that the subject ice house was overvalued and a reduction in the subject's assessment is justified.

Additionally, the appellant contends a lack of uniformity as a 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 assessments by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1 (1989); 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds a reduction is not warranted on this basis.

As part of this appeal, the appellant presented five suggested equity comparables. The Edgar County Board of Review did not present any equity evidence in its submission and did not dispute the assertions made by the appellant in the appellant's equity presentation. In examining the five suggested comparable properties, the Property Tax Appeal Board has given no weight to comparables #1 and #2 as these comparables are not located within Edgar County.

As stated by the Supreme Court of Illinois in Walsh v. Property Tax Appeal Board, 181 Ill. 2d 228, 692 N.E.2d 260, 229 Ill. Dec. 487 (1998):

The Illinois property tax scheme is grounded in article IX, section 4, of the Illinois Constitution of 1970, which provides in pertinent part that real estate taxes "shall

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be levied uniformly by valuation ascertained as the General Assembly shall provide by law." (*Citation omitted.*) Uniformity requires equality in the burden of taxation. (*Citation omitted.*) This, in turn, requires equality of taxation in proportion to the value of the property taxed. (*Citation omitted.*) Thus, taxing officials may not value the same kinds of properties within the same taxing boundary at different proportions of their true value. (*Citation omitted.*)

Walsh, 181 Ill.2d at 234.

The unrefuted record evidence was that appellant's comparable #3 consisting of a shed building with electricity that operates as an ice cream stand has not been assessed and appellant's comparable #4 consisting of two money vending machines at a car wash facility have not been assessed. In contrast, the appellant's evidence also established that comparable #5, consisting of an ATM structure, has been assessed by the assessing officials.

In this appeal the Board finds the appellant did not submit comparables that were truly similar to the subject, but the board of review acknowledged in its filing that "the rarity of the structure" has made it difficult to set forth typical comparables. On this limited record, comparables #3 and #4 have similarities to the subject disputed structure only in that each comparable is attached to the respective parcel and has electric service. While both comparables #3 and #4 have not been assessed according to the records of the assessing officials, a somewhat analogous ATM structure located within the jurisdiction has been assessed by the assessing officials. Based on this record the Board finds the appellant did not demonstrate with clear and convincing evidence that the subject ice house property was being inequitably assessed.

On this record, the Board finds the evidence did not demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction with respect to the assessment of such singular structures in the jurisdiction. Therefore, based on this record with the example of two structures that were not assessed, the appellant did not demonstrate with clear and convincing evidence that the subject ice house was being inequitably assessed and a reduction in the subject's assessment is not justified on that basis.

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APPELLANT:	<u>Positano Holdings LLC & Carbondale Holdings LLC</u>
DOCKET NUMBER:	<u>17-05725.001-C-3 thru 17-05725.003-C-3</u>
DATE DECIDED:	<u>January, 2020</u>
COUNTY:	<u>Jackson</u>
RESULT:	<u>No Change</u>

The subject property consists of a 193-unit multi-family apartment complex located in Carbondale, Carbondale Township, Jackson County.

The appellants' counsel appeared before the Property Tax Appeal Board raising a contention of law as the basis of the appeal. The appellants argued that the Jackson County Board of Review failed to provide proper notice of the subject parcels' reassessments when it mailed the Notice of Reassessment to a wrong address. As a result, the appellants contend that they were deprived of an opportunity to timely contest the reassessments.

In support of this argument, the appellants' counsel presented a legal brief contending that the lack of proper notice of reassessment "violated the Due Process Clause of the Fourteenth Amendment of the United States Constitution as well as the Illinois Property Tax Code."

The appellants appeared before the Property Tax Appeal Board by their counsel, attorney Zachery Walston. Walston argued that the Jackson County Assessor's Office reassessed the subject parcels in 2016, the result of which virtually tripled the subject parcels' total assessment. Attorney Walston argued that the 2016 Notice of Reassessment was sent to a wrong address. Walston contended that by sending the notice of reassessment to a wrong address, the assessor deprived the taxpayers of the opportunity to be heard on the issue of valuation of their property. Walston contended that the increase in the tax amount is therefore void due to lack of notice and, consequently, the amount of \$146,533.22 that the appellants paid in increased property taxes should be refunded.

Based on this evidence, the appellants requested that the Property Tax Appeal Board order Jackson County to reimburse appellant the amount of \$146,533.22, which represents the taxes that the appellant paid in excess following the reassessment of the subject parcels in the 2016 assessment year.

Upon questioning by the Administrative Law Judge, the appellants' attorney acknowledged that the appellant did not contest the subject property's valuation before the board of review and did not raise that issue on appeal before the Property Tax Appeal Board. The appellants' counsel contended, however, that Illinois law provides that when an assessment is levied without due notice to the taxpayer and without an opportunity to be heard, it is not necessary for the taxpayer to show that a resulting increase is excessive or that the subject property is overvalued. Walston contended that the "... increase is void even though it may constitute a fair valuation of the property." Citing, Little Sister Coal Corp. v. Dawson, 45 Ill.2d 342 (1970). Appellants acknowledge that notice of the subject's reassessment was timely made by publication in the local newspaper, however they argued that mere publication in the newspaper without mailing the notice

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of reassessment to the taxpayer is insufficient to satisfy the statutory requirements for notice in this case. Citing, Hoyne Savings & Loan Ass'n v. Harre, 60 Ill.2d 84 (1974). Based on the above arguments, the appellants requested a reimbursement in the amount of \$146,533.22 which is the amount of excess taxes paid subsequent to the reassessment.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the three subject parcels of \$2,000,891. The subject's assessment reflects a market value of \$5,907,561, land included, when using the 2017 three-year average median level of assessment for Jackson County of 33.87% as determined by the Illinois Department of Revenue.

In support of its contentions of correct assessment and having provided appellant proper notice of the 2016 reassessment, the board of review submitted a legal brief along with the following attached exhibits: A copy of the appellant's property information record which is publicly posted on the County's website; a copy of the parcel information report from the assessor's office that contains the County's Computer Assisted Mass Appraisal system (CAMA) containing subject's valuation data; a copy of the PTAX-203 Illinois Real Estate Transfer Declaration form documenting the appellant's purchase of the subject property in 2015, and a copy of the local newspaper publication notice for the assessment increase for the subject parcels.

Jackson County treasurer, Lisa Jacquot, testified before the Property Tax Appeal Board on behalf of the board of review. Ms. Jacquot testified that her office sent out the tax bill to the appellant in 2017 (for the 2016 taxes). According to Ms. Jacquot's testimony, the tax bill was paid under no unusual circumstances and it was not paid under protest.

The board of review next presented Maureen Berkowitz, Chief County Assessment Officer for Jackson County. Ms. Berkowitz testified that she prepared all the evidentiary documents submitted on behalf of the board of review. Ms. Berkowitz stated that all information regarding the subject property including property address and assessment information is contained on their website and is readily available to the appellants and to the public. Ms. Berkowitz also indicated that the recorded Form PTAX-203 indicates that the appellant purchased the property for \$7,000,000 and that it was an arm's-length transaction. Ms. Berkowitz testified that the current assessment for the subject parcels which reflects a market value of approximately \$5,907,561 is significantly lower than the purchase price of \$7,000,000. Finally, Ms. Berkowitz testified that the notice of assessment increase for each parcel in the county, including the subject, was published in the local newspaper of general circulation per statutory requirement.

Upon questioning from the Administrative Law Judge, Ms. Berkowitz stated that in 2016, the assessor's office did indeed have a wrong address for the appellant which was likely due to a clerical error. She indicated that for many different reasons, the assessor's office corrects an average of about 1,200 addresses each year.

Counsel for the board of review, Allison Mileur, argued that the Property Tax Appeal Board has no authority except to review and determine correct assessments for properties on appeal. What the appellant requests, Ms. Mileur argued, is that Property Tax Appeal Board punish the county assessor for having an incorrect address in its records, rather than determine the correct amount of the assessment. Moreover, Ms. Mileur argued that the appellant had constructive notice of the tax increase through publication in the local newspaper, despite the fact that they did not receive the

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notice by mail. Furthermore, following the reassessment and resulting increase, the property taxes were paid voluntarily and not under protest. Finally, this appeal was untimely as it was brought in the year 2017 to challenge assessment for the 2016 property taxes. As such, the Property Tax Appeal Board is without jurisdiction to change an assessment that occurred in 2016. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

The appellants appeared before the Property Tax Appeal Board arguing a contention of law that the Jackson County Board of Review failed to provide the appellant due notice of appellants' property tax reassessment when it mailed the 2016 Notice of Reassessment to a wrong address. Section 10-15 of the Illinois Administrative Procedure Act (5 ILCS 100/10-15) provides:

Standard of Proof. Unless otherwise provided by law or stated in the agency's rules, the standard of proof in any contested case hearing conducted under this Act by an agency shall be the preponderance of the evidence.

The Property Tax Appeal Board's rules do not specifically state the burden of proof when a contention of law is raised, therefore, the standard of proof in this matter is a preponderance of the evidence. The Board finds that the appellants did not meet this burden and no change in the subject property's assessment is warranted.

The only issue raised by the appellant in this appeal is whether or not the appellant received proper notice of reassessment of the subject property in 2016.

§1910.10 of the rules of the Property Tax Appeal Board states in part:

b) The Property Tax Appeal Board shall determine the correct assessment prior to state equalization of any parcel of real property which is the subject of an appeal....

f) The Property Tax Appeal Board is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation. (Emphasis added.)

86 Ill. Admin. Code §1910.10.

Pursuant to §1910.10 above, the jurisdiction of the Property Tax Appeal Board is limited to determining whether or not the assessment values of any parcel of real property which is the subject of an appeal are correct. PTAB is not vested with the jurisdiction to review constitutional due process claims and impose equitable remedies. Furthermore, PTAB has no jurisdiction to decide whether or not the appellants in this case received proper notice of reassessment and, consequently, whether they should be reimbursed for taxes already paid.

In Geneva Community School District Number 304 v. Property Tax Appeal Board 296 Ill.App.3d 630, 695 N.E.2d 561 (1998), the Illinois Appellate Court stated that the only power and authority

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placed in the Property Tax Appeal Board by statute is “...to receive appeals from decisions of Boards of Review [citation], make rules of procedure [citation], conduct hearings [citation], and make a decision on the appeal [citation].” Citing People ex rel. Thompson v. Property Tax Appeal Board, 22 Ill.App.3d at 316, 317 N.E.2d 121 (1974). Moreover, in Geneva, the court held that the only types of appeals provided for in the statute are those by a taxpayer dissatisfied with the assessment of his property or by a taxing body that have an interest in a decision of the Property Tax Appeal Board on an assessment made by a local assessment officer or board of review. *Id.* at 322, 317 N.E.2d 121.

The Board finds that the only evidence presented in this case by the appellants is regarding the issue of **notice** to the appellant regarding the subject property’s reassessment. The Board finds that there has been no evidence presented regarding the subject’s **valuation**. Upon questioning by the Administrative Law Judge on this issue, the attorney for the appellants confirmed that the appellants are not contesting the subject properties’ assessments nor arguing overvaluation with regard to the three parcels. The appellants’ prayer for relief according to the evidence submitted and confirmed by their counsel is only the reimbursement of \$146,533.22, which is the amount that the appellants paid in additional real estate taxes following the reassessment of the subject property.

Consequently, in light of the statutory and case law above, the Property Tax Appeal Board finds that it has no jurisdiction over issues presented by the appellants concerning notice of reassessment or Due Process Clause of the Fourteenth Amendment of the United States Constitution. As expressly stated in 86 Ill.Adm.Code §1910.10(f), the PTAB is without jurisdiction to determine the tax rate, the amount of a tax bill, or the exemption of real property from taxation.

Furthermore, corrections with regard to property records are provided for in the Property Tax Code (35 ILCS 200/14-20). The rule in Illinois is that taxes voluntarily, though erroneously, paid cannot be recovered unless recovery is authorized by statute. Jansen Real Estate Corp. v. P.J. Cullerton, 49 Ill. App. 3d 231, 236 (1st Dist. 1977); Aldens, Inc. v. Rosewell, 71 Ill. App. 3d 754, 757; Inland Real Estate Corp. v. Oak Park Trust and Savings Bank, 127 Ill. App. 3d 535, 549 (1st Dist. 1984); Bass v. South Cook County Mosquito Abatement Dist., 236 Ill. App. 3d 466, 467 (1st Dist. 1992). Since there is no statute providing for a recovery of taxes that may have been wrongly but voluntarily paid without protest, there is no method by which appellants can obtain a refund for any years prior to the year in which an assessment complaint has been filed.

Lastly, the Board finds that appellant’s failure to argue valuation before the board of review and before PTAB, along with the subject’s current assessment which reflects a market value of approximately \$5,907,561 (which is significantly lower than the purchase price of \$7,000,000 in 2015), as well as the payment of the property taxes voluntarily and not under protest all detract and undermine the appellants’ argument that appellants had no opportunity to argue over-assessment. Consequently, the Board finds that the appellants did not demonstrate by a preponderance of the evidence that it was precluded the opportunity to contest the subject parcels’ reassessment and, therefore, no change in the subject’s assessment is warranted.

As to the appellants’ argument that the increased assessment is void, the Board finds that this argument is without merit. The appellants’ reliance on an Illinois Supreme Court decision Little Sister Coal Corp. v. Dawson, 45 Ill.2d 342 (1970) in arguing that an “... increase [in assessment]

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is void even though it may constitute a fair valuation of the property,” is misplaced. In Little Sister, the Court held that “[w]ith notice through the required publication of all assessments and the opportunity to be heard before the board of review, the requisites for due process are satisfied.” Little Sister Coal Corp. v. Dawson, 45 Ill.2d 342 (1970). The undisputed evidence in this case is that the appellants did in fact appear before the board of review as well as before the Property Tax Appeal Board and had the opportunity to be heard but did not argue the issue of overvaluation.

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APPELLANT:	Shri Hari Krupa CP Inc.
DOCKET NUMBER:	16-00089.001-C-2 thru 16-00089.002-C-2
DATE DECIDED:	August, 2020
COUNTY:	Champaign
RESULT:	Reduction

The subject property consists of a three-story limited service hotel with 95 rooms, a vestibule, lobby, manager's office, elevator lobby, laundry and guest laundry room. The subject features three types of king rooms including a standard or handicap king bed and a suite and two types of queen rooms including standard and handicap queen bed rooms, an atrium, indoor swimming pool, whirlpool, sauna, fitness center, kitchen (continental breakfast only), restaurant, lounge, offices, meeting/banquet rooms and laundry facilities. The subject has 41,184 square feet of building area and was built in 1989. The improvements are located on a slightly irregular shaped corner parcel with 3.03 acres of land area in Champaign, City of Champaign Township, Champaign County. The property is commonly known as the Baymont Inn & Suites and was purchased by the appellant in March 2016 for \$2,500,000.¹

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant, through counsel Lauren Elliott, appeared before the Property Tax Appeal Board and submitted an appraisal prepared by State Certified Real Estate Appraiser Donald P. DiNapoli, MRICS (Member Royal Institution of Chartered Surveyors) and Edward V. Kling, MAI, MRICS (Member of Appraisal Institute and Member of Royal Institution of Chartered Surveyors). Both appraisers are with Real Estate Valuation Group Commercial, LLC, (hereinafter "RVG"), St. Charles, Illinois. DiNapoli was called as a witness on behalf of the appellant. DiNapoli has worked with RVG since 2002 and has been valuing property for 30-years with an expertise in hotels. He primarily values commercial properties and has appraised special purpose properties such as assisted living properties, aviation properties, convenience centers and theaters. DiNapoli described special purpose properties as a property containing a business component or highly specialized design. He has authored over 3,000 appraisals with approximately 20% of those being special purpose properties and approximately 200 being hotels.

DiNapoli testified that the purpose of the appraisal assignment in this case was to value the subject real property interest for ad valorem purposes which is the fee simple interest in the property. DiNapoli visited the subject site on approximately September 20, 2016 and authored the report on September 28, 2016.

The appraisal report depicts highest and best use of the subject site as vacant is to hold for future development because hotel occupancy being 58%, which does not warrant new development, therefore, the alternative is to hold the site for future development when economic conditions improve and market velocity and demand increase. (Appraisal, page 35). Highest and best use as

¹ Actual sale price was \$3,150,000 less personal property of \$650,000 for a net consideration for real property of \$2,500,000.

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improved is the existing use of the site as improved since no other alternate legal uses would yield a higher net present value. (Appraisal, page 36).

The appraisers developed a sales comparison approach to value. DiNapoli did not testify on direct examination regarding the sales comparison approach to value as developed by the appraisers. The appraisal report depicts six comparable hotels were utilized. (Appraisal, pages 39 – 53). The comparables were located in Champaign, Urbana, O’Fallon and Springfield Illinois. The properties were situated on sites ranging from 66,560 to 228,690 square feet of land area with building sizes ranging from 45,193 to 115,000 square feet of building area. They contained from 83 to 198 rooms and had land-to-building ratios ranging from 1.29:1 to 3.20:1 with ages ranging from 6 to 26 years old. The comparables sold from June 2013 to April 2015 for prices ranging from \$1,615,000 to \$5,300,000 or for \$14,420 to \$53,012 per room. After making adjustments to the comparables for occupancy, average daily rates, size, land-to-building ratio, condition, construction/build-out, age, commercial synergy, sale conditions, commercial exposure, indoor swimming pool and porte-cochere, adjusted room prices ranged from \$18,746 to \$26,506 per room. (Appraisal, page 51). The subject was depicted as having a site size of 131,987 square feet of land area with 41,184 square feet of building area, a land-to-building ratio of 2.77:1, 89 rooms and 18 years old. The subject was estimated to have a unit value of \$23,000 per room, including personal property.

The contributory value of the furniture, fixtures and equipment (“FF&E”) as part of the hotel operations were depreciated using the straight-line method of depreciation with life expectancy ranging from 7 to 12 years, 10 years on average according to *Marshall Valuation Service*. *HVS U.S. Hotel Franchise Development Cost Guide*, depicts FF&E for all hotel types ranging from \$5,400 to \$129,300 per room. Midscale hotels without food and beverage averaged \$8,800 per room. The appraisers utilized \$8,800 per room for the subject or \$836,000. The appraisers then used an effective age of 7 years or 70% depreciation to arrive at a contributory value of the FF&E of 30% of the cost new or \$250,800. Based on this analysis, the appraisers estimated the subject’s value using the sales comparison approach to value of \$1,930,000. (95 rooms x \$23,000 – FF&E \$250,800 = \$1,934,200 or \$1,930,000, rounded). (Appraisal, page 53).

The appraisal report further depicts the appraisers were not able to obtain accurate financial data and marketing times for the comparable sales, which is a major weakness in the sales comparison approach to value. Due to the very limited amount of recent sales data and truly comparable sales within the subject market, the sales comparison approach to value is diminished in reliability. (Appraisal, page 51). The report depicts an estimated value by the sales comparison approach of \$1,930,000 (Appraisal, page 72), and was given secondary consideration. (Appraisal, page 51).

DiNapoli stated hotel properties are more difficult than average to value for ad valorem tax purposes. He explained that this was because hotels typically sell as a going concern, so they have both tangible and intangible property components. Another component of a going concern other than tangible and intangible assets is the real property. DiNapoli stated the business value would include the intangible assets along with goodwill that would include the value of the workforce in place. DiNapoli testified that if a hotel business recently traded hands in a going concern transaction, the gross price would not be conclusive of market value.

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DiNapoli described going concern as related to an operating business that would include real tangible property, the FF&E as well as intangible property including goodwill and the assemblage of a trained workforce, client base, negotiated business contracts and relationships. He stated investors/buyers find a value in the intangibles which is why it affects the valuation for fee simple ad valorem tax purposes, which is reflected in the purchase price. DiNapoli stated business enterprise value is an intangible asset along with cash on hand, working capital and the franchise flag.

DiNapoli explained that in order to get to a net market value of everything except real property when a property recently traded hands, he needed to extract the contributory value of the FF&E of the tangible and intangible items. DiNapoli testified that the income capitalization approach is the primary approach to value a hotel with the sales comparison approach and cost approach to value providing additional support. He stated they are aware of the PTAX Transfer Declaration for a property that sold within the last three years, but do not believe it is directly indicative of what the value of a property is. DiNapoli agreed that the Transfer Declaration Sheet depicts a net purchase price and a gross purchase price, and the difference would represent personal property, however, he typically considers the value for tangible property for FF&E to be arbitrary. In relation to the recent transfer of the subject in March 2016, he considered the allocation of the FF&E as shown on the Real Estate Transfer Declaration Sheet to be arbitrary. DiNapoli admitted that he does not know, based on statements from the client, how the value for FF&E as shown on the Transfer Declaration Sheet was reached.

DiNapoli reiterated that the best practice to value a hotel is the income approach to value because that is how a typical buyer looks at the property. He stated typical buyers are going to value the property based on how they perceive the hotel is going to perform, which is directly indicated by the income approach. DiNapoli testified that the subject property sold with personal property for \$2.5 million in March 2016 and was considered a going concern sale. DiNapoli further testified that the total price was \$3.1 million.

DiNapoli stated they considered two approaches to value being the income approach to value and the sales comparison approach to value. He stated they discussed the cost approach to value but did not use the cost approach because they felt the subject was an older property that was not how the typical buyer would look at the property along with difficulties in estimating depreciation. In addition, DiNapoli felt that for the income capitalization approach, they had reliable income data available.

In developing the income capitalization approach, the appraisers derived the subject's actual revenue from ownership in the STR (Smith Travel Research) report. The appraisal report, page 55, depicts the appraisers were provided with income and expense data for the subject for 2013 thru 2015 including occupancy and average daily rate (ADR) from the subject's operation as a Baymont Inn Hotel. Industry standard data was obtained from appraiser records and from STR. The appraisal further depicts the subject's occupancy rate for 2013 of 59% with an ADR of \$70.27, an occupancy rate for 2014 of 53.8% with an ADR of \$68.49 and an occupancy rate for 2015 of 52% with an ADR of \$68.43. Page 55 of the appraisal report depicts that for 2015 the subject's occupancy rate of 52% underperformed the Midscale Class and the Competitive Set that were reported to have respective occupancy rates ranging from 57.3% to 57.9%. The report further depicts the subject also had below average performance in ADR at \$68.43 as compared to \$79.61

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and \$78.34 for Midscale Chains and the Competitive Set. (Appraisal, page 55). Stabilized income and expenses were analyzed on pages 66 and 67 of the appraisal report. Annual potential gross income in the appraisal report was estimated to be \$1,226,108 for 95 rooms at a daily rate of \$68 with an occupancy level of 52%. Additional miscellaneous revenues indicated total revenues of \$1,228,565 from which departmental costs and expenses (23.57%), undistributed operating expenses (34.4%), management fees, reserves and insurance (18.6%) were deducted to arrive at an estimated net income before real estate taxes of \$288,326.

DiNapoli testified a loaded overall capitalization rate of 13.83% (11% cap rate + 2.83% effective tax rate) was applied to the subject's net operating income (\$288,326) to derive an estimated value for the subject of \$2,080,000, rounded. The overall capitalization rate was developed using the Band of Investment and Investor survey data which indicated an overall capitalization rate from 9.38% to 11.65%. The appraisers utilized a capitalization rate of 11.0% to which an effective tax rate of 2.83% was added to derive an overall capitalization rate of 13.83% (Appraisal, page 71). Applying the overall capitalization rate to the subject's estimated net operating income yielded a value by the income capitalization approach of \$2,084,787 or \$21,945 per room (Appraisal, page 70).

DiNapoli testified that the occupancy and ADR were derived from the STR report which is a research and analytics business that gathers statistics from the market, including hotel performance, income and expenses. DiNapoli testified he believed the reports to be very accurate and that just about every major hotel relies on them. DiNapoli stated most of the expense they deducted were ordinary business expense other than the return on and return of expenses. He explained that the buyer would have an expectation that they would make a profit on their investment, so they would get a return on that investment in addition to the return of the investment. The goal of the assignment was to arrive at a net operating income, attributable to the value of the real estate only by removing the business-related income. DiNapoli testified that this method was known as the "Rushmore" method of doing the income capitalization approach, which is standard appraisal theory. He stated it is a generally accepted method to value hotel properties and is the gold standard; the best practice for ad valorem tax purposes to value a hotel. DiNapoli testified that there are acceptable models, other than the "Rushmore" method to value hotels, to try to account for goodwill, however, they typically result in lower real property value, because the other methods would remove the value of goodwill as an expense. DiNapoli stated their appraisal report does not deduct anything off of the net operating income for goodwill or business value. At this point in the hearing the appellant rested its case and requested a reduction in the subject's assessment to reflect the appraised value.

On cross-examination, DiNapoli agreed the depreciated replacement cost of the FF&E was \$250,800 which was found on pages 53 and 65 in the report. Regarding the PTAX Transfer Declaration sheet depicting a personal property allocation of \$650,000, DiNapoli testified that the allocated number was arbitrary in his opinion and that there was a difference between cost and value. He stated the cost does not include putting it in place, maintaining it, management or workforce. DiNapoli testified that they had the income data for the subject from the STR report, but the expense data, unfortunately, was included as a part of their boilerplate language by mistake. DiNapoli testified that the STR report is specific to the subject. He then testified that goodwill is the going concern, the operating business, the reputation in the community, how well they are run, well managed, market perception and client lists.

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Regarding an appraisal report attached to the purchase agreement, DiNapoli could not recall if the subject was listed for sale, even though, the closing statement depicts a commission for brokers and the PTAX Statement indicates the property was listed for sale. DiNapoli explained that with hotels it is frequently the case that they may not be listed on one of the standard services. He stated that within the industry, a broker will shop the property, which he considered on the market. DiNapoli could not recall the asking price for the subject. He was not provided with the purchase and sale agreement.

DiNapoli agreed that the subject's recent sale matches the definition of market value as defined by the Illinois Department of Revenue and the Property Tax Code. DiNapoli testified he examined the subject's sale in March 2016 but found nothing extraordinary going on. He agreed, the report depicts the subject as being flagged as an Extended Stay America Hotel, which was a mistake/typo and did not impact the estimated value. DiNapoli further agreed that the competitive set of hotels used in the sales comparison approach to value on page 24 of the report were not of the same quality as the subject. DiNapoli agreed that if a sale was an REO sale or a foreclosure, that the distressed sale would have a big impact on the transaction value, or if there were unusual financing, or the market conditions were wildly different it would also impact the transaction value. DiNapoli agreed that comparable sale #1 was a motel, unlike the subject. He could not recall if comparable sale #2 was an auction sale and did not know if the PTAX Transfer Declaration sheet indicated no FF&E or personal property being transferred, even though his appraisal report depicts FF&E was included in the sale price. (Appraisal, page 41). DiNapoli agreed that the sale date and sale price for sale comparable #5 may be incorrect. It was alleged this comparable sold in 2015 and 2018 for \$5.1 million. This was a property DiNapoli appraised. Comparable #6, also an auction sale, was given a negative location adjustment even though it was adjacent to the subject. However, he later clarified that the adjustment may be for location on the street. DiNapoli admitted it was an error to give comparable sale #6 a negative adjustment for superior commercial synergy when it was located in the same commercial district as the subject. Even though 4 of the 6 sales were auction sales, and the other 2 being REO sales, DiNapoli felt they were a sale of going concern that had been marketed.

DiNapoli explained that they buy the expense data from the STR report and get the income data from the owner. He stated the STR report provides a data set and a comp set without providing specific information about the individual hotels. DiNapoli admitted that he only used the STR report for expenses and did not verify the data or use other reports. DiNapoli testified that he requested the historical expense reports from the appellant, however, the appellant did not get back to him. He agreed it was important when doing an income approach to value, but was not uncommon. DiNapoli testified the subject's March 2016 sale was a fair sale representative of market value that included a going concern, the flag and various other intangible property. DiNapoli admitted that a certain amount was allocated for FF&E in the subject's March 2016 sale, which was certified under oath as being true and correct. DiNapoli did not know who prepared the PTAX Transfer Declaration sheet nor how the allocated amount was determined, nor if it was agreed upon. He did not inquire of the appellant as to how the allocation for personal property was determined.

DiNapoli admitted he did not extract out a value for the hotel flag in his report. He then agreed he could have utilized the "Lenart" method to get to the fee simple interest of the real estate only, but

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chose to only use the “Rushmore” method. For verification of the “Rushmore” method, DiNapoli relied upon his experience in appraising properties and a rule of thumb that would come from talking to investors and various other market participants. DiNapoli stated experience has indicated that roughly a third of the going concern is attributed to tangible and intangible property.

DiNapoli considered a hotel sold at auction was still a sale of a going concern. He was not sure if there was typically a reserve on these properties when they go to auction. Typically, he would consider an auction sale a distressed sale. Even though 4 of his 6 sales were auction sales, he still considered them indicative of market value; even when he cannot extrapolate out business value. DiNapoli admitted that he was not able to verify each sale through their data source, public records or direct contact with the participants involved. They were able to verify 1 sale out of 6 that they used; sale #4. DiNapoli could not recall if Kling made any corrections or additions to the report.

On re-direct examination, DiNapoli testified that the scrivener errors within the appraisal report would not change his opinion of value. He further explained that the general and best practices in appraisal methodology would not require him to verify the data from the STR report.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total equalized assessment of \$866,850 was disclosed. The subject's assessment reflects a market value of approximately \$2,602,372 or \$62.73 per square foot of building area or \$27,393 per room, including land, using the 2016 three-year average median level of assessments for Champaign County of 33.31% as determined by the Illinois Department of Revenue.

In support of the subject's assessment, board of review representative Zebo Zebe stated the board of review believed the recent sale transaction of the subject property which occurred in March 2016, was under contract in December 2015, was between two parties in an arm's length transaction, and was the most reliable indication of the subject's market value. Zebe further stated the purchase contract depicted an allocation for personal property of \$650,000 and a “to be determined” allocation for contracts and advance rentals. Included in the board of review's submission of evidence was the PTAX-203 Real Estate Transfer Declaration and PTAX-203-A Supplemental Form. The PTAX 203 Transfer Declaration Sheet, dated March 2, 2016, depicts full actual consideration paid was \$3,150,000 with \$650,000 as personal property for a net consideration for real property of \$2,500,000. An inventory of personal property transferred was attached to the PTAX Form. The document was signed by both the seller and the appellant as a true and accurate declaration of the full actual consideration paid at the time of transfer. The PTAX-203-A supplemental form, also signed by the seller and appellant specifically depicts “[i]n your opinion, is the net consideration for real property entered on Line 13 of Form PTAX-203 a fair reflection of the market value on the sale date?” The answer was “yes” and attested to by the seller and buyer. Zebe further stated the recent sale transaction is not only indicative of market value, but that it is conclusive of market value and meets the standard definition of market value and should be given most weight.

On cross-examination, Zebe did not know whether or not an additional price was allocated to contracts and advanced rentals. Zebe admitted that he assumed it was separate and apart from the total purchase price because in the purchase and sale agreement under item D it depicts contract and advanced rentals “the price is to be determined.” Zebe further testified that the subject is typically assessed using a cost approach and depreciated cost approach and then various factors

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through the years of multipliers are added depending on the sales history within the county. He believed a multiplier of 1.0180 was applied to the subject for the 2016 tax year. Zebe stated the multiplier would be indicated on the subject's property record card.² Zebe agreed that given his experience, a sale of a hotel would include a business value. It was Zebe's understanding that if you took out the franchise fee and management fee, that those two items would effectively represent business value. Zebe could not explain why the assessor was not present to testify. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

After hearing the testimony and having considered the evidence, the Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellant contends overvaluation as the basis of the 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). The Board further finds the best evidence of the subject's market value in this record is the subject's recent sale in March 2016 for a net consideration of \$2,500,000.

The subject property has a total assessment of \$866,850 which reflects a market value of approximately \$2,602,372 or \$62.73 per square foot of building area or \$27,393 per room, including land. The appellant submitted an appraisal prepared by DiNapoli and Kling estimating the subject had a market value of \$2,080,000 or \$21,895 per room as of January 1, 2016. The board of review, after complying with the Board's order, over objection from appellant's counsel, submitted the subject's property record card, originating from 1989, and relied on subsequent County equalization factors through the years to establish the subject's 2016 total assessment. The subject's market value as reflected by its assessment of \$2,602,372 is above the appraised value as established by the appellant and above the net consideration price paid in March 2016 (\$2,500,000).

The Board gives little weight to the subject's property record card as it is incomplete regarding the computational ladder, is missing computational data, depreciation values and contains errors in the description and number of units. The Board further finds the credibility of the subject's 2016 assessment was not verifiable nor a credible indicator of the subject's market value as of January 1, 2016. The assessor was not present at the hearing and therefore the property record card evidence was not supported with direct testimony from the assessor on the methodology used or subject to cross-examination for veracity and credibility. The Board finds the board of review simply relied upon multiple years of equalization factors to determine the subject's assessment for 2016.³

DiNapoli and Kling developed the sales comparison approach, which was given secondary consideration in their final analysis. The Board gives little weight to the sales comparison approach developed by DiNapoli and Kling. The appraisers utilized comparable sales that were either auction sales or REO sales. In addition, the testimony revealed that some of the sales may

² The board of review was ordered at the hearing to produce the subject's property record card into the record with appellant's counsel given one week to reply, if necessary.

³ The property record card depicts only four years of applied equalization factors from 1989 to 2016.

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not have transferred FF&E and only one sale transaction was verified. DiNapoli admitted that the sale price and sale date of one property was incorrect, even though he appraised the property. The Board finds some of the adjustments utilized by the appraisers were suspect and not well supported. DiNapoli could not recall if Kling, a MAI appraiser, made any changes or suggestions to the appraisal. The appraisal report itself depicts that “due to the very limited amount of recent sales data and truly comparable sales within the subject market, this approach to value is diminished in reliability.” Based on the errors, details of the comparables and questionable adjustments, the Board finds the comparable sales analysis developed by DiNapoli and Kling was not a credible indicator of the subject’s market value as of January 1, 2016 and, more importantly, does not act as a “*test of reasonableness*” of the income approach to value also developed within the appraisal report.

The next approach developed by DiNapoli and Kling was the income approach to value. The record and testimony reveal conflicting testimony whether DiNapoli obtain historical income from the owner. The record is clear that DiNapoli obtained expense data from the STR reports, however, DiNapoli testified he did not verify this data with other sources that were available. DiNapoli simply relied upon his experience to accept that expenses being approximately one-third of the purchase price as being acceptable. There is evidence in the record that an inventory list of property transferred was included with the PTAX-203 statement. The Board finds the appraisers ignored any examination of the property that actually transferred as a check against their market analysis. The Board finds the income and expense analysis as developed by DiNapoli was not well supported in the record. The Board agrees with Zebe in that any error in the percentage of expenses used, may have a significant impact on the final value conclusion as developed in the income approach to value. Further, the Board finds the appraisers failed to fully examine the subject’s sale transfer in March 2016. DiNapoli testified that he was not even provided with the purchase and sale agreement. In addition, DiNapoli did not know who prepared the PTAX Transfer Declaration sheet nor how the allocated amount of personal property was determined. He did not inquire of the appellant as to how the allocation for personal property was calculated. The Board finds this lack of inquiry calls into question the due diligence on the part of the appraisers. DiNapoli also admitted he did not extract out a value for the hotel flag in his report, even though he testified that the flag was a component of the business enterprise value. Since the appraisal report and DiNapoli, through his testimony, agreed that the sales comparison approach was suspect at best, the Board finds the appraisers should have incorporated another method as a check against the allocation of going concern to the subject’s transfer in March 2016. DiNapoli agreed he could have utilized the “Lenart” method to get to the fee simple interest of the real estate only but chose to only use the “Rushmore” method. Based on the above analysis, the Board finds the methodology, adjustments and final value conclusion contained within the appraisal report is not credible nor a reliable indicator of the subject’s value as of January 1, 2016.

The Board finds the best indicator of the subject’s market value as of January 1, 2016 is the subject’s recent sale in March 2016 for a net consideration of \$2,500,000. The Board finds it suspect that the appellant verified that the net consideration paid at the time of transfer was \$2,500,000 but asks the Property Tax Appeal Board to dismiss this figure as being based on an arbitrary calculation of the amount of personal property transferred. At least two times on the PTAX-203 forms, the buyer and seller verified and certified as being true and correct that the full net consideration paid at time of transfer (\$2,500,000) was a “fair reflection of the market value on the sale date” with personal property being \$650,000.

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From a review of the record, the Board finds there is no evidence suggesting the subject's sale in March 2016 was not an arm's-length transaction. The Illinois Supreme Court defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale of property between parties dealing at arm's-length is a relevant factor in determining the correctness of an assessment and may be practically conclusive on the issue of whether an assessment is reflective of market value. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369 (1st Dist. 1983), People ex rel. Munson v. Morningside Heights, Inc.; 45 Ill.2d 338 (1970), People ex rel. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967); and People ex rel. Rhodes v. Turk, 391 Ill. 424 (1945).

After considering the indicated value of \$2,500,000 using the subject's recent sale just two months after the assessment date in question, the Property Tax Appeal Board finds the subject property had a market value of \$2,500,000 as of January 1, 2016, and further finds the subject's total assessment should be reduced to \$832,750 based on the 2016 three-year average median level of assessments for Champaign of 33.31%.

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APPELLANT:	<u>Springfield Properties LLC/Thornton Oil</u>
DOCKET NUMBER:	<u>17-05176.001-C-1</u>
DATE DECIDED:	<u>August, 2020</u>
COUNTY:	<u>Sangamon</u>
RESULT:	<u>Reduction</u>

The subject property consists of a one-story building of masonry exterior construction that contains approximately 3,795 square feet of building area which was constructed in 1999.¹ The subject is used as a service station and convenience store. The property has a reported land-to-building ratio of 11.25:1. The subject has a 42,689 square foot site and is located in Springfield, Woodside Township, Sangamon County.

The appellant submitted evidence before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this argument, the appellant submitted three comparable sales located in Springfield, Creve Coeur and Decatur. The comparable parcels range in size from 16,553 to 62,726 square feet of land area and are each improved with a one-story masonry building that was constructed between 1979 and 1999. The buildings range in size from 3,900 to 5,700 square feet of building area and present land-to-building ratios ranging from 4.24:1 to 11.00:1. The comparables sold from April to July 2016 for prices ranging from \$500,000 to \$1,100,000 or from \$128.21 to \$192.98 per square foot of building area, including land. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$233,334, which reflects an estimated market value of approximately \$700,000.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the subject's equalized assessment of \$314,715. The subject's assessment reflects an estimated market value of \$944,239 or \$248.81 per square foot of building area, including land, when applying the 2017 three year average median level of assessment for Sangamon County of 33.33%.

The board of review submitted a copy of the subject's property record card and noted that the Sangamon County Board of Review has denied the appellant's appeal "every year since 2008" and noted the subject's assessment is "under what they bought it for" in June 2002 for \$1,430,000. The board of review did not submit any evidence to support its assessment of the subject property or refute the valuation evidence submitted by the appellant. The copy of the subject's property record card depicts the last sales data from June 19, 2002 with a reported price of \$985,000.

In support of its contention of the correct assessment, the board of review submitted property record printouts for three comparables located in Jerome and Springfield that were identified as "former Road Ranger – Wabash," "Casey's Stanford overpass" and "Shell – Chatham Road & Wabash." The printouts depict the total assessments of each of these properties as \$322,347, \$252,946 and \$255,444, respectively. No building details of the properties in terms of age, size and/or features was provided, and no recent sales data is depicted on any of the three printouts.

¹ The property record card of the subject supplied by the board of review depicts a building size of 3,780 square feet and a date of construction of 2000.

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Thus, the board of review did not submit any market value evidence to support its assessment of the subject property or to refute the valuation evidence submitted by the appellant.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted three comparable sales that had varying degrees of similarity when compared to the subject. The comparables sold from April to July 2016 for prices ranging from \$500,000 to \$1,100,000 or from \$128.21 to \$192.98 per square foot of building area, including land. The board of review did not submit any market value evidence to support its assessment of the subject property or refute the valuation evidence submitted by the appellant. The subject's assessment reflects an estimated market value of \$944,239 or \$248.81 per square foot of building area, including land, which is greater than the valuation evidence submitted by the appellant. Based on the evidence contained in this record, the Board finds a reduction in the subject's assessment is warranted commensurate with the appellant's request.

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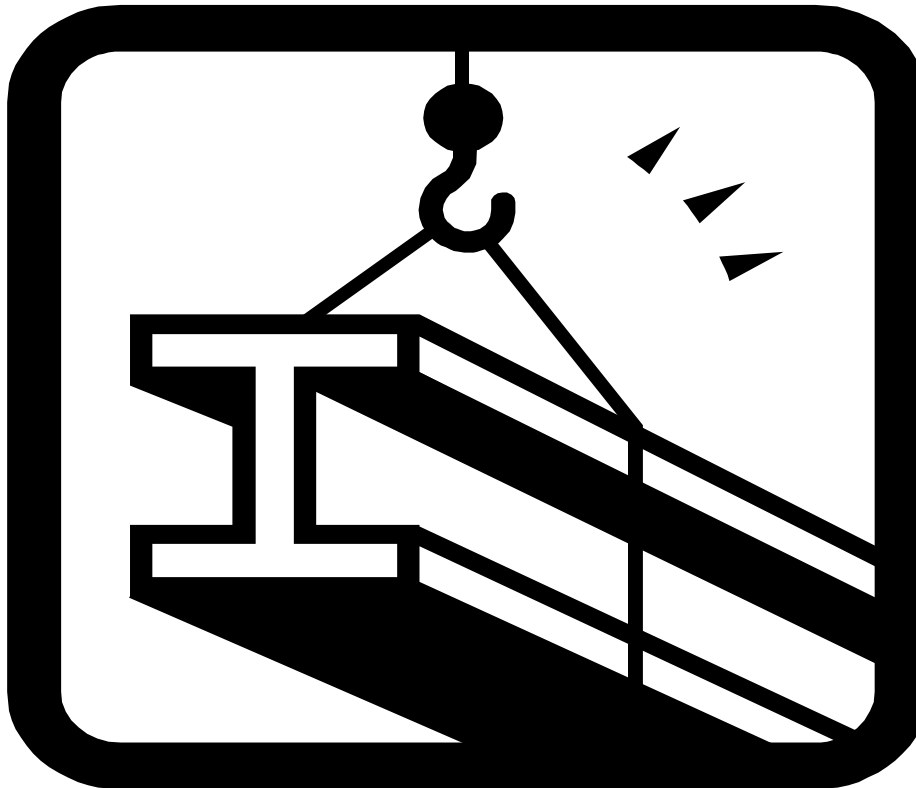
*[Items Contained in Italics Indicate Arguments
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PROPERTY TAX APPEAL BOARD
SYNOPSIS OF REPRESENTATIVE CASES
2020 INDUSTRIAL DECISIONS



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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APPELLANT:	Deann Baselev
DOCKET NUMBER:	17-02370.001-I-1
DATE DECIDED:	May, 2020
COUNTY:	Lake
RESULT:	No Change

The subject vacant industrial parcel contains 202,554 square feet or 4.65-acres of land area. The subject site is located in Zion, Zion Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted a brief along with information on three comparable sales which the appellant asserted were each in Zion and listed on the Multiple Listing Service (MLS). No proximity data was provided for the comparables in relation to the subject property. The comparables are described as parcels ranging in size from 95,832 to 211,702 square feet or from 2.2 to 4.86-acres of land area. The comparable properties sold in either March 2016 or May 2017 for prices ranging from \$7,000 to \$60,000 or from \$0.07 to \$0.28 per square foot or from \$3,182 to \$12,346 per acre of land area. Based on this evidence, the appellant requested a reduced total assessment of \$8,776 which would reflect a market value of \$26,331 or \$0.13 per square foot or \$5,663 per acre of land area at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$44,558. The subject's assessment reflects a market value of \$134,413 or \$0.66 per square foot or \$28,906 per acre of land area, when using the 2017 three year average median level of assessment for Lake County of 33.15% as determined by the Illinois Department of Revenue.

In response to the appellant's evidence, the board of review submitted a memorandum and comparable sales data. The board of review described the subject parcel as located in an industrial subdivision and is "owned by the same entity as the developed, adjacent site (located immediately North), and the vacant adjacent site for tax year 2017." As to the appellant's three comparable properties, the board of review contends that each is a bank/REO (real estate owned) property and each comparable presented by the appellant is a residential parcel; the properties were sold "as is" with no warranties and none of the appellant's comparables are located in an industrial park like the subject. Copies of applicable PTAX-203 Illinois Real Estate Transfer Declarations were submitted for the appellant's comparables and none of the documents depicted that the property was "Bank REO (real estate owned)."

In support of its contention of the correct assessment, the board of review submitted numerous documents including MLS sheets, property print outs and PTAX-203 documents for five properties, but no grid analysis was provided concerning the board of review's comparables.¹ The Board has analyzed the underlying documentation and finds the comparables consist of four sales and a listing. There is no data in the documentation to indicate the proximity of the properties to

¹ The memorandum submitted by the board of review indicated that three comparable sales were being presented.

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the subject parcel. The five comparable parcels range in size from 74,240 to 296,643 square feet or from 1.94 to 6.81-acres of land area. Comparables #1, #2, #3 and #5 sold between December 2011 and October 2018 for prices ranging from \$80,000 to \$197,500 or from \$0.56 to \$1.08 per square foot or from \$15,629 to \$44,008 per acre of land area; comparable #4 was presented as a listing from June 2018 with an asking price of \$399,000 or \$2.59 per square foot or \$112,712 per acre of land area. Based on this evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The parties submitted a total of seven comparable sales and one listing to support their respective positions before the Property Tax Appeal Board. The Board has given reduced weight to the appellant's comparables which were each vacant residential parcels unlike the subject industrial parcel. The Board has given reduced weight to board of review comparable #4 which reflects a June 2018 listing as this offering was 18 months after the valuation date issue and is less likely to be indicative of the subject's estimated market value as of January 1, 2017.

The Board finds the best evidence of market value to be board of review comparable sales #1, #2, #3 and #5. These comparable vacant parcels have varying degrees of similarity to the subject and sold between December 2011 and October 2018 for prices ranging from \$80,000 to \$197,500 or from \$0.56 to \$1.08 per square foot or from \$15,629 to \$44,008 per acre of land area. The subject's assessment reflects a market value of \$134,413 or \$0.66 per square foot or \$28,906 per acre of land area, which is within the range established by the best comparable sales in this record. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	Community Consolidated School Dist. #93
DOCKET NUMBER:	15-05647.001-I-3
DATE DECIDED:	September, 2020
COUNTY:	DuPage
RESULT:	Reduction

The subject property consists of a one-story, tilt-up concrete panel constructed single-tenant industrial building.¹ The gross building area is 392,959 square feet.² The improvements were constructed in approximately 1998. The subject features approximately 19,267 square feet of finished office space, an open bullpen layout, conference rooms, a lunchroom and two sets of washrooms. In addition, the subject features locker rooms, mechanical rooms and warehouse/loading space. The subject has a ceiling clearance of 32 feet in the warehouse. Other features include 50 exterior docks and 1 drive-in door. The property is situated on a 787,437 square foot site or 18.08 acres with an overall land-to-building ratio of 2.04:1.³ The subject is located in Carol Stream, Bloomingdale Township, DuPage County.

The appellant, Community Consolidated School District #93, appeared before the Property Tax Appeal Board through counsel contending undervaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of \$16,900,000 as of January 1, 2015.

Dale J. Kleszynski, MAI, SRA, was called as a witness. Kleszynski is an Illinois State Certified General Real Estate Appraiser and has attained the MAI and SRA designations from the Appraisal Institute. Kleszynski has appraised various types of real estate since 1977 and is licensed in Illinois and Indiana. He testified that he is a qualified Uniform Standards of Professional Appraisal Practice (“USPAP”) instructor for the Appraisal Foundation. He is the President and Chief Appraiser for Associated Property Counselors, Ltd. Kleszynski has served with the Appraisal Institute from the local level up to the president of the Chicago Chapter of the Appraisal Institute. In addition, he has served on a national level on the Board of Directors as well as the Executive Committee and chaired the General Appraisal Board which sets the educational and admission requirements for persons seeking their MAI designations. Kleszynski stated he has appraised hundreds of warehouse distribution centers while appraising from 20 to 30 within the past five years.⁴

Kleszynski identified himself as the preparer of an appraisal report. (Appellant’s Exhibit A). He testified that the appraisal report was prepared in a manner consistent with USPAP. Kleszynski

¹ The subject was described as a one-story structure; however, the evidence revealed the subject also features a second story mezzanine level.

² This includes 8,172 square feet office space located on the second floor. The Board finds the minor discrepancy in the subject’s size does not impact the Board’s decision herein.

³ The parties differed as to the exact description of the subject property. The description of the subject property for this appeal was derived from various sources of information provided by all parties along with the subject’s property record card which was ordered to be produced into the record.

⁴ Kleszynski was accepted as an expert valuation witness without objection.

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testified that he personally performed an exterior inspection of the subject property on January 26, 2017. He viewed the public area, the dock areas and the overall location of the property. Kleszynski testified that he did not perform an interior inspection of the subject property, because he was not allowed by the taxpayer. Therefore, in preparation of his report, he relied on information from the township assessor using the subject's property record card along with various database services which include *CoStar* and *LoopNet* including flyers he examined regarding the subject property.

Kleszynski was required to make various assumption in preparation of his appraisal report. The assumptions related to the issues of physical condition, the physical square footage, amount of office space and the physical components of the property for things such as the ceiling heights, existence of locker room facilities as well as services by sprinkler systems and power and the loading docks. Kleszynski called these assumptions an extraordinary assumption as it relates to the idea that in the event they needed to make any adjustments to his evaluation of the property because of what they discovered during those processes, they wanted to have the opportunity to do so.

Kleszynski stated the subject property is located in the primary industrial district of Carol Stream, Illinois in DuPage County. Kleszynski described the subject's land as a generally rectangular-shaped parcel that has approximately 765 feet of frontage along the west side with approximately 1,023 square feet of frontage along the north side. He described total land area as being 787,437 square feet of land area or 18.08 acres. He stated the subject property was not located in a flood hazard area and was serviced by all municipal public and private utilities.

The subject was improved with asphalt-paved driveways, parking areas, concrete service walks, light standards, a guardhouse and various types of signage. The subject's improvements were described as a masonry or concrete panel industrial building which was estimated to be built in 1995. The subject contains approximately 392,959 square feet of building area with 19,267 square feet or 4.9% of finished office space. He considered the subject to be a modern multi-tenant industrial design with adequate restrooms, power sources and ceiling heights ranging from 30 to 33 feet. Further the subject was described as having a sprinkler system and 51 docks. He considered the property to be in average condition based on his exterior inspection and his development of the data.

Kleszynski testified that his assignment was to estimate the market value of the fee simple interest in the subject property in accordance with his determination of the highest and best use. Kleszynski stated the highest and best use of the property would be the optimum use to which the property could be put and it is the use that will yield the greatest net return to the land for the longest period of time. He opined that after working through the tests of legal permissibility, physical possibility, financial feasibility and maximum productivity, they determined that as vacant the highest and best use of the property was to be developed with an industrial distribution improvement that was consistent with the current zoning ordinance and area development patterns which were predominantly industrial in character. As improved, Kleszynski opined the current use of the subject property as a distribution center having approximately 400,000 square feet of building area is the highest and best use of the property as improved.

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In estimating the subject's value, Kleszynski utilized the market data approach in order to estimate the land value component of the property and then in order to evaluate the property as improved, he applied both the income approach to value as well as the sales comparison approach to value. In regard to the sales comparison approach for the land only, Kleszynski stated it was important because there were certain assumptions that had to be made relative to the condition and overall utility of the property that they were not able to get a visual of. They then determined that there was going to be too many assumptions to be applied in order to do a cost approach to value that would be appropriate. He stated that because the land component of the assessment is a critical component not only of the assessment, but also of understanding the highest and best use. Because of this, they elected to present an analysis of the site in order to estimate the most probable price that someone would pay for the land only in the event that the property was vacant.

In his analysis of the property for land only they elected to examine five comparable sales that had similar highest and best use and zoning when compared to the subject. Page 35 of his report (Appellant's Exhibit A) is a presentation of the comparables used. The appraisal report depicts the comparables were located in Bartlett, Bensenville and Franklin Park, Illinois and ranged in size from 238,970 to 599,037 square feet of land area and sold from November 2012 to May 2015 for prices ranging from \$837,005 to \$5,300,000 or from \$3.50 to \$10.11 per square foot of land area. After making adjustments for property rights conveyed, financing, condition of sale, elapsed time, location, zoning, land area and physical variations, Kleszynski selected a unit value for the subject of \$4.25 per square foot of land area or \$3,345,000, rounded. ($787,437 \times \$4.25 = \$3,346,607$). (Appellant's Exhibit A, page 37).

Kleszynski next developed the income approach to value. For market rental rates, he examined five rental properties he considered appropriate based on their location, size and industrial/office applications. His appraisal depicts the rental comparables ranged in size from 42,350 to 328,140 square feet of leased area with 0% vacancy rates. The comparables were depicted as having rental rates ranging from \$3.90 to \$4.91 on a modified gross or net basis. Kleszynski stated that all of the rental comparables they selected were located within the physical parameters he identified as the industrial area in which the subject is located.

Kleszynski testified that his estimate of market rent reflects a rent being calculated on a net basis. When questioned on the difference of a gross lease as compared to a net lease, Kleszynski stated that it is essentially a function of market viability. In the subject's particular market, the information indicated that the typical lease was written on a net basis. He stated a net-based lease means that the property owner receives net to them on a per square foot rental rate and that the tenant participates in the expenses over and above the net rent. Normally the division for net rent is that the tenant will pay a pro rata share or a per square foot share of the taxes, insurance and common area maintenance (CAM). Further, although there are some variations in the rent, the typical net rent causes the owner of the property to participate in the management expense and the expenses associated with vacancy and collection losses and reserves for replacement and miscellaneous items would be identified as expenses that would be unforeseen or not things charged back to the tenant because of agreements or the type of chargeback that existed.

Kleszynski testified that he verified the rental data from database services using *CoStar* and *LoopNet*. In addition, he utilized his relationships with a number of realtors and was able to either pull things from their websites or was able to obtain flyers for the properties that he selected.

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Kleszynski testified that in some instances he was able to verify the leases and in some instances he could not. Kleszynski stated that rental rates and terms for lease and properties such as the subject, which he would classify as being high-end properties in an operating industrial park are really protected by the source meaning the realtor involved. He said they consider it to be proprietary information particularly as it relates to expiration dates, bumps and expenses associated with how they are divided up between the owner and the tenant. He considers full information to be somewhat difficult to obtain unless an actual copy of the lease is obtained, which is often not available.

Kleszynski was not able to verify the leases for the subject property even though he requested them. In regard to adjustments to the rental comparables, Kleszynski stated there were not a great deal of adjustments that needed to be applied because the rentals they selected were very similar to the subject property and the general range was what he would consider to be reasonably tight expanding only by a dollar per square foot between the low and the high. (See page 47, Appellant's Exhibit A). Because there were not significant adjustments to be applied, they were content with selecting a market rental rate from within the depicted range or close to that range. Kleszynski concluded that the economic rent for the subject property, as of January 1, 2015, is supported at \$3.75 per square foot of building area on a net basis. Kleszynski stated the vacancy rates utilized within his appraisal report was derived from two sources. He stated they had the vacancies that existed in the buildings they utilized as comparables which indicated zero vacancy rates. They then compared that with the surveying information taken from the *CoStar* database which included data taken over a five-to-six-year period of time involving approximately 19,100,000 square feet of general industrial space in which he limited his search to only include Carol Stream. The information depicted vacancy rates for properties like the subject generally range from 4% to 7.1% and that the average vacancy rate between 2012 and 2016 was approximately 6.4%. From this, he concluded an estimated vacancy and collection loss for the subject of 7%.

The appraisal report depicts potential gross income for the subject of \$1,473,596 (392,959 square feet x \$3.75 per square foot) which he then added estimated tenant reimbursements of \$757,822 to arrive at total rental income of \$2,231,418. Kleszynski then subtracted vacancy and collection losses of 7% (\$156,199) to arrive at an effective gross income for the subject of \$2,075,219. He then subtracted real estate taxes (\$494,540), insurance (\$47,155), common area maintenance (\$216,127), management fees (4% of effective gross income or \$54,818), reserves for replacements (1% of effective gross income or \$13,704) and miscellaneous expenses (0.5% of effective gross income or \$6,852) which indicated total expenses of \$833,196. After these calculations, the subject's net operating income was estimated to be \$1,242,023. (Appellant's Exhibit A, page 49).

Kleszynski testified that in estimating the overall capitalization rate he had information from the sales he used. For example, his sale #1 that was utilized in his sales comparison approach to value, he was able to extract a capitalization rate of 7%. In addition, he reviewed data from *Price Waterhouse Cooper's National Investor's Survey* which indicated that the overall capitalization rate range for properties that would be considered national warehouse facilities ranged from 4.5% to 7% with an average of 5.77%. He stated they elected to also apply a mortgage equity band of investment analysis which was presented on page 51 of his appraisal report. He explained that this method was utilized by analyzing the available interest rates in the market as well as expected returns to the equity position. Kleszynski elected to use a 4.5% interest rate with a 25-year

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amortization and then applied a 9.5% expected return on the equity side of the investment and developed an overall capitalization rate of approximately 7.35% which is just slightly over the range depicted in the National Investor Survey and the sale he presented in his sales comparison approach (sale comparable #1)

In developing the income approach to value, Kleszynski capitalized the subject's estimated net operating income of \$1,242,023 by 7.35% which yielded a value indication of \$16,898,272 or \$16,900,000, rounded.

Kleszynski next developed his sales comparison approach to value using information from database services such as *CoStar*, *Loop Net* and other privately developed information they had on the comparables in his database system. In this case they elected to utilize facilities that were over 250,000 square feet to 500,000 square feet of building area to limit the search to properties located in DuPage County. Based on this they reviewed the information, tried to verify the information and then elected to present five sales for use in the analysis of the subject. Kleszynski stated they found sufficient amount of information in DuPage County with what they thought were good sizes and current dates in order to estimate the value of the subject. All of the comparable sales were industrial warehouses or distribution centers. The sales were verified, depending on the particular transaction with either or a combination of contact with the realtors involved, the preparer of deeds or with the parties involved. In every instance for the sales they used, his office was able to verify the information with public records, deeds and/or PTAX documentation.⁵

Page 59 of Kleszynski's appraisal depicts the improved sales were located in Carol Stream, Aurora and Bartlett, Illinois. The comparables ranged in size from 252,946 to 400,000 square feet of building area with land-to-building ratios ranging from 1.94:1 to 3.45:1. The properties sold from April 2012 to December 2014 for prices ranging from \$11,250,000 to \$17,500,000 or from \$40.50 to \$52.50 per square foot of building area, including land.

Kleszynski testified that sales #1 and #2 were leased at the time of sale which meant the buyer acquired a leased fee interest. Kleszynski further testified that leased fee sales are a good indicator of value and they were able to determine what the test material teaches is true that a property that is leased at market rent has no variation in the value of the interest being purchased. He stated that although it is clear that a leased fee interest is different from a fee simple interest, it is also clear that when leased at a market rate and at market terms, the price paid or the value of the leased fee interest is equal to the fee simple interest, which is what he presented. He stated the leased fee sale reflects the fact that the market is operating at an appropriate level where there is consistency between rental rates and acquisitions by owner-users or people who would be buying a property that might be vacant in order to enter into the market and possibly lease a portion or all of the property out. He opined that it reflected market balance and also reflected that market conditions in Carol Stream were what he considered to be reasonably strong.

Kleszynski reviewed comparable sale #1 in terms of the leased fee interest and was able to determine that sale #1, although encumbered by a lease at the time of purchase, that the lease was either at market or slightly below market and therefore, no adjustment should have been applied.

⁵ The hearing transcript, page 63 incorrectly depicts PTAB's documentation was used. It appears the witness stated PTAX documentation.

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He stated that for comparable sale #2, the property was leased at or below market rates indicating that there was no ability to extract an adjustment for the variations in property rights conveyed. He believed comparable sales #1 and #2 were equal to the fee simple interest. And were supported by comparison to sales #1, #2, #3 and #4 which had a range from \$40.50 to \$46.24 per square foot of building area, including land. Kleszynski found it was a reasonably tight range given the differences in the physical characteristics of the property.

The comparables were then adjusted for property rights, financing, conditions of sale, elapsed time on the market, location, land to building ratio, size and physical variations. Kleszynski explained he did not adjust the comparables for age because the comparable properties ranged from 8 to 30 years old and with the subject being approximately 18 to 20 years old, along with the subject's observed condition from the exterior as well as the exterior inspection of the comparables indicated they were of similar condition, the physical variations based on observations and the overall adjustment which takes into account consideration of age. He opined that all of the comparables he selected have the same effective age. Based on the adjustments, Kleszynski estimated the subject's value of \$43.00 per square foot of building area or \$16,900,000, rounded.

In reconciliation of the two approaches to value, Kleszynski placed most reliance in estimating the fee simple value of the subject property on the sales comparison approach because it represents the interactions of buyers and sellers in the marketplace and in this particular instance they had a combination of buyers and sellers that represented both investors as well as users of the property and because of the tight range of pricing on the comparables, the sales comparison approach was a better indicator of the subject's value as opposed to the income approach which required him to apply certain assumptions. Based on his analysis, Kleszynski opined that the market value of the subject property as of January 1, 2015 was \$16,900,000.

On cross examination, Kleszynski agreed that the subject's land assessment as applied by the local assessor was \$3,200,000 or \$4.05 per square foot of land area. Kleszynski did not adjust the improved comparables for whether or not they had a sprinkler system. He admitted that he was only able to extract a capitalization rate from one comparable sale because they had what they thought was at least reasonably good information about what the income was for comparable sale #1. The date of sale for comparable sale #1 was April 2012. Kleszynski then agreed that there was an increase in value overall in the industrial market from 2012 to 2014 for the industrial market in central DuPage. He thought the increases ranged from 3% to 6% annually. He agreed that if it were 6% annually, then a two-year-old sale would have a straight-line adjustment of 12%.

Kleszynski testified that he and his son, Patrick, worked together to prepare the appraisal report, but he formulated the final opinion of value. Kleszynski explained that he did not prepare a cost approach to value because he did not get into the building to observe the physical condition of the interior of the building as well as the utility of the property as it relates to the floor plan, location of the docks, location of the posts and beams and the floor plan itself. Because of this, he made the determination that it would require too many assumptions that would put the completion of the cost approach at a certain level of risk, so he decided not to use it. In addition, for a building of the subject's age, an investor would not think it relevant.

In regard to his land sales, he agreed that land sales #1 and #2 were smaller than the subject and that land sale #2 involved an adjacent property owner. Even though it would suggest that an

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adjacent property owner might pay a premium, Kleszynski stated that sale #2 was supported by the market data and was at the lower portion of the established range for industrial land sales. He stated he did not adjust comparable land sale #2 for this issue because he could not extract that factor out. Even though land sale #2 occurred within a year of the assessment date in question, he made an upward adjustment for date of sale. Further, he agreed that he made no adjustment for land sale #3, which occurred in March 2014, even though comparable land sale #2, which sold in late January 2014 was adjusted. Kleszynski stated comparable sale #3 had improvements on it at time of sale which would have to be demolished. Kleszynski testified that because the property was improved it may or may not affect the land value. He did not make any adjustment for the improvement which needed to be demolished.

Intervenor's counsel then pointed out that an improved sale in Wood Dale, Illinois and two improved sales in Carol Stream were not used by Kleszynski in his sales comparison approach. In regard to comparable sale #1, Kleszynski stated he reviewed the *CoStar* report and the Transfer Declaration Sheet for this property in preparation of his appraisal. Kleszynski was then shown the *CoStar* report and the Transfer Declaration Sheet for this sale. (Intervenor's Exhibits 1 and 2). Kleszynski admitted that the Transfer Declaration Sheet depicted comparable sale #1 was not advertised for sale on the open market. Kleszynski further admitted that comparable sale #1 was leased at the time of sale and agreed that the buyer was purchasing an income stream along with the property. Kleszynski was unable to state the number of leases which may have been present at the time of comparable #1's sale. Kleszynski could not state the specifics of the lease(s) for comparable sale #1. The *CoStar* report depicted Allegheny Technologies, Inc. was the lessee at time of sale. Kleszynski reiterated he could not state if there were additional tenants. Kleszynski admitted he did not review the lease(s) for this property, so he could tell when the lease(s) started or how long the lease(s) were. Kleszynski agreed that the market conditions at the time a lease is executed could affect the lease rate. Kleszynski testified that he could not state what the market conditions were at the time it was leased because he did not have the signed lease date. Kleszynski could not state what types of lease(s) were in place or whether they included any free rent. Further, he could not state if the lease(s) contained a rental escalation clause or renewal option.

Kleszynski agreed he indicated comparable sale #1 sold at a 7% capitalization rate which he acquired from *CoStar* reports that confirmed the information within the SEC filing which indicated a stabilized capitalization rate of 7%. Kleszynski agreed that he did not discuss this capitalization rate in his appraisal report.

Kleszynski stated comparable sale #2 was also leased at time of sale. Kleszynski admitted he did not review the lease(s) for comparable sale #2 and therefore could not answer questions concerning the specific terms of the lease(s). Kleszynski acknowledged that even without knowing specific lease information, he did not make any adjustment for the lease(s). Kleszynski stated no adjustment was made because the sales appeared to be at market prices. Kleszynski admitted that he did not have the lease information for comparable sale #2 to make the statement that the lease was at market rate. However, when he compared the sale to other sales he used, comparable sale #2 appeared to be at market levels.

Kleszynski was then presented with the *CoStar* report and Transfer Declaration Sheet for comparable sale #3. (Intervenor's Exhibits #3 and #4). Kleszynski's appraisal report, page 56 depicts comparable sale #3 sold in January 2014 for \$17,500,000. However, the Transfer

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Declaration Sheet depicts the property sold for \$12,125,000 and not the \$17,500,000 as shown in the appraisal. Kleszynski agreed that at a sale price of \$12,500,000, the sale would be at \$32.04 per square foot of building area, including land. Kleszynski was then presented with the *CoStar* report and Transfer Declaration Sheet for comparable sale #4. (Intervenor Exhibits #5 and #6). The *CoStar* report depicted comparable sale #4 was occupied at time of sale and immediately vacated after the sale. The *CoStar* report and the Transfer Declaration Sheet for this sale also indicated that comparable sale #4 was not advertised for sale. Kleszynski did not agree that comparable sale #4 did not meet his definition of market value. In his appraisal report, page 3, indicates the most probable price a property should bring is a competitive open market allowing for a reasonable time for exposure in the open market. The Transfer Declaration Sheet for comparable sale #5 was presented to the witness. (Intervenor's Exhibit #7). Kleszynski admitted that the Transfer Declaration Sheet for this sale depicted it also was not advertised for sale. Kleszynski admitted that he would have reviewed the *CoStar* report and Transfer Declaration Sheet for these sales.

Kleszynski acknowledged that in his final reconciliation to value he place most weight on his sales comparison approach even though sales #1 and #2 were leased fee sales and the sale price for sale #3 was incorrectly listed along with sales #4 and #5 not being advertised for sale.

Questioning then focused on Kleszynski's income approach to value. Kleszynski stated he did not review the actual leases for his rental comparables. Kleszynski stated that in most cases he spoke with one of the parties involved in the transaction. He believed all of the leases were consummated leases. Kleszynski admitted that rental comparable #1 was a gross lease which meant the tenant was paying for a portion of the expenses, however, he could not state what line items the tenant was responsible for. He admitted the lease for rental #1 was for one-half of the building. He did not know anything about the other tenant who leased the other half of the building and could not state what type of lease the other tenant agreed to or the terms of the lease. The construction date for rental #1 was not disclosed within his appraisal report. Kleszynski admitted that his report does not disclose what adjustments were made to the rental comparables.

Kleszynski then acknowledged that even though rental comparable #3 was approximately 10% the size of the subject, he did not adjust this comparable to the subject. He also did not make a specific adjustment for the smaller size of rental comparable #4 when compared to the subject. Kleszynski admitted that for all of his net rental comparables (#2, #3, #4 and #5) he did not list the specific additional income other than the base rent.

Kleszynski agreed that his opinion of value for the subject of \$16,900,000 would indicate an increase in real estate taxes of approximately \$90,000, however when he computed the subject's tax load, he utilized the subject's actual taxes paid (\$495,000) based on its current assessment value. In development of his overall capitalization rate, Kleszynski did list his sources when he developed the band of investments.

Kleszynski then testified that each approach to value is independently developed and does not rely on the other approaches to value. He then agreed that his sales comparison approach to value (\$16,897,237) was about a \$1,000 apart from his income approach to value (\$16,898,272).

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Kleszynski agreed that even though his rental comparables ranged from \$3.90 a square foot on a net basis to \$4.91 a square foot on a modified gross basis, he used \$3.75 a square foot for the subject. In addition, his capitalization rates ranged from 4.5% to 7% and he used 7.35%. Kleszynski agreed that the use of *CoStar* would only be a start to an analysis and would need to be verified. Kleszynski stated that for properties such as the subject, it is typical that they are not advertised for sale, but rather, a realtor would marry the parties together for a buyer in need of a property and a seller retaining a property. Further, it would be typical for a property such as the subject to trade among brokers without being advertised for sale on the open market.

On re-direct examination, appellant's counsel introduced a letter prepared by Kleszynski sent to the taxpayer in care of Eugene L. Griffin & Associates requesting access to the subject property as well as historical financials, rent rolls, floor plans, survey and capital improvements. (Appellant's Exhibit B). Kleszynski agreed that the PTAX-203A Statement for his comparable sale #1 indicated the sale price paid was a fair market value. Kleszynski stated he was able to rely on that for his sales comparison analysis. The witness was then provided with the PTAX-203 Statement for comparable sale #2. (Appellant's Exhibit C). The document depicted the sale also reflected a fair market value and also indicated the property was in fact advertised for 2 months on the market.

Kleszynski then admitted that his comparable #3 on page 56 of his appraisal report contained typographical errors. He stated it was an issue concerning his database. The PTAX-203A Statement for comparable #4 also stated the sale reflected a fair market value and had been on the market for 3 months.

Based on this evidence, the appellant requested the subject's assessment be increased to reflect market value of \$16,900,000 commensurate with Kleszynski's final value opinion as stated in his appraisal report. At this point in the proceedings the appellant rested its case in chief.⁶

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of \$4,785,280. The subject's assessment reflects a market value of \$14,370,210 or \$36.57 per square foot of gross building area, land included, when using the 2015 three-year average median level of assessment for DuPage County of 33.30% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review called Korey Atkinson, Chief Deputy Commercial Assessor with the Bloomingdale Township Assessor's Office.⁷ Atkinson has been practicing in assessment litigation since 2004 and has been with the Bloomingdale Township assessor's Office since 2015. Atkinson testified that he prepared the evidence submitted by the DuPage County Board of Review. Atkinson prepared the sales grid analysis, the income analysis and the equity grid analysis.

⁶ Intervenor/taxpayer's counsel renewed its motion for directed verdict based on the appellant requesting an assessment of \$15,946,420 which reflects a market value of approximately \$47,887,147 even though the evidence produced by the appellant (Kleszynski Appraisal, Appellant Exhibit A) depicts an estimate of value for the subject of \$16,900,000. The Board finds the appellant at no time attempted to amend its requested assessment in the appeal petition to correspond with the evidence submitted. The motion for directed verdict was denied, the evidence submitted by the appellant will be given its appropriate weight.

⁷ Atkinson was accepted as an expert valuation witness without objection.

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He stated his sales comparables analysis identified properties within Bloomingdale Township. (Board of Review Exhibit A-1).⁸ Atkinson testified that they show the subject as having 393,516⁹ square feet of building area with approximately 8,172 square feet of office area. He stated his office receives all of the transfer declaration sheets that occur in Bloomingdale Township. His office also has access to *CoStar* and other databases to verify those sales which enabled him to utilize a compiled database. He testified that he reviewed their verified sales and found five properties that were very similar to the subject property within the township and ranked them accordingly. The witness testified they considered sales within 3-years of the tax lien date, so they looked at sales from 2012 to 2014. 2015 was a quadrennial reassessment period.

The sales grid (Board of Review Exhibit A-1) depicts five sale comparables situated on sites ranging from 10.866 acres to 26.125 acres. The comparables were built from 1966 to 1991, had wall heights ranging from 14 to 31 feet with land-to-building ratios ranging from 1.75:1 to 3.10:1. The comparables featured office spaces ranging from 0.38% to 15.03% of building area. The comparables sold from September 2012 to December 2014 for prices ranging from \$7,250,000 to \$20,500,000 or from \$22.92 to \$47.68 per square foot of building area, including land. The grid depicts a median sale price of \$33.04 per square foot of building area. Atkinson testified that all of the comparables are within 6 miles of the subject with 4 being in Carol Stream as is the subject. He stated that comparable sales #2 and #5 were indicated by the *CoStar* reports that there may have been market factors that pushed those two values higher. Comparable sales #2 and #3 were the same property. He stated the second sale of this property (sale #2) was indicated to have had renovations done to the building which may have influenced the value. He considered sales #2 and #5 to be outliers of what he would consider to be an appropriate value for the subject property.

Atkinson then testified as to the equity analysis he prepared. (Board of Review Exhibit A-2). He testified that as part of an appeal process his office regularly checks the assessment of an appealed property against comparable assessment equities in the township because they are very concerned about uniformity. He stated it was important that they distribute the tax burden equitably across all like properties. He then looked at four primary factors with the first factor being square footage. He considered the square footage range to be 100,000 square feet of building area based on the limited amount of large properties within the township. He then examines the wall height. He explained that since they measure from the outside, the actual ceiling heights might be 2 – 3 feet shorter. Atkinson testified that square footage and wall heights are very important drivers of market value. Year built is also important. Finally, he then examines land-to-building ratios. The median value of the equity comparables was depicted as \$35.27 per square foot of building area. The subject was depicted as having a value of \$40.59 per square foot of building area, including land, which he found was considerably higher than the median value.

Atkinson next testified regarding his income analysis. (Board of Review Exhibit A-3). Atkinson testified that when his office is approaching a quadrennial reassessment period, they prepare an analysis on ratios that can be applied uniformly. He stated they get hundreds of appeals during a quadrennial reassessment period. They had over 900 in 2015. Looking at 2012 through 2014 they found a vacancy and collection allowance of 7.5% was reflected by the market activity in the

⁸ The property record card was identified in the record as Board of Review Exhibit A-4).

⁹ The witness corrected the subject size to this amount as shown on the property record card.

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township. An expense ratio of 12.5% was indicated on a triple net basis along with a capitalization rate of 9% based on sales activity within the township. Atkinson further testified that they received the subject's rent roll and were able to use the subject's actual net rent which indicated \$3.67 per square foot of building area. He then applied that to the gross building area of 393,516 to arrive at a potential gross income for the subject of \$1,444,204. After applying vacancy and collection losses of \$108,315 or 7.5% of potential gross income the effective gross income was indicated to be \$1,335,888. From this he subtracted 12.5% of effective gross income (\$166,986) which indicated net income for the subject of \$1,168,902.

He then applied an unloaded capitalization rate of 9% which produced an indicated market value of \$12,987,800 or \$33.00 per square foot of building area, including land. He stated Kleszynski utilized a rental rate of \$3.75 per square foot of building area and his actual rate for the subject was \$3.67 per square foot of building area.

Atkinson testified that the vacancy allowance, other expenses and capitalization rates were extracted from the market data his office receives. Atkinson agreed that his income analysis indicated a value for the subject of \$33.00 per square foot of building area, his equity analysis produced a median value of \$35.27 per square foot of building area and his sales comparison analysis indicated a median value of \$33.00 per square foot of building area. Atkinson testified that because a part of their character is to help ensure an equitable distribution of the tax burden, when there is a disagreement among the different approaches to value, they tend to favor equity out of fundamental fairness to other property owner in the township.

On cross-examination, Atkinson testified that he used the subject's actual income of \$3.67 per square foot of building area and used market derived data for the remaining part of his income analysis. In regard to development of his 9% capitalization rate, Atkinson testified that in preparation for the quadrennial reassessment period, they receive reports of all sales within the township and have access to actual income for the properties within the township. They also have access to *CoStar* and other reports or industry publications that would indicate what appropriate capitalization rates are. Based on a totality of the information his office believed a 9% unloaded capitalization rate was appropriate and standard. He agreed that the supporting information was not submitted into evidence.

The witness then testified as to the differences in his sale #2 and Kleszynski's comparable sale #3. He stated Kleszynski's appraisal reported the wrong sale price, which would change the price per square foot value. In addition, the grantor/grantee were different, and the dates of sale were different along with a different document number referencing the sale. He agreed there were two separate sales of the same property. Kleszynski utilized the first sale of that particular property but presented the wrong sale price.

Atkinson stated he used net lease rates without adding tenant reimbursement income, real estate taxes or insurance into the income, which he thought would be improper to do. He testified that if he did include those expenses it would represent a gross lease and would then require a loaded tax rate. Atkinson stated that the expenses he used are not particular to the subject property, but rather, were derived from all of their income analyses for income producing industrial properties in the Bloomingdale Township.

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Based on his analysis, Atkinson concluded an assessed value for the subject of \$4,329,270 which equates to a market value of \$12,987,800 or \$33.00 per square foot of building area, including land. He stated the current assessment in tax year 2015 for the subject is \$36.48 per square foot of building area. He then agreed that his actual income analysis, equity analysis and his median sale price for properties similar to the subject support a lower value for the subject in 2015. Atkinson testified that if he removed sales #2 and #5, which he considered outliers, the sales would range from \$22.92 to \$33.04 per square foot of building area, including land, which is also below the subject's value as reflected by its current level of assessment. Atkinson stated all of his sales were open-arm's-length transactions. To the best of his knowledge none of the sales were leased fee sales. Based on the above testimony the board of review requested confirmation of the subject's assessment.

The taxpayer/intervenor called Bradley Braemer, MAI, AI-GRS as a witness.¹⁰ Braemer is a Member of the Appraisal Institute (MAI) and is licensed to practice as a State Certified General Real Estate Appraiser in Illinois, Iowa and Michigan. He is employed by Real Estate Analysis Corporation (REAC). He has appraised various types of real estate including multi-family, industrial, commercial and special purpose properties. Industrial properties included warehouses and truck terminals. Commercial properties included hotels, motels, office buildings, department stores, multi-tenant shopping centers, single tenant commercial buildings, automobile dealerships and nursing homes.

Braemer testified that he was assigned to review the appraisal report prepared by Kleszynski (Appellant's Exhibit A) for credibility. Braemer inspected the subject property on February 13, 2018. The review appraisal prepared by Braemer (Intervenor's Exhibit #8) was entered into the record. He personally inspected the interior and exterior of the subject property on February 13, 2018. Braemer testified he reviewed Kleszynski's appraisal report following the USPAP guidelines. He did not develop a second opinion of value for the subject.

He testified that his first step in reviewing Kleszynski's appraisal was to make sure his [Kleszynski's] appraisal was a USPAP compliant appraisal. He then looked at the adequacy, relevance and reasonableness of the data included in the appraisal that is under review. The final step was to determine if the final conclusions are credible. Page 22 of his review is a summary of what was in Kleszynski's report regarding a lease of the subject property. Page 23 is a description of the actual lease that he received from the client at the subject property. Braemer testified that the tenant is Office Depot, and they at one point occupied a portion of the building and then around 2012 they signed a lease for the remaining portion of the building. He stated that on the date of value one tenant occupied the entire building. Page 23 of his review report depicts the lease terms which indicated an effective rate of rent of \$3.50 per square foot of building area which was closely aligned with the amount Kleszynski used in his appraisal at \$3.51 per square foot of building area. However, he stated that he did not see in Kleszynski's appraisal a statement that the Office Depot lease was a renewal lease and that Office Depot had been in the property for several years.

He testified that in an appraisal they were looking for tenants new to the building. This is because a renewal tenant would have the additional costs associated with moving as they have their equipment in the property, so typically an appraiser will put more weight on new leases versus

¹⁰ Braemer was accepted as an expert valuation witness without objection.

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renewal leases. Braemer testified that Kleszynski's comparable sales #1 and #2 were leased fee sales for which no adjustment was made for the leases that were in place at time of sale. Braemer agreed with Kleszynski that an appraiser can use leased fee sales in a fee simple valuation as long as an adjustment is made for above or below market rates. He stated that if there is no difference in the contract rents versus the market rents then no adjustment is necessary. Braemer found fault in Kleszynski's appraisal because the appraisal does not state any of the details of the leases and throughout Kleszynski's testimony it was clear Kleszynski did not have the leases for comparable sales #1 and #2. As a reviewer, he could not tell from reading Kleszynski's appraisal whether an adjustment should have been made, he wanted to compare the actual rents but could not.

He further stated a person could not just assume the leases were at market rates. In order to determine if an adjustment was required, he would have to examine the rent, the terms of the lease, the size of the lease, annual increases, if any, tenant improvement allowances and the basics behind the rent structure over the terms of the lease. Therefore, it was improper for Kleszynski to conclude no adjustment should be made for the property being sold with a lease. Because of this, the leased fee sales should not have been used as a comparable. He stated Kleszynski indicated his first element of comparison was property rights, and if he is unable to determine if an adjustment is needed for property rights and he is not able to make that adjustment, then he would not be able to include those comparable sales in the appraisal.

Braemer concluded the conclusion of value for a fee simple interest is not supported by the appellant's appraiser's methodology and is not credible. (Intervenor's Exhibit #8, p. 29).

On cross-examination, Braemer agreed that his review appraisal report states the review appraisal report follows the criteria set by the Uniform Standards of Professional Appraisal Practice, USPAP, under the standards rules 3 and 4, 2018-2019. Braemer concluded that Kleszynski's analysis in his [Kleszynski's] appraisal report was adequate to comply with USPAP.

He stated Kleszynski's appraisal report met the requirements of USPAP standard 2-2 for minimum reporting requirements in all categories. Braemer acknowledged he obtained the actual lease for the subject property. Braemer agreed that Kleszynski did not state that he reviewed the subject's actual lease terms. The witness was then shown a cover page of the 2018-2019 Uniform Standards of Professional Appraisal Practice standard 3 for Appraisal Review Development. (Appellant's Exhibit D). When questioned on whether it was a violation of USPAP standard 3 for him [Braemer] to use data not available to the primary appraiser in a review report in the development of an opinion as to the quality of the work under review, Braemer stated he was just looking at what the lease was at the subject. He testified that he made no comments other than his [Kleszynski's] rental rate was the same as his [Braemer]. He testified that the purpose of obtaining the subject's actual lease was to make sure that the rental rates Kleszynski was putting in his appraisal report were correct. He then agreed that this would help him in developing an opinion as the quality of Kleszynski's work under review.

The witness was directed to the PTAX-203A Transfer Declaration Sheets for comparable sales #1, #2 and #5 wherein the documents depicted the sales were a fair reflection of the market value, respectively for each sale. Braemer agreed that his review appraisal report depicted Kleszynski did not adjust his sale comparables for age. He was then directed to Kleszynski's appraisal report

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wherein it depicted that the comparables were adjusted for physical variations, which he stated could include age, but he was not sure if age was included.

Braemer did not agree that just because Kleszynski's comparable sales #1 (\$45.72 per square foot) and #2 (\$44.48 per square foot) fell between the sale prices of fee simple sales #3 through #5 (\$40.50 – \$52.50) that it could be concluded that leased sales #1 and #2 were likely or close to market. Braemer stated he could not make this conclusion because there are several elements of comparison when an appraiser is examining a sale and rental rate is just one element. He stated there may be other reasons why the unit prices are within the range such as motivation from the buyer or seller, size and age. Further, just pinpointing it on unit prices is incorrect. He testified that maybe the sales were at market, but a reader of the appraisal needs to see what the rental rates were to determine if the reader was going to make the statement that no adjustment was needed. Braemer agreed that he did not have any evidence to conclude that the sales were not at market rates. Braemer testified that Kleszynski had a difficult job in trying to figure out what the rental rates were, however, he could have called the buyer or the seller and try to figure out what the rental rate was. He stated that if Kleszynski could not do that and he cannot make an adjustment, then he should not be using those comparable sales. If he [Braemer] were valuing the property he definitely would have contacted the buyer, seller or broker.

Braemer stated that the USPAP standards in place at the time Kleszynski prepared his report (March 2016) would be controlling, not 2018-2019. Braemer was working under the 2018 standards because that is when he prepared his review appraisal report. As an expert, Braemer testified that the majority of industrial warehouse buildings are typically advertised for sale on the open market. He stated that as shown in Kleszynski's appraisal report, a property has to be exposed on the market for a market valuation, and further, if it was not advertised, it should not be used.

Joseph M. Ryan, MAI was next called as a witness on behalf of the taxpayer/intervenor.¹¹ Ryan is president of LaSalle Appraisal Group, Inc. which was founded in 1991 as a commercial real estate appraisal firm. He is a member of the Appraisal Institute and is a Certified General Real Estate Appraiser in the State of Illinois. He has appraised industrial properties, apartment buildings, department stores, banks, office buildings, nursing homes, office building hotels, mixed use properties and special use properties among others. Ryan prepared a retrospective appraisal report for the subject property dated March 5, 2018. (Intervenor's Exhibit #9).

Ryan testified the purpose of his appraisal was to find the fee simple market value of the subject with the intended use of the appraisal being to establish an equitable assessment for the property. He stated the property rights appraised were the fee simple unencumbered by leases or any of the other four governmental powers of taxation, eminent domain, police power and escheat. Ryan inspected the subject's interior and exterior along with the surrounding environs. During his interior inspection he was escorted through the building by the plant manager from Office Depot. The effective date of his appraisal report is January 1, 2015. Ryan testified that the subject property sold in a fee simple sale in November 2013 with another property. The grantor was the James Campbell Trust and the grantee was Liberty Property Trust, the taxpayer/owner. He stated the appellant bought the leased fee interest and the scope of his assignment was to appraise the fee simple interest.

¹¹ Ryan was accepted as an expert in real estate valuation without objection.

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Ryan described the subject property as an industrial building located in Carol Stream, Illinois. The site was described as mostly rectangular in shape with adequate frontage. Accessibility and visibility were described as fine. He found there were no limitations on the subject site for development and there were no developmental or functional limitation based on topography or size and the subject had good utility. He stated the subject conformed to similar properties located in the central DuPage County submarket. He described the subject as being in an industrial area with a golf course across the street with primarily industrial area to the west. The subject was zoned Industrial District I in Carol Stream to which the subject conformed to zoning and was considered a legal use based on the zoning requirements. Ryan testified the subject building contains 385,000 square feet of building area consisting of a one-story, tilt up, single tenant industrial building that was constructed in 1998. The subject has about 5% of office space or approximately 19,000 square feet of building area. Features include 32-foot ceiling heights. Ryan stated the mechanicals were fine and the office had typical office finish. The warehouse was basically unfinished with adequate plumbing and restrooms. The subject featured docks on the north elevation of the building and fifty exterior truck bed height docks. The subject's west side was retrofitted with 20 lower docks that lacked large overhead doors that were used to load panel trucks which he found atypical of the market. He stated this limited 53-foot trailers on that side of the building. He considered this germane to the subject's business enterprise conducted at the property. He testified the 20 lower docks would not be considered typical of the market and would be considered a super adequacy. He found the building functional and in good condition. Ryan described highest and best use which is use that is physically possible, legally permissible, economically viable and maximally productive use of the site.

Ryan found the subject property met all of the criteria and as improved it was the highest and best use of the site. As vacant, it would be for industrial use primarily based on the zoning and surrounding environs. Ryan stated he did not prepare a cost approach to value analysis because market participants do not rely on the cost approach in making their investment decisions. He stated the property was 17 years old on the date of sale. In addition, the land was not vacant and available for sale. He was assigned to give one value for the subject and his sales and income approaches to value included the land value.

Ryan testified that the sales comparison approach to value is based on the appraisal principle of substitution that a buyer would not pay any more for a property that he/she can find a substitute property that has the same utility than you would pay for that that property. He stated properties on the market compete against one another and the property with the lowest price and highest utility has the widest distribution or the most buyers for the property.

Ryan testified that the purpose for using vacant fee simple estate sales is because an appraiser cannot give a fee simple value if he/she does not use properties that sold in fee simple. He stated that if you do not have the property rights correct, you cannot determine a fee simple property right using leased fee sales. Further, the leased fee sales have a limited bundle of rights and there are a lot of things that go into a capitalization rate. He testified that the textbook states the quality, quantity and durability of the income stream, but in reality would a person pay the same even if they were in the same building if you had to buy a building and Wal-Mart was in one building with a long-term lease and K-Mart was in the other building with a short-term lease, then the investor is going to pay more for the Wal-Mart property, so the leased fee sales have more to do with the

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quality of the tenant, the risk associated with that tenant which influences the overall capitalization rate paid by the investor.

In regard to the use of leased fee sales, Ryan testified that he always cites the *Boulder Group* study. He stated all the Boulder Group does is sell net leased properties and they have a whole research paper on net lease properties with 20-year terms that sell for more than a net lease property with a 4 or 5-year term or a 1 or 2-year term due to the fact that there is more risk associated with a shorter lease term if the tenant is not going to renew the lease. He stated that a lot of the real estate investment trusts will not buy the short term leased property because they do not want to deal with leasing and brokers and things like that. Further, because they are out of that market, oftentimes the capitalization rate is affected by the length of the lease terms, so in the fee simple interest, you are acquiring all of the bundle of rights and a vacant property and you can lease, sell or do nothing with it. The buyer is not buying a property with alienated rights. For leased fee sales, the buyer does not have the right to occupy the building.

For his development of the sales comparison approach to value, Ryan utilized six comparable sales. The six sales were located in Itasca, Aurora, McHenry, Romeoville, Bolingbrook and Libertyville, Illinois. The comparables ranged in size from 217,917 to 643,617 square feet of building area and were built from 1987 to 2005. They featured loading docks ranging from 8 to 39 with drive-in docks ranging from 1 to 4. The comparables had clear ceiling heights ranging from 24 to 38 feet and were situated on sites ranging in size from 432,500 to 1,524,600 square feet of land area with land-to-building ratios ranging from 1.81:1 to 4.00:1. The properties sold from June 2012 to July 2015 for prices ranging from \$5,992,887 to \$13,500,000 or from \$19.58 to \$36.96 per square foot of building area, including land.¹² (Intervenor's Exhibit #9, page 61).

Ryan testified that all of the sale comparables he used were vacant at time of sale. Ryan then stated that comparable sale #2 was reported to have a short-term tenant leasing a portion of the building when the property sold. In his conversations with the broker, he was told the seller considered the purchase to be of the fee simple interest. He considered all of his comparable sales as being a substitute for the subject property.

Ryan testified that he independently verified each sale. He stated that once a sale is found they contact someone that had knowledge of the sale; a broker, owner, buyer or seller. He stated it is their procedure that when a sale is written up, the transfer document is printed and put in their database. Ryan inspected most of the sales. Further, the property is inspected and photographed and put in the file.

Ryan utilized qualitative adjustments and compared individual features of the building and market conditions. They considered the property rights, financing terms, conditions of sale, market conditions, location, land-to-building ratio, building size, age, ceiling clearance and dock areas to arrive at the total adjustments needed. Ryan adjusted the price per square foot of the comparable sales when compared to the subject. Ryan testified that because he utilized fee simple sales, no adjustments for property rights, sale condition or market condition were made. He stated sales #1, #2 and #5 had an overall downward adjustment with sales #3, #4 and #6 having an overall upward

¹² The sale price of comparable #2 was corrected at hearing to \$9,518,440. The sale price per square foot calculation was not affected.

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adjustment as shown on page 67 of his appraisal report. (Intervenor's Exhibit #9, page 67). After making various adjustments, Ryan concluded a value for the subject of \$32.50 per square foot of building area or \$12,525,000, including land.

Ryan reiterated that a leased fee sale would not have the same property rights as a fee simple sale because the bundle of rights would be alienated. He testified that without having an intimate knowledge of the leases and how they affected the capitalization rate, it is difficult, if not impossible, to make the appropriate adjustment. Ryan testified that all of his sales were arm's-length market value transactions which means there is a willing buyer, willing seller, neither under duress, the terms were not [sic] cash or cash equivalent and the property was exposed to the open market. (Intervenor's Exhibit #9, page 10).

He stated comparable sales #1, #4 and #5 were adjusted downward because of their superior locations. Ryan testified that the Romeoville/Bolingbrook area is a stronger industrial area with better access to the highway system which makes the market a little stronger than central DuPage. He stated the Will County sales have access to I-55 and I-80 so moving product is a little less circuitous. On the other hand, sales #3 and #6 were adjusted upward because of their inferior locations because Ryan thought McHenry and Libertyville were not as strong industrial markets as the subject's area. In regard to size, Ryan testified that usually a size adjustment would be required if the difference in the comparable and the subject were approximately 10%. Ryan stated that an older property in good shape may have more desirability than a newer property in poor condition, therefore, the adjustment would be primarily based on age. He stated ceiling heights under 30-feet have less cubic area and if you can stack pallets higher, you need less floor area, which is why higher ceiling height clearances are more desirable.

On page 67 of his appraisal report (Intervenor's Exhibit #9, page 67) Ryan arrayed the comparable sales by whether they were overall positively or negatively adjusted and in the middle is what he would expect the value for the subject property would be. This indicated to Ryan that the range was going to be approximately \$30 to \$34 per square foot of building area for the subject property. He reconciled to \$32.50 per square foot of building area for the subject or \$12,523,680 (\$32.50 x 385,344 square feet of building area) or \$12,525,000, rounded. Ryan explained that every appraiser would like to find the six sales right on the same block, in the same submarket, all the same size, all built the same time. However, that is not possible, so his number one criterion was to find sales of fee simple interest. From that, Ryan expanded and found what sales he could in the subject's market and expanded further from there. After he found a sufficient number of sales, he then adjusted the comparables to the subject. Gross building area was taken from the subject's rent roll, which he conferred with the Office Depot manager.

Ryan next developed the income approach to value for the subject property. He developed a current estimate of market rent for the subject to then estimate a gross potential income and then analyze the vacancy rates for the submarket. He then recognized the fixed expenses and deducted them to establish a net operating income for the subject property. Next, he selected a capitalization rate and applied the capitalization rate to the subject's net operating income to determine a value via the income approach to value. Ryan stated he used the direct capitalization of income capitalization.

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Ryan testified that the direct capitalization method involves taking the net operating income and dividing it by a capitalization rate and determining a value. He stated that for a property tax assignment, the idea is to determine the rent on a certain date, which in this case was January 1, 2015. However, oftentimes rents have escalation clauses that step up the rent over the lease term, but those rents are for years down the road, and the assignment is to value the property as it is found on the date of value.

Ryan testified that he did have occasion to review the subject's lease terms. He then looked at the rent roll they had for the subject property which was 100% leased as of the date of value. He said the lease commenced in January 2012 and the rent on January 1, 2015 was \$3.58 per square foot of building area. The lease contained a pass-through for common area maintenance of \$0.64 cents and the real estate tax pass-through was just under a dollar which indicated a gross lease of \$5.18 per square foot of building area. Ryan testified that a gross lease represents how the renter of the property looks at the market. Disparity in taxes, disparity in common area maintenance affects the rent he [the renter] will pay. The renter is paying all of those costs, so back to the principle of substitution in a sales comparison approach, if you can rent a building with the same utility that has lower taxes and lower maintenance costs, you are going to do it or it is going to affect the landlord's net rent if the renter's tax and CAM pass-throughs are higher, the landlord may have to take less rent to compensate for the prudent tenant.

Ryan stated that in a property tax case, the use of the gross rent allows him to isolate property taxes as an expense and substitute a tax load so that the actual property taxes do not negatively or positively affect the value. Based on his experience in the central DuPage County submarket, Ryan testified that the lease may state that it is a net lease, but the pass-throughs are paid by the tenant and then the tenant certainly recognizes what the pass-throughs are. He reiterated that in a property tax appraisal and in order to isolate the property tax component of the gross lease, the tax load is substituted and added to the capitalization rate and the taxes are not expensed as an operating expense. He examined four rental comparables.

The rental comparables, found on page 76 of his appraisal report, ranged from \$4.17 to \$5.21 per square foot of building area on a gross rental rate. The rental comparables were adjusted for market conditions, location, age, utility, size and ceiling clearance. Ryan testified that all of his rental comparables were a substitute for the subject property and each was verified with the broker to the transaction. All of the rental comparables required an overall downward adjustment. After making the qualitative adjustments, Ryan concluded a gross rental rate of \$5.00 per square foot of building area on a gross lease basis and applied this to the subject's 385,344 square feet of building area to conclude a potential gross income for the subject of \$1,926,720 or \$1,927,000 rounded. He testified that no tenant reimbursements were added to this amount because they were included.

Ryan stated that vacancy in the central DuPage County submarket had a decrease from 7.56% in the fourth quarter of 2013 to 7.35% in the fourth quarter of 2014. For the purposes of determining market vacancy, he applied 7.35% of potential gross income to represent the vacancy and collection loss or \$141,614, which was deducted to arrive at an effective gross income of \$1,785,106 or \$1,785,000, rounded. (Intervenor's Exhibit #9, page 78).

In order to determine appropriate operating expenses, Ryan used the *Building Owners and Managers Association* (BOMA) survey of customers as to their operating expenses for industrial

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type properties. Ryan testified that the BOMA survey is a national survey that is broken down on a regional basis. Ryan testified that the data he used was specific to the market for suburban Chicago warehouse and manufacturing buildings. BOMA reported that for suburban Chicago warehouse and manufacturing buildings greater than 400,000 square feet of building area utilities ranged from \$0.02 to \$0.07 cents, repairs and maintenance ranged from \$0.12 to \$0.31 cents, management fees ranged from \$0.06 to \$0.14 cents, insurance ranged from \$0.05 to \$0.06 cents, real estate taxes ranged from \$0.96 to \$1.07 and administration fees ranged from \$0.06 to \$0.11 cents on a per square foot of building area basis.

Ryan then stabilized administration fees at \$0.02 cents per square foot of building area (\$7,500), repairs and maintenance at \$0.16 per square foot of building area (\$60,000), utilities at \$0.01 cents per square foot of building area (\$5,000), insurance at \$0.06 cents per square foot of building area (\$22,500), management fees at \$0.11 cents per square foot of building area (\$42,500) and replacement reserves at \$0.20 cents per square foot of building area (\$77,500). His stabilized operating expenses at 7.40% of effective gross income (excluding replacement reserves and real estate taxes) were estimated to be \$0.36 cents per square foot of building area or \$215,000.¹³ (Intervenor's Exhibit #9, page 81). Ryan testified that appraisers use the BOMA survey to determine if the expenses for the subject property are realistic or within the market.

Ryan found that over his appraising thousands of industrial properties that rent is fairly market based, but expenses are unique to the property. Ryan stated his estimated administration operating expense of \$0.02 cents was at the low end of the range depicted by BOMA. Ryan testified that he was also aware of what the CAM expense was for the subject property at \$0.64 cents per square foot of building area which meant the tenant was reimbursing the landlord \$0.64 cents per square foot of building area for operating expense, which was on the high-end of what BOMA was reporting. He stated the rental comparables were between \$0.34 cents and \$0.60 cents per square foot of building area, but three of the rental comparables were \$0.37, \$0.42 and \$0.34 cents, respectively, per square foot of building area, so he utilized \$0.36 cents per square foot of building area, excluding real estate taxes. Total operating expenses for the subject property was depicted as \$215,000 or \$0.56 cents per square foot of building area.

In order to estimate the appropriate overall capitalization rate, Ryan examined direct capitalization and the band of investment method. Ryan testified that he did not use market derived capitalization rates for the fact that he did not use any leased fee sales. He examined a survey called *Realty Rates* which is a national survey of property investors and industrial buildings. He testified that for industrial properties in the first quarter of 2015 depicted industrial capitalization rates were from 4.6% to 13.5% with an average of 9%. He stated industrial properties all types included warehouses and manufacturing, although, manufacturing is primarily owner occupied. Ryan also considered the band of investment technique which weighs the mortgage and equity components found in the market. He stated they are weighted by the loan to value ratio and the equity ratio and when added together they give an idea of the overall capitalization rate. Ryan utilized a 25-year mortgage, 4% mortgage rate and a 70% loan to value ratio which resulted in a mortgage constant of 6.33%. This was then weighted against the 70% loan which indicated a mortgage component of 4.43%. An equity factor of 12.5% for the dividend rate was used with a 30% equity

¹³ Total operating expenses including reserves was estimated to be \$0.56 cents per square foot. (Intervenor's Exhibit #9, page 81).

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position by the investor, which indicated a 3.75% equity component. The band of investment technique indicated an overall capitalization rate of 8.18%. He chose an 8.75% overall capitalization rate based on investor's criteria for the subject property after giving more weight to the surveyed market participants.

Ryan then used the statutory level of assessment of 33.33% and multiplied it by the tax rate of 10.525% to determine the tax load or the effective tax rate of 3.51% which he then added to the overall capitalization rate of 8.75% for a tax adjusted or loaded overall capitalization rate of 12.26%. A tax load was applied because he did not deduct property taxes as an expense.

Ryan estimated effective gross income for the subject of \$1,785,106 and deducted operating expenses of \$215,000 to arrive at a net operating income of \$1,570,106 which was capitalized at the 12.26% overall tax loaded capitalization rate which then indicated a value for the subject of \$12,806,738 or \$12,800,000, rounded or \$33.22 per square foot of building area, including land. (Intervenor's Exhibit #9, page 85).

In reconciling the two approaches to value for the subject Ryan gave more weight to the sales comparison approach (\$12,525,000) because the scope of the assignment was for a fee simple interest and he had sales of fee simple interest property. The income approach to value (\$12,800,000) was also given significant consideration in his final analysis. Based on his analysis, Ryan estimated the subject's fee simple value of \$12,600,000.

On cross-examination, Ryan testified that the size of the subject he indicated (385,344 square feet) did not include a second-floor mezzanine office of 8,172 square feet of office area. He stated the area was not used and was atypical of the market. The area was used for storage so he would not add the 8,172 square feet to the subject's size.

Ryan was presented with a *Co-Star* report (Appellant's Exhibit E) and a press release (Appellant's Exhibit F) indicating the subject property was advertised for sale at the time of its purchase. Ryan stated he opined the subject as not being advertised for sale based on the PTAX-203 Transfer Declaration Sheet. Ryan stated it really did not matter to him because the subject's sale was of a leased fee interest and the scope of his assignment was to value the fee simple interest.

Ryan then admitted that he incorrectly described the subject as having a broken floor plan. Ryan agreed that 4 of his 6 sales were located outside of DuPage County. Ryan admitted that he did not analyze actual sales in computing the overall capitalization rate. When asked if there were sales within the subject's immediate central DuPage market that he considered, but did not use, Ryan stated he first looked for size and did find sales in DuPage. However, they were either leased fee sales that he could not verify the lease terms, or they were sales he could not verify. He found one sale in the subject's submarket, but the sale had rail access and the seller's broker told him the buyer paid up to get the rail access. It appeared the buyer was a paper manufacturer and had 15,000-pound rolls of paper coming in and needed a train rail spur access.

The intervenor/taxpayer then rested its case.

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In rebuttal, the appellant's counsel called Eric Dost MAI, AI-GRS as a witness.¹⁴ Dost is president of Dost Valuation Group Ltd. He has appraised apartment complexes, assisted living facilities, charter schools, shopping centers, distribution facilities, hospitals hotels, manufacturing plants and various other properties. He is a State Certified General Real Estate Appraiser in Illinois, Indiana, Iowa, Michigan and Wisconsin. Dost prepared an appraisal review report (Appellant's Exhibit G) of the LaSalle appraisal. (Intervenor's Exhibit 9).

Dost testified that his appraisal review report was prepared in a manner consistent with USPAP standards. He stated the scope of his appraisal review was to read the report [LaSalle Group appraisal] and review it for the quality of data, completeness, accuracy, the relevance of data and analysis given the property's type and intended use. Dost's client was Community Consolidated School District #93. In order to complete his review report, he read the LaSalle Group appraisal report, looked up public record information, information on the *CoStar* database, internet research as well as his experience in appraising and reviewing other properties in the market area.

Dost found the Ryan's income approach was based on nonmarket-oriented gross lease basis. He testified that the capitalization rate was inconsistent with the subject's actual capitalization rate and above market levels. He stated the appraisal implied that only vacant buildings are representative of fee simple values, which is incorrect. Further, he stated several relevant sales in DuPage County were omitted. He found Ryan relied on sales outside of DuPage County when there were local ones available. Dost testified that an omission of the land value and the combination of factors led to a report that was not credible or reliable.

Dost testified further that Ryan did not prepare a cost approach to value, however, he [Dost] does not believe a depreciated replacement cost of the improvements are relevant for a property of the subject's age. However, the land value is relevant and important for a test of the highest and best use as improved. He stated land values are often a pretty large component of industrial property values. And finally, it is part of the assessment. Dost testified that the land valuation shows if the improvements have contributory value to the total value. He stated that in some cases when a property is nearing the end of its life, the land value as vacant becomes higher than the value as improved. He testified that it was a significant deficiency that Ryan did not include a land sales analysis in his appraisal. Dost testified that the subject property was advertised for sale according to a *CoStar* report and a press release which is in contradiction of what Ryan stated in his report.

Further, Dost stated that Ryan incorrectly reported the subject's lease as a gross lease when in fact it was a net lease. Dost testified that if an appraiser uses a gross lease instead of a net lease it increases the rental rate and is not market oriented and allows the appraiser to use a full load factor inappropriately when the tenant is really responsible for paying the property taxes. He further stated this transfers the property tax burden to the property owner through the use of a full load which decreases the value to the landlord.

Dost also stated he would use 392,959 square feet as the subject's building size to include the 8,172 square foot second floor office. Dost stated that a leased fee value can be the same as a fee simple value. Further, a leased fee interest is a partial interest due to an economic interest being transferred to a tenant via a lease. The creation of a lease divides the fee simple into a leased fee

¹⁴ Dost was accepted as a valuation expert without objection.

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interest which is the property owner's interest and the leasehold interest which is the tenant's interest. He stated the fee simple estate equals the leased fee plus the leasehold estate. Dost testified that *The Appraisal of Real Estate*, 14th Edition also states that the relationship between contract rent and market rent greatly affects the value of the leasehold or tenant's estate. A leasehold interest may have value if the contract rent is less than market rent creating a rental advantage for the tenant. Further, this relationship in turn may affect the value of the leased fee interest. The value of a leased fee interest would fix rents below market rents, which may be worth less than the unencumbered fee simple or the leased fee interest at market rent levels.

Dost stated that for example, if market rent is \$15 for the fee simple estate and the property is under a long-term lease for \$5, the value to the fee simple estate would be based on the \$15 market rent. The leased fee would be based on the \$5 and the leasehold estate then would have a value based on \$10 per square foot in a hypothetical, highly simplistic scenario. So, the leased fee would be \$5 plus \$10 for the leasehold which equates to the \$15. As another example, Dost stated that if the fee simple estate market rent was \$15 and the leased fee estate was leased at \$15, the leasehold estate would have a zero-rent advantage and basically no value.

In regard to the difference between investment value and market value, Dost testified that investment value is the value of a certain property to a particular investor given that investor's investment criteria. Investment value may coincide with market value if the investor's investment criteria are typical of buyers in the market. Further, if this is the case, he stated the values may be the same. Dost explained that basically it means that if the investor's criteria such as the capitalization rate are at market levels, the investment value may be the same as market value. If the property was leased and occupied at market levels and the capitalization rate was consistent with market levels, the value of the fee simple interest would be the same as the leased fee interest since there was no rent advantage as it would basically be a market price.

Dost agreed that the subject is a modern distribution warehouse. He stated that a typical buyer could be an owner, occupant or investor. Multi-tenant buildings are typically purchased by investors. Dost disagreed with Ryan's statement on page 47 of his [Ryan's] report wherein it states that "investors are not concerned with vacancy and collection loss or capital costs. The consistent sale of a vacant building represents the market value to the real estate (a transaction not influenced by cash flows)." Dost disagreed with this statement by Ryan, he stated that a vacant building actually has negative cash flow and has a very large negative net operating income (NOI) typically due to property taxes and insurance and other holding costs while it is vacant. Dost disagreed that only vacant building sales represent fee simple prices. Dost reiterated that the value of a fee simple interest can be the same as the value of the leased fee interest depending upon the relationship of contract rent and market rent. Dost further testified that vacant buildings have zero percent occupancy which is not stabilized. Again, there are holding costs for vacant buildings such as property taxes, insurance, security, et cetera and so they actually have a negative NOI, so they definitely do not have a stabilized occupancy or revenue.

Dost stated buildings other than just vacant buildings should also be considered. Dost testified that Ryan's assertion of only considering vacant buildings conflicts with his [Ryan's] explanation of typical purchasers of the subject's type of property because there was an investor demand for this type of property.

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Dost opined that Ryan's comparable sale #1 was in the O'Hare Airport submarket and sale #2 being in the Fox Valley submarket. He also thought there were more recent sales available in regard to sale #2. He stated sale #3 was in a significantly different submarket from the subject as it was in McHenry County. As to sale #5, Dost stated the reported date of construction was 2005, while *CoStar* reported the property was constructed in 1967. He stated the incorrect age results in an incorrect adjustment for date of construction. Also, he found comparable sale #6 as being in a significantly different submarket from the subject. Based on his analysis, Dost found none of the comparables used by Ryan were in the central DuPage County submarket.

Dost opined that Ryan's comparable sales #1 and #2 required an adjustment for market conditions. Dost testified that he found four recent sales in the subject's size range in DuPage County that were all vacant, which Ryan did not use. He stated these sales would have been available to Ryan through the *CoStar* reports. Dost considered the sale located at 700 Kimberly to be a serious omission in Ryan's appraisal report because of its similar size, date of sale and location within the same industrial district of Carol Stream. Dost testified that the LaSalle report (Intervenor's Exhibit 9) incorrectly implies that only vacant building sales are representative of fee simple values. Dost's review of the sales indicated that four of the sales were outside of DuPage County and the LaSalle report omitted four vacant building sales within DuPage County including one in Carol Stream located less than a mile from the subject. Dost opined that due to the omission of relevant recent sales, he did not consider Ryan's sales comparison approach to be credible or reliable.

Dost explained that the difference between a gross lease and a net lease was that a gross lease is all inclusive rent and the landlord pays for all operating expenses including taxes. In a net lease the rent is net and the tenant is responsible for all operating expenses. Dost stated the LaSalle report indicates that the Office Depot lease commenced in January of 2012 and that the rent is \$3.58 per square foot of building area and that there are pass-throughs of \$0.64 cents per square foot for CAM and \$0.96 cents for the real estate taxes. Dost stated it appears Ryan converted the subject's net lease to a gross lease, which was not reflective of the market. Dost testified that all of Ryan's rental comparables appeared to be net leases which Ryan changed to gross leases. He stated the market standard for lease types for large, single-tenant industrial buildings was for a net lease. Because of this, he considered that using a gross lease basis for rents of large, single-tenant industrial building leases to be incorrect appraisal methodology. Dost testified that the proper method would have been to use a net lease with the tenant responsible for the majority of operating expenses including property taxes and then the appraisal could include expense recoveries or reimbursements as an income line item to include the expenses paid by the landlord but reimbursed by the tenant. He stated that the use of a gross lease structure really affects the value due to the property taxes in the use of a full load factor. At a maximum, Ryan should have used a pro-rated load factor. Dost testified that what Ryan did really decreased the subject's value using a full-load factor because the property was fully occupied and Ryan stabilized it at 93% occupancy, so the tenant is responsible for 93% of the taxes under his [Ryan] stabilized premise. Dost agreed that Ryan did not include the subject's actual income and expenses in the income analysis section of his report.

In regard to Ryan's development of the capitalization rate, Dost testified that his use of "all industrial types" rather than a more specific distribution warehouse disclosed that distribution warehouses had an average capitalization rate that was lower than for "all types." Dost found that Ryan should have used a second source rather than just rely on Realty Rates.com. Dost found the

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range of capitalization rates from the four sales he found ranged from 5.65% to 7% with an average of 6.05%. Dost computed the subject's capitalization rate in regard to its sale was 5.73%. Therefore, based on this data, Dost opined that Ryan's selected capitalization rate of 8.75% was not market oriented and not credible. Dost further opined that the income approach to value as developed by Ryan was not credible nor reliable.

Dost also found that based on his data and analysis of the research, the adequacy, completeness and reliability of the 2015 LaSalle report (Intervenor's Exhibit #9) was not credible or reliable. Dost testified that his opinion was in conformity with the standards of professional conduct and code of ethics of the professional association to which he belongs. Dost was confident that his research and analysis leads to a well-supported technical review appraisal report for the subject property consistent with property appraisal methodology and practice.

On cross-examination, Dost agreed that the property at 700-710 Kimberly in Carol Stream was used by Kleszynski in his appraisal report as improved sale #3 on page 56. (Appellant Exhibit A). Dost agreed however that Kleszynski reported the sale date of comparable sale #3 as being January 2014 while Dost depicted a sale date of December 2014. Dost agreed the sale price was the same and the address was the same. He was not sure if these were typographical errors. Dost stated Kleszynski's reported sale price for comparable sale #3 was incorrect as it represented the December 2014 sale price of \$12,125,000 [actual sale price was \$17,500,000] (See Appellant's Exhibit H) and not the January 2014 sale price (\$12,125,000) (See Intervenor's Exhibit #4).

In reviewing Ryan's reporting of the subject's size, Dost relied upon the assessor's records and admitted that he did no other independent verification. Dost testified that he did not do an interior inspection of the subject property but did perform what he called a kind of drive-by at one point. He admitted he did not do an exterior inspection of the subject property. Dost acknowledged that he had no opinion on whether the subject property was overvalued or undervalued. Dost admitted that there was no legal authority that required Ryan develop a land valuation in his report. Dost then agreed that Ryan was most likely correct in his conclusion of the subject's highest and best use as improved.

Dost admitted that if an appraiser were using a leased fee property, the appraiser would need to know the contract rent in order to use the leased fee sale. Dost agree with the general concept that if the sale of a leased property is to be used as a comparable sale in the valuation of the fee simple interest in another property, the comparable sale can only be used if reasonable and supportable market adjustments for the differences in rights can be made. Dost testified that reasonable and supportable market adjustments would be based on the relationship between market rent and contract rent.

In regard to the leased fee sales Dost utilized in his review report wherein he felt Ryan could have used without knowing the full lease terms. Dost testified that each of his leased fee sales had varying terms. Two of the leased fee sales had recent renewals immediately before the sale. Another one had a big lease expiration coming up within a year and was going to be 50% vacant. Dost stated he did not think an appraiser necessarily had to have 100 percent of the lease terms. The properties were leased and if a property was leased at market rates immediately before it sold, it is going to be a market transaction. Dost admitted he was assuming it was a market transaction because he did not actually examine the lease or receive confirmation as to the lease terms and did

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not know what the lease terms were. Dost testified that the leased fee sales he used are frequently triple net leased deals. The net operating income (NOI) per square foot usually contains minimal deductions for expenses or vacancy. He stated these properties are representative of the rental rate and the capitalization rate is calculated based on the first-year net operating income which is generally very similar to the actual contract rent in the first year. Dost admitted the appraiser should confirm either the NOI or the lease rate with somebody familiar with the lease terms.

Dost admitted that the sales he identified as being omitted in Ryan's appraisal report were identified by *CoStar*, however, the sales would need additional research in order to make the appropriate adjustments. Dost agreed that it was only his opinion that by not including any of the subject's actual income or expense amounts in Ryan's appraisal that it was a significant omission and was not requirement of USPAP. Dost explained that he looked up the information for his available comparable sales with brokerage companies, marketing material as well as PTAX forms. To the best of his knowledge, all of his prospective sales were arm's-length transactions. In addition, he believed all of his leased fee sales were open arm's-length transactions and should have been considered by Ryan. Dost admitted that he had no evidence that Ryan did not consider the transactions he proffered. Dost agreed that if either appraiser had not considered the sales he proffered, it would be inappropriate.

On redirect, Dost reiterated the data incorrectly reported by Kleszynski for comparable sale #3. Dost testified that he was able to determine the capitalization rates for each of his proffered sales by using information from *CoStar* and from broker's marketing material. Dost stated this information would have been available to Ryan and he should have looked into the sale given the locations of Carol Stream.

Conclusion of Law

The appellant, Community Consolidated School District No. 93, 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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and an increase in the subject's assessment is not warranted.

The Board finds the best evidence of market value to be the appraisal prepared by Joseph M. Ryan, MAI, which estimated the subject's market value of \$12,600,000 as of January 1, 2015 along with consideration of the income analysis presented by Atkinson. The Board finds Ryan's appraisal was well supported by the income approach presented by the board of review. The subject's assessment reflects a market value of \$14,370,210 or \$36.52 per square foot of gross building area, land included. The appellant requested the subject's assessment be increased to reflect a market value of \$47,887,147¹⁵ and submitted an appraisal prepared by Dale J. Kleszynski, MAI, SRA, estimating the subject property had a market value of \$16,900,000 as of January 1, 2015.

¹⁵ See appellant's appeal petition, Section 2(c).

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Initially, the Board gives little weight in its analysis to the appellant's requested assessment of \$15,946,420 which reflects a market value of approximately \$47,887,147 using the 2015 three-year average median level of assessment for DuPage County of 33.30%. The Board finds no support in this record for this claim. The Board finds the appellant did not file an amended petition to conform with the evidence produced by its appraiser. Section 1910.31(a) (86 Ill.Admin.Code §1910.31(a)) states in relevant part:

After the Property Tax Appeal Board has transmitted an appeal to the board of review and the time period for intervention under Section 1910.60 has expired, a petition for appeal may be amended to correct any technical defects, except when the amendment would be prejudicial to a party.

The Board finds the appellant, after receiving not less than three extension requests, failed to file an amended petition in accordance with Property Tax Rule 1910.31(a) to conform its requested assessment with the evidence it presented in support of its claim.¹⁶ Therefore, the board gives the appellant's request to increase the subject assessment to \$15,946,420 to reflect a market value of \$47,887,147 little weight. The Board will, however, consider the evidence presented by the appellant and give it its appropriate weight herein.

The Board finds the land sales used by Kleszynski were a credible indicator of the subject's land value and supported the board of review's estimated land value for the subject of \$3,197,898. Kleszynski estimated the subject's land value of \$4.25 per square foot of land area or \$3,346,607 or \$3,345,000, rounded, utilizing five land sales. He stated the sales comparison approach for land only was important because the land, given the intended use of the appraisal is important to understand so that the property can be assessed correctly and is also important as part of the analysis of highest and best use.

For land sales Kleszynski utilized properties that he identified as similar highest and best use features to the subject property. The land sales were located in industrial districts and were adjusted for property rights conveyed, financing, condition of sale, elapsed time on the market, location, zoning, size and physical variations. After making adjustments, Kleszynski selected a unit value for the subject of \$4.25 per square foot of land area or \$3,346,607 or \$3,345,000, rounded. ($787,437 \times \$4.25 = \$3,346,607$). (Appellant's Exhibit A, page 37). The income analysis presented by the board of review (Board of Review Exhibit A-2) depicts the subject's land assessment of \$1,064,900 which reflects a land market value of \$4.06 per square foot of land area or \$3,197,898. In addition, the appellant's appeal petition requested no change in the subject's land assessment. Based on the slight difference of land value as found by Kleszynski, the appellant's requested amount and the board of review, the Board finds the subject's land value is supported and no change in the subject's land assessment is warranted.

The Board next examined the improved sale comparables presented by each appraiser and the board of review. Kleszynski agreed that there was an increase in value overall in the industrial market from 2012 to 2014 for the industrial market in central DuPage County which he thought

¹⁶ Appellant's appeal found incomplete – 30-day extension granted on September 15, 2016. Upon request, a second extension request of 60-days was granted to appellant on October 21, 2016. On January 20, 2017 a final extension request of 60-days was granted appellant upon request.

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ranged from 3% to 6% annually. He agreed that if it were 6% annually, then a two-year-old sale would have a straight-line adjustment of 12%. In regard to his sale comparables Kleszynski testified he reviewed the *CoStar* reports and Transfer Declaration Sheets for each comparable sale, however, after being presented with the aforementioned documents, Kleszynski admitted that sales #1 and #2 were leased fee sales, the sale price for sale #3 was incorrectly reported and sales #4 and #5 were reported as not being advertised for sale.

Kleszynski agreed that the buyer for comparable sale #1 was purchasing an income stream along with the property. Kleszynski was unable to state the number of leases which may have been present at the time of comparable #1's sale. Kleszynski could not state the specifics of the lease(s) for comparable sale #1. The *CoStar* report depicted Allegheny Technologies, Inc. was the lessee at time of sale. Kleszynski reiterated he could not state if there were additional tenants. Kleszynski admitted he did not review the lease(s) for this property, so he could tell when the lease(s) started or how long the lease(s) were. Kleszynski agreed that the market conditions at the time a lease is executed could affect the lease rate. However, Kleszynski testified that he could not state what the market conditions were at the time it was leased because he did not have the signed lease date. Kleszynski stated comparable sale #2 was also leased at time of sale. Kleszynski admitted he did not review the lease(s) for comparable sale #2 and therefore could not answer questions concerning the specific terms of the lease(s). Kleszynski acknowledged that even without knowing specific lease information, he did not make any adjustment for the lease(s). Kleszynski stated no adjustment was made because the sales appeared to be at market prices. Kleszynski admitted that he did not have the lease information for comparable sale #2 to make the statement that the lease was at market rate.

Kleszynski's appraisal report, page 56 depicts comparable sale #3 sold in January 2014 for \$17,500,000. However, the Transfer Declaration Sheet depicted the property sold for \$12,125,000 and not the \$17,500,000 as shown in the appraisal. Kleszynski agreed that at a sale price of \$12,500,000, the sale would be at \$32.04 per square foot of building area, including land.

Comparable sale #4 was occupied at the time of sale and immediately vacated after the sale. The *CoStar* report and the Transfer Declaration Sheet for this sale also indicated that comparable sale #4 was not advertised for sale. Kleszynski was adamant and did not agree that comparable sale #4 did not meet his definition of market value. However, Kleszynski's appraisal report, page 3, indicates the most probable price a property should bring is a competitive open market allowing for a reasonable time for exposure in the open market. Kleszynski admitted that the Transfer Declaration Sheet for this sale depicted it also was not advertised for sale. Kleszynski admitted that he would have reviewed the *CoStar* report and Transfer Declaration Sheet for these sales. Kleszynski acknowledged that in his final reconciliation to value he place most weight on his sales comparison approach even though sales #1 and #2 were leased fee sales and the sale price for sale #3 was incorrectly listed along with sales #4 and #5 not being advertised for sale.

Braemer testified that Kleszynski's comparable sales #1 and #2 were leased fee sales for which no adjustment was made for the leases that were in place at time of sale. Braemer agreed with Kleszynski that an appraiser can use leased fee sales in a fee simple valuation *as long as* an adjustment is made for above or below market rates. He stated that if there is no difference in the contract rents versus the market rents then no adjustment is necessary. Braemer found fault in Kleszynski's appraisal because the appraisal does not state any of the details of the leases and

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throughout Kleszynski's testimony it was clear Kleszynski did not have the leases for comparable sales #1 and #2. As a reviewer, he could not tell from reading Kleszynski's appraisal whether an adjustment should have been made, he wanted to compare the actual rents but could not. He stated a person could not just assume the leases were at market rates.

In order to determine if an adjustment was required, he would have to examine the rent, the terms of the lease, the size of the leased premises, annual increases, if any, tenant improvement allowances and the basics behind the rent structure over the terms of the lease. Therefore, it was improper of Kleszynski to conclude no adjustment should be made for the sale property being sold with a lease. Because of this, the leased fee sales should not have been used as a comparable. He stated Kleszynski indicated his first element of comparison was property rights, and if he is unable to determine if an adjustment is needed for property rights and he is not able to make that adjustment, then he would not be able to include those comparable sales in the appraisal.

For his development of the sales comparison approach to value, Ryan utilized six comparable sales. The properties sold from June 2012 to July 2015 for prices ranging from \$5,992,887 to \$13,500,000 or from \$19.58 to \$36.96 per square foot of building area, including land. (Intervenor's Exhibit #9, page 61). Ryan testified that all of the sale comparables he used were vacant at time of sale. Ryan then stated that comparable sale #2 was reported to have a short-term tenant leasing a portion of the building when the property sold. However, in his conversations with the broker, he was told the seller considered the purchase to be of the fee simple interest. He considered all of his comparable sales as being a substitute for the subject property.

Ryan testified that he independently verified each sale. He stated that once a sale is found they contact someone that had knowledge of the sale; a broker, owner, buyer or seller. In addition, Ryan inspected most of the sales.

Ryan utilized qualitative adjustments and compared individual features of the building and market conditions. His office considered the property rights, financing terms, conditions of sale, market conditions, location, land-to-building ratio, building size, age, ceiling clearance and dock areas to arrive at the total adjustments needed. Ryan adjusted the price per square foot of the comparable sales when compared to the subject. Ryan testified that because he utilized fee simple sales, no adjustments for property rights, sale condition or market condition were made. He stated sales #1, #2 and #5 had an overall downward adjustment with sales #3, #4 and #6 having an overall upward adjustment as shown on page 67 of his appraisal report. (Intervenor's Exhibit #9, page 67). After making various adjustments, Ryan concluded a value for the subject of \$32.50 per square foot of building area or \$12,525,000, including land.

Ryan reiterated that a leased fee sale would not have the same property rights as a fee simple sale because the bundle of rights would be alienated. He testified that without having an intimate knowledge of the leases and how they affected the capitalization rate, it is difficult, if not impossible, to make the appropriate adjustment. Ryan testified that all of his sales were arm's-length market value transactions which means there is a willing buyer, willing seller, neither under duress, the terms were not [sic] cash or cash equivalent and the property was exposed to the open market. (Intervenor's Exhibit #9, page 10).

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He stated comparable sales #1, #4 and #5 were adjusted downward because of their superior locations and sales #3 and #6 were adjusted upward because of their inferior locations because Ryan thought McHenry and Libertyville were not as strong industrial markets as the subject's area. On page 67 of his appraisal report (Intervenor's Exhibit #9, page 67) Ryan arrayed the comparable sales by whether they were overall positively or negatively adjusted, and the middle is what he expected the value for the subject property would be. This indicated to Ryan that the range was going to be approximately \$30 to \$34 per square foot of building area for the subject property. He reconciled to \$32.50 per square foot of building area for the subject or \$12,523,680 (\$32.50 x 385,344 square feet of building area) or \$12,525,000, rounded.

Ryan explained that every appraiser would like to find the six sales right on the same block, in the same submarket, all the same size, all built the same time. However, that is not possible, so his number one criterion was to find sales of fee simple interest. From that, Ryan expanded and found what sales he could in the subject's market and expanded further from there. After he found a sufficient number of sales, he then adjusted the comparables to the subject.

The Board finds both appraisers agreed that leased fee sales could be used to determine a fee simple value. However, this is conditioned on an examination or review of the lease in effect at the time of sale to see if the leased rates were at market rates, which may or may not require an adjustment. The Board takes notice that *The Appraisal of Real Estate* treatise at page 323 states in relevant part:

If the sale of a leased property is to be used as a comparable sale in the valuation of the fee simple interest in another property, the comparable sale can only be used if a reasonable and supportable market adjustment for the difference in rights can be made. . . . to compare the lease fee interest to the fee simple interest in the subject property, the appraiser must determine if the contract rents of the comparable property was above, below or equal to market rent.

The Appraisal of Real Estate, page 323, 14th Edition.

The Board finds if an appraiser is going to use leased fee sales, the appraiser has to know the rental terms in order to make the appropriate adjustments and the sale can only be used if reasonable and supportable market adjustments for the differences in property rights can be made. The Board finds Kleszynski made no adjustment for property rights to the two leased fee sales he used and did not know the lease terms. Kleszynski simply assumed the leases for the two sales he used were at market rate. The Board is unable to determine if his lack of adjustments were reasonable because they were not supported within the record. Further, two of the sales used by Kleszynski (#4 and #5) were not advertised on the open market. Of the five improved sales used by Kleszynski at least two were leased fee sales for which the leases were not examined and two of the sales were not exposed on the open market. Kleszynski's own appraisal report depicts the definition of market value is defined as:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue

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stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a) Buyer and seller are typically motivated;
- b) Both parties are well informed or well advised, and acting in what they consider their best interests;
- c) **A reasonable time is allowed for exposure in the open market;**
- d) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- e) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. [emphasis added]

Kleszynski Appraisal, page 3, quoting *The Dictionary of Real Estate Appraisal*, Sixth Edition.

The Board finds Kleszynski failed to follow the mandates of what is considered market value or otherwise did not support the unadvertised sales he used as representing the market. In addition, one sale was misreported in the appraisal, and actually sold for \$32.04 per square foot and not the \$46.24 per square foot as reported. The Board finds Kleszynski placed more emphasis on utilizing comparables closely situated near the subject, even though the sales were leased fee sales as opposed to utilizing fee simple sales located within the subject's regional market and/or were not advertised on the open market. Even though, Kleszynski gave the sales comparison approach to value the most weight in his final reconciliation, the Board finds Kleszynski's sales comparison approach to value is not credible nor reliable. Therefore, the Board gives Kleszynski's sales comparison approach to value little weight in its analysis.

The board of review's sales grid (Board of Review Exhibit A-1) depicts five sale comparables were utilized. The comparables sold from September 2012 to December 2014 for prices ranging from \$7,250,000 to \$20,500,000 or from \$22.92 to \$47.68 per square foot of building area, including land. The board of review's grid depicted a median sale price of \$33.04 per square foot of building area. Atkinson testified that all of the comparables are within 6 miles of the subject with 4 being in Carol Stream as is the subject. He stated that comparable sales #2 and #5 were indicated by the *CoStar* reports that there may have been market factors that pushed those two values higher. Comparable sales #2 and #3 were the same property which sold twice. He stated the later sale of this property was indicated to have had renovations done to the building which may have influenced the value. He considered sale #2 and #5 to be outliers of what he would consider to be an appropriate value for the property.

The Board gives most weight in its analysis to the sales comparison approach to value as developed by Ryan, the intervenor/taxpayer's appraiser. The Board finds Ryan made logical adjustments to his comparable sales and supported the adjustments made. The Board finds his comparable sales better represent the fee simple interest of the subject property. The Board gave most weight in its analysis to Ryan's comparable sales #3, #5 and #6. These comparables sold as vacant properties from December 2013 to July 2015 for prices ranging from \$5,992,887 to \$13,500,000 or from \$27.50 to \$32.17 per square foot of building area, including land. The Board finds this is a fairly tight range from which an indication of value can be determined. After making adjustments to the comparables for differences when compared to the subject, the Board finds the subject's estimated

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market value of \$12,523,680 or \$12,525,000, rounded, or \$32.50 per square foot of gross building area, land included, is within the established range based on a total sale price and slightly above the established range of the best comparables in this record on a per square-foot basis and is supported. Further, Ryan's estimated value by the sales comparison approach is strongly supported by the board of review's sale comparables which ranged from \$7,250,000 to \$20,500,000 or from \$22.92 to \$47.68 per square foot of building area, including land. In addition, the board of review's grid depicted a median sale price of \$33.04 per square foot of building area, further supportive of Ryan's conclusion.

The Board next examined the income approach to value as developed by the appraisers and board of review. For market rental rates, Kleszynski examined five rental properties located in the same general industrial district as the subject. The comparables were depicted as having rental rates ranging from \$3.90 to \$4.91 on a modified gross or net basis. Kleszynski testified that he estimated the subject's market rent on a net basis wherein the owner of the property controls a consistent dollar amount that they receive. Operating expenses such as real estate taxes, insurance and common area maintenance are passed through to the tenant on a pro-rata basis.

Kleszynski stated he did not review the actual leases for his rental comparables. Kleszynski stated that in most cases he spoke with one of the parties involved in the transaction. He believed all of the leases were consummated leases. Kleszynski admitted that rental comparable #1 was a gross lease which meant the tenant was paying for a portion of the expenses, however, he could not state what line items the tenant was responsible for. He admitted the lease for rental #1 was for one-half of the building. He did not know anything about the other tenant who leased the other half of the building and could not state what type of lease the other tenant agreed to or the terms of the lease. Kleszynski admitted that his report does not disclose what adjustments were made to the rental comparables. Kleszynski then acknowledged that even though rental comparable #3 was approximately 10% the size of the subject, he did not adjust this comparable to the subject. He also did not make a specific adjustment for the smaller size of rental comparable #4 when compared to the subject. Kleszynski admitted that for all of his net rental comparables (#2, #3, #4 and #5) he did not list the specific additional income other than the base rent.

Kleszynski agreed that his opinion of value for the subject of \$16,900,000 would indicate an increase in real estate taxes of approximately \$90,000, however, when he computed the subject's tax load, he utilized the subject's actual taxes paid (\$495,000) based on its current assessment value. Kleszynski testified that each approach to value was independently developed and does not rely on the other approaches to value. He then agreed that his sales comparison approach to value (\$16,897,237) was about a \$1,000 apart from his income approach to value (\$16,898,272).

Kleszynski also agreed that even though his rental comparables ranged from \$3.90 a square foot on a net basis to \$4.91 a square foot on a modified gross basis, he used \$3.75 a square foot for the subject. In addition, his capitalization rates ranged from 4.5% to 7% and he used 7.35%. Kleszynski agreed that the use of *CoStar* would only be a start to an analysis and would need to be verified.

The Board finds Kleszynski indicated he made only minor adjustments to his rental comparables and did not include specific adjustments for his rental comparables in his report, even though, there were differences in size, age, utility and ceiling clearances. Further, the Board questions

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Kleszynski's deduction of the subject's current real estate taxes (\$494,540) which was based on the subject's current assessment (reflecting a market value of approximately \$14,355,000), while he determined the subject market value to be significantly higher at \$16,900,000 which would indicate real estate taxes of approximately \$90,000 higher. The Board finds these errors significantly impacts the subject's estimated value by the income approach and calls into question the credibility of the estimation of value.

The evidence revealed vacancy rates between 2012 and 2016 had essentially dropped, but in 2015 they ranged from 4.3% to 7.1%. Kleszynski elected to apply a vacancy and collection loss of 7% in the evaluation of the subject property. Kleszynski estimated the subject's potential gross income for the subject of \$1,473,596 which he then added estimated tenant reimbursements of \$757,822 to arrive at total rental income of \$2,231,418. He then subtracted vacancy and collection losses of 7% of potential gross income (\$156,199) to arrive at an effective gross income for the subject of \$2,075,219. He then subtracted real estate taxes (\$494,540), insurance (\$47,155), common area maintenance (\$216,127), management fees (\$54,818), reserves for replacements (\$13,704) and miscellaneous expenses (\$6,852) which indicated total expenses of \$833,196. After these calculations, the subject's net income was estimated to be \$1,242,023. (Appellant's Exhibit A, page 49).

The Board is not comfortable in concluding that Kleszynski's final opinion of value represents the subject's fee simple interest as opposed to a leased fee value. The Board finds the data utilized to estimate the subject's income and expenses was not well supported with verifiable market data, and therefore, calls into question the estimations utilized. Based on the evidence submitted herein and the testimony provided, the Board finds Kleszynski overstated the subject's final opinion of value and is therefore not a reliable indicator of the subject's fee simple interest as of January 1, 2015.

Ryan, the intervenor/taxpayer's appraiser, examined four rental comparables. Ryan testified that his rental comparables represented what is actually going on in the market. The rental comparables ranged from \$4.17 to \$5.21 per square foot of building area on a gross rental rate. The rental comparables were adjusted for location, size, age, lease commencement date, clear ceiling height and overall utility to arrive at an overall adjustment. Ryan testified that he inspected each rental comparable. After making the qualitative adjustments, Ryan concluded a gross rental rate of \$5.00 per square foot of building area and applied this to the subject's 385,344 square feet of building area to conclude a potential gross income for the subject of \$1,926,720. Ryan stated that vacancy in the central DuPage County submarket decreased from 7.56% in the 4th quarter of 2013 to 7.35% in the same period in 2014. For the purposes of determining market vacancy, he applied 7.35% of potential gross income to represent the vacancy and collection loss for the subject property which came to approximately \$141,614 for an effective gross income of approximately \$1,785,106.

Ryan then examined the *Building Owners and Managers Association* (BOMA) survey of customers as to their operating expenses for industrial type properties. Ryan testified that the BOMA survey is specific to the market for suburban Chicago warehouse and manufacturing buildings. The size amounts were for buildings in excess of 400,000 square feet, similar to the subject. Ryan stated that BOMA also reported individual expenses. He used \$0.02 cents for administration, repair and maintenance of \$0.16 cents, utilities at \$0.01 cents, insurance at \$0.06

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cents, management fees of \$0.11 cents and replacement reserves at \$0.20 cents, respectively, per square foot of building area, which indicated expenses of \$0.36 cents per square foot.

Ryan stabilized expenses at \$0.56 cents per square foot of building area or approximately 7.4% of effective gross income. He excluded replacement reserves and real estate taxes. The property taxes were substituted with a tax load based on the level of assessment and the appropriate tax rate so the property taxes would neither positively nor negatively affect his income approach analysis.

Ryan then examined the *Realty Rates* survey which indicated that for industrial properties the first quarter 2015 industrial capitalization rates were from 4.61% to 13.49% with a median of 9.73%. He chose a 9% capitalization rate based on that criteria. Ryan also considered the band of investment technique which weighs the mortgage and equity components found in the market. Based on the band of investment technique his conclusion of the overall capitalization rate was 8.18%. In reconciling the two approaches he gave the survey more weight to conclude an 8.75% overall capitalization rate. Ryan then used the statutory level of assessment for DuPage County and multiplied it by the tax rate to determine the effective tax rate of 12.26%. Ryan estimated effective gross income for the subject of \$1,785,106 and deducted operating expenses of \$215,000 to arrive at a net operating income of \$1,570,106 which was capitalized at the 12.26% overall tax loaded capitalization rate which then indicated a value for the subject of \$12,806,738 or \$12,800,000, rounded or \$33.22 per square foot of building area, including land. (Intervenor's Exhibit #9).

The Board finds Ryan's appraisal report utilized credible and verifiable data to conclude a final opinion of value for the subject. His adjustments appear to be logical and reasonable based on market rates and appear to be supported by the conclusion of value as presented by the board of review.

The Board next examined the income analysis prepared by Atkinson. (Board of Review Exhibit A-3). Atkinson testified that during a quadrennial reassessment period, they prepare an analysis on ratios that can be applied uniformly. He stated they get hundreds of appeals during a quadrennial reassessment period. They had over 900 in 2015. Looking at 2012 through 2014 they found a vacancy and collection allowance of 7.5% was reflected by the market activity in the township. An expense ratio of 12.5% was indicated on a triple net basis along with a capitalization rate of 9% based on sales activity within the township. Atkinson further testified that they received the subject's rent roll and were able to use the subject's actual net rent which indicated \$3.67 per square foot of building area. He then applied that to the gross building area of 393,516 to arrive at a potential gross income for the subject of \$1,444,204. After applying vacancy and collection losses of \$108,315 or 7.5% effective gross income was indicated to be \$1,335,888. From this he subtracted 12.5% of effective gross income (\$166,986) which indicated net income for the subject of \$1,168,902. He then applied an unloaded capitalization rate of 9% which produced an indicated market value of \$12,987,800 or \$33.00 per square foot of building area, including land.

Atkinson testified that the expenses for vacancy, other expenses and capitalization rates were extracted from the market data his office receives. Atkinson agreed through his testimony that his income analysis indicated a value for the subject of \$33.00 per square foot of building area, his equity analysis produced a median value of \$35.27 per square foot of building area and his sales comparison analysis indicated a median value of \$33.00 per square foot of building area.

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Atkinson testified that he used the subject's actual income of \$3.67 per square foot of building area and used market derived data for the remaining part of his income analysis. Atkinson stated he used net lease rates without adding tenant reimbursement income, real estate taxes or insurance into the income, which he thought would be improper to do. He testified that if he did include those expenses it would represent a gross lease and would then require a loaded tax rate. Atkinson stated that the expenses he used are not particular to the subject property, but rather, were derived from all of their income analyses for income producing industrial properties in the Bloomingdale Township.

Based on his analysis, Atkinson concluded an assessed value for the subject of \$4,329,270 which equates to a market value of \$12,987,800 or \$33.00 per square foot of building area, including land. He stated the current assessment in tax year 2015 for the subject is \$36.48 per square foot of building area. He then agreed that his actual income analysis, equity analysis and his median sale price for properties similar to the subject support a lower value for the subject in 2015. (Transcript pages 229-233). Atkinson testified that if he removed sales #2 and #5, which he considered outliers, the sales would range from \$22.92 to \$33.04, which is also below the subject's value as reflected by its current level of assessment. Atkinson stated all of his sales were open-arm's-length transactions. To the best of his knowledge none of the sales were leased fee sales.

The Board finds the income analysis prepared by the local assessor is credible and is a reliable indicator that supports Ryan's final opinion of value for the subject as of January 1, 2015. The Board finds Ryan's appraisal is the best indicator of the subject's fee simple interest and is tempered with consideration of the income analysis presented by the board of review. Therefore, the Board finds Atkinson's income analysis supports Ryan's final opinion of value utilizing the sales comparison approach and income approach to value and moreover supports the final value conclusion as found by Ryan. The board of review's income analysis was predominantly based on market data within the subject's township as collected by the assessor's office.

The Board finds both appraisers gave most weight in their final opinions of value to the sales comparison approach with consideration given to the income approach to value. Having considered the final opinion of value as found by Ryan and with consideration and support from the income analysis presented by the board of review, the Board finds the preponderance of the evidence supports a reduction in the subject's current assessment to reflect the final conclusion of value as found by Ryan with consideration of the analyses prepared by Atkinson. Therefore, the Board finds the subject's assessment is incorrect and based on the evidence and testimony herein, a reduction is warranted commensurate with Ryan's final opinion of value of \$12,600,000.

Since the subject's fee simple market value has been determined, the 2015 three-year average median level of assessments for DuPage County of 33.30% shall apply.

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APPELLANT:	Liberty Machinery, Co.
DOCKET NUMBER:	17-01582.001-I-1 thru 17-01582.002-I-1
DATE DECIDED:	September, 2020
COUNTY:	Lake
RESULT:	No Change

The subject property consists of two parcels that are improved with a one-story industrial building of brick exterior construction with approximately 23,492 square feet of building area which is comprised of approximately 3,000 square feet of office space (13%) with the remainder consisting of manufacturing and loading space.¹ The structure was originally constructed in 1970 and had an addition built in 1973. Features include ceiling heights of either 9 foot, 14 foot or 22 foot and there is one interior dock along with two drive-in doors. The parcels contain a total of 87,991 square feet or a 2.02-acre total site area which presents a land-to-building ratio of 3.75:1. The property is located in Lincolnshire, Vernon Township, Lake County.

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal prepared by Neil J. Linehan and Joseph M. Ryan, each of whom are Certified General Real Estate Appraisers, with Ryan also having the MAI designation. The appraisal report was prepared for the purpose of an equitable real estate assessment and utilized both the sales comparison and income approaches to value in estimating the subject property had a market value of \$850,000 as of January 1, 2015.

The appraisers inspected the subject and described the structure as being in overall average condition. The appraisers noted that modern industrial buildings typically have 30+ foot ceiling heights/clearances. Therefore, the subject requires more floor area due to its lower stacking capabilities which inhibits the subject's marketability. (Appraisal, p. 35).

Utilizing the comparable sales approach to value, the appraisers analyzed five comparable sales of properties that were located in Mundelein, Lake Barrington, Zion and Waukegan. The comparable parcels range in size from 21,750 to 116,436 square feet of land area and have been improved with buildings that were constructed from 1964 to 1982. The buildings range in size from 12,500 to 28,100 square feet of building area. The comparables have clear ceiling heights ranging from 12 to 40 feet. Three of the comparables have either two or three docks and all five comparables have from one to three drive-in doors. The comparables present land-to-building ratios ranging from 1.67:1 to 4.22:1. The comparables sold from February 2012 to July 2014 for prices ranging from \$325,000 to \$1,025,000 or from \$18.08 to \$38.64 per square foot of building area, including land. (Appraisal, p. 41-54).

Next, the appraisers analyzed the comparable sales properties for differences when compared to the subject and applied adjustments for conditions of sale, location, land-to-building ratio, ceiling

¹ The appellant's appraisers reported a total building area of 23,472 square feet whereas the assessing officials reported 23,492 square feet of building area. The Board finds this minor size discrepancy does not prevent a determination of the correct assessment on this record.

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clearance and/or functional utility. From this process, the appraisers determined four of the five comparables required overall upward adjustments and opined a unit value for the subject of \$35.00 per square foot of building area at 23,472 square feet for an estimated market value conclusion of \$821,520 or \$820,000, rounded, under the sales comparison approach to value. (Appraisal, p. 55-58).

Using the income approach to value, the appraisers analyzed four suggested rental comparables located in either Libertyville or Mundelein. The comparables were described as industrial buildings that range in size from 22,718 to 29,600 square feet of building area. The rental comparables had net rental rates ranging from \$3.75 to \$5.00 per square foot of building area. After consideration of the adjustment process (Appraisal, p. 67-68), the appraisers concluded the subject property had a projected net rental rate of \$4.25 per square foot of building area. Therefore, the subject's potential annual gross rental income was estimated to be \$99,756 based upon a building size of 23,472 square feet. Vacancy was estimated to be 10% or \$9,976, resulting in an effective gross income of \$89,780. Expenses for management fees of \$4,000 annually and reserves for replacements of \$10,000 annually resulted in an estimated net operating income for the subject of \$75,780. (Appraisal, p. 69-71). Analyzing both the direct capitalization and the band of investments method, the appraisers concluded an overall capitalization rate of 8.5%. To the capitalization rate, the appraisers added a tax load for periods of vacancy or .29% to arrive at a loaded capitalization rate of 8.79% to be applied to the subject's estimated net operating income. As a result, the appraisers concluded a value under the income approach of \$860,000, rounded.

In reconciliation (Appraisal, p. 77-78), the appraisers gave primary consideration to the sales comparison approach and significant consideration to the income approach to value. The appraisers opined that the subject property had an estimated market value as of January 1, 2015 of \$850,000.

Based on the foregoing evidence, the appellant requested a total assessment reflective of the appraised value conclusion at the statutory level of assessment of 33.33%.

The board of review submitted two "Board of Review Notes on Appeal" disclosing the total assessment for the two parcels comprising the subject of \$332,399. The subject's total assessment reflects a market value of \$1,002,712 or \$42.68 per square foot of building area, land included, when using the 2017 three year average median level of assessment for Lake County of 33.15% as determined by the Illinois Department of Revenue.

In response to the appellant's appraisal evidence, the board of review submitted a memorandum outlining criticisms of the appraisal report. The criticisms emphasis the dated nature of the appraisal, the dated nature of the comparable sales data contained within the appraisal report, the distant location of the comparables from the subject property and the differing demographics of the location of the three comparable sales as compared to Lincolnshire. In addition, appraisal sale #3 was a foreclosure sale and appraisal sale #4 reportedly had more than \$100,000 of deferred maintenance at the time of sale. As a consequence of these deficiencies in the appellant's appraisal report, the board of review contends the appraisal is insufficient to establish the estimated market value of the subject property as of the assessment date at issue of January 1, 2017.

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In support of its contention of the correct assessment, the board of review submitted information on three comparable sales located in either Buffalo Grove or Vernon Hills and from 1.01 to 2.54-miles from the subject property. The comparable parcels range in size from 47,636 to 126,482 square feet of land area and have been improved with one-story masonry buildings that were built between 1988 and 2000. The buildings range in size from 21,337 to 26,704 square feet of building area. The comparables have land-to-building ratios ranging from 2.23:1 to 4.81:1. The comparables sold from August 2015 to December 2016 for prices ranging from \$1,338,750 to \$2,100,000 or from \$50.10 to \$79.88 per square foot of building area, including land.

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

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant submitted an appraisal of the subject property with an opinion of value as of January 1, 2015 and the board of review criticized aspects of the appraisal report along with providing three comparable sales. The Board finds the appellant submitted an appraisal of the subject property with a final value as of 24 months prior to the assessment date at issue of January 1, 2017. Moreover, the appraisers' opinion of value was solely based upon comparable sales of properties that occurred from approximately three to five years prior to January 1, 2017 which the Board finds are sales that are less likely to be indicative of the subject's estimated market value as of January 1, 2017. Given the dated nature of the opinion of value and the dated nature of the comparable sales utilized to arrive at the opinion, the Board finds that the appraised value conclusion is not a credible or reliable indicator of the subject's estimated market value as of January 1, 2017.

The Board finds the best evidence of market value to be the board of review comparable sales which are located in relatively close proximity to the subject and consist of similar one-story buildings that were similar in size to the subject. The board of review comparable sales sold from August 2015 to December 2016 for prices ranging from \$1,338,750 to \$2,100,000 or from \$50.10 to \$79.88 per square foot of building area, including land. The subject's assessment reflects a market value of \$1,002,712 or \$42.68 per square foot of building area, including land, which is below the range established by the best comparable sales in the record which is logical given the subject's older age as compared to these recently sold buildings. Based on this evidence, the Board finds a reduction in the subject's assessment is not justified.

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APPELLANT:	William Plocinski
DOCKET NUMBER:	16-01036.001-I-2
DATE DECIDED:	May, 2020
COUNTY:	Kane
RESULT:	Reduction

The subject property consists of a one-story industrial building of steel frame and insulated metal panel construction with 58,850 square feet of building area. The structure has 4,775 square feet of office space or approximately 8% of total building area and 54,075 square feet of warehouse space with approximately 18-foot clear ceiling heights. The building was constructed in stages in 1994, 1997, 2000 and 2007 for a weighted average age of 16 years and has a full wet sprinkler system and air conditioning in the office and front portions of the warehouse area or about 52% of the gross building area. The structure also contains approximately 4,775 square feet of mezzanine level storage space above the office which is not included in the gross building area. The property has an approximately 141,637 square foot site reflecting a land-to-building ratio of 2.4:1. The property is located in Elgin, Elgin Township, Kane County.¹

The appellant contends overvaluation as the basis of the appeal. In support of this argument, the appellant substantially completed Section IV – Recent Sale Data and submitted an appraisal.

As to the recent sale of the subject property, the appellant reported the property was purchased in July 2015 for \$2,075,000. The property was purchased from Chicago Title Land Trust Company Trust #13581 and the parties to the transaction were not related. The property was sold using a Realtor and the property was advertised with the Multiple Listing Service (MLS) and "circulars." The appellant did not disclose how long the property was advertised in Section IV where the information was requested. In further support of the purchase price, the appellant provided a copy of the settlement statement reiterating the purchase price, date of sale, parties to the transaction and that a commission was paid in association with the sale. A copy of an undated circular was also submitted depicting an asking price for the subject property of \$2,299,000.

The appellant also submitted an appraisal report prepared by Keith J. Stewart and Edward V. Kling, each of whom are Certified General Real Estate Appraisers. The appraisers utilized all three approaches to value in estimating the subject property had a market value of \$2,300,000 or \$39.08 per square foot of building area, including land, as of June 23, 2015 which was the last physical observation of the property by one of the appraisers (Appraisal, p. 2). The purpose of the appraisal was to arrive at an estimate of the fair market value of the subject property using fee simple rights as of the effective date with an understanding, the appraisal report would be used by the client for loan underwriting and possible loan syndication (asset sale), or loan participation (Appraisal, p. 1). The client was American Heartland Bank and Trust in Sugar Grove, Illinois.

¹ All descriptive data for the subject property has been drawn from the appellant's appraisal report as the board of review failed to provide a copy of the subject's property record card as required by the procedural rules. (86 Ill.Admin.Code §1910.40(a))

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The appraisers reported on page 10 of the report that the subject property was under contract for a sale price of \$2,075,000. The seller was Harris Bank of Roselle, T#13581 and the appellant with a spouse was the buyer. The appraisers further noted the subject property had been listed for several years with an asking price of \$2,999,000.

The appraisers noted the subject property was reasonably well maintained and was in average condition. The building was described as a mid-sized, single-user, freestanding industrial building available for use by a variety of industrial users. The appraisers further noted the long and narrow configuration of the subject was considered less desirable and would be a functional issue; the layout was best for a production line with raw material entering one end of the warehouse and exiting the other end of the warehouse. (Appraisal, p. 24)

Under the cost approach the appraisers estimated the subject had a site value of \$570,000. Utilizing *Marshall & Swift Valuation Service*, the appraisers estimated the replacement cost new of the improvements to be \$3,867,816. The appraisers used the age/life method to estimate depreciation to be 57% or \$2,204,655 resulting in a depreciated improvement value of \$1,663,161. The appraisers also estimated the site improvements had a value of \$100,000. Adding the various components, the appraisers estimated the subject property had an estimated market value of \$2,330,000, rounded, under the cost approach to value. (Appraisal, p. 45-48)

Using the sales comparison approach, the appraisers considered six sales of comparable industrial buildings located in Batavia, Spring Grove, McHenry, South Elgin and Elgin. The parcels range in size from 82,328 to 242,630 square feet of land area and have been improved with buildings that range in age from 21 to 35 years old. The structures range in size from 30,960 to 67,048 square feet of building area with varying degrees of similarity in office space, clear ceiling heights, air conditioning and/or sprinkler systems. The comparables present land-to-building ratios ranging from 2.11:1 to 4.82:1. The properties sold between June 2013 and May 2015 for prices ranging from \$1,300,000 to \$2,575,000 or from \$28.82 to \$60.75 per square foot of building area, including land. After making adjustments to the comparables to account for differences in financing terms, location, physical characteristics, and other features, the appraisers reported adjusted sales prices for the comparables ranging from \$35.44 to \$42.52 per square foot of building area, including land. From this data, the appraisers estimated a value for the subject of \$39.00 per square foot of building area or \$2,300,000, including land.

Using the income approach to value, the appraisers analyzed six suggested rental comparables located in McHenry, Elgin, Bolingbrook, Waukegan, Woodstock and Bensenville. The comparables were described as industrial buildings that range in size from 15,126 to 100,294 square feet of building area. The rental comparables had net rental rates ranging from \$2.95 to \$5.69 per square foot of building area. After consideration of the adjustment process, the appraisers concluded the subject property had a projected net rental rate of \$4.00 per square foot of building area. Therefore, the subject's potential annual rental income was estimated to be \$235,400 with expense recoveries estimated to be \$104,165 resulting in a total potential income of \$339,565. Vacancy was estimated to be 10% or \$33,956, resulting in an effective gross income of \$305,608. Expenses for management, real estate taxes, insurance, maintenance, reserves, legal and accounting totaled \$133,155 resulting in an estimated net operating income of \$172,494. Using the band of investments method and other sources, the appraisers calculated an overall

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capitalization rate of 7.75% to be applied to the subject's estimated net operating income. As a result, the appraisers concluded a value under the income approach of \$2,230,000, rounded.

In reconciliation, the appraisers gave primary consideration to the sales comparison approach and gave minimal consideration to both the cost and income approaches to value. The appraisers opined that the subject property had an estimated market value as of June 23, 2015 of \$2,300,000.

Based on the foregoing evidence, the appellant requested a total assessment of \$691,597 which approximately reflects the 2015 purchase price of \$2,075,000 at the statutory level of assessment of 33.33%.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$820,612. The subject's assessment reflects a market value of \$2,466,522 or \$41.91 per square foot of building area, land included, when using the 2016 three year average median level of assessment for Kane County of 33.27% as determined by the Illinois Department of Revenue.

The Kane County Board of Review contended that the "Property Tax Appeal Board's ruling from the prior year lowered the assessment to \$833,250 which is actually higher than the current year." The Property Tax Appeal Board takes judicial notice of an appeal concerning the subject property known as Docket No. 15-00944.001-I-2. (86 Ill.Admin.Code §1910.90(i)) Pursuant to a stipulation by the parties, including an intervening taxing district, the Property Tax Appeal Board issued a decision for tax year 2015 reflecting a total assessment of \$833,250.

Based on the foregoing argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The appellant submitted limited evidence concerning the July 2015 purchase price of the subject property and an appraisal of the subject property with an opinion of value as of June 23, 2015. The Board has given some weight to the purchase price of the subject property even though there is an absence of data indicating how long the property was on the market. The record does contain a flyer advertising the subject property for a price of \$2,299,000. Additionally, the closing statement discloses that a commission was paid to Stony Creek Brokerage, Inc., the same entity identified on the flyer. The Board finds this evidence discloses that the property was actively marketed.

The Board finds the appraisal submitted by the appellant with an opinion of value of \$2,300,000 or \$39.08 per square foot of building area, including land, is credible. Upon examining the

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appraisal report, the Board finds the appraisal appears to present a logical and credible opinion of value for the subject property with appropriate considerations for adjustments based on differences between the subject and comparable properties in the sales comparison approach. Furthermore, the appraisers performed both the cost and income approaches to value in the report. In contrast, the board of review submitted no comparable sales to refute the arm's-length nature of the sale transaction or the opinion of value of the subject property as determined by the appraisers; the board of review also presented no market value or other evidence to support the subject's estimated market value as reflected by its assessment. The subject's assessment reflects a market value of \$2,466,522 or \$41.91 per square foot of building area, including land, which is above both the purchase price and the appraised value conclusion.

Based on this evidence, the Board finds a reduction in the assessment of the subject property is warranted.

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APPELLANT:	Raymond Spears
DOCKET NUMBER:	16-27866.001-I-1
DATE DECIDED:	April, 2020
COUNTY:	Cook
RESULT:	No Change

The subject consists of a one-story, 16,821 square foot, masonry-constructed industrial building built in 1973. The owner occupies 75% of the total GBA while the remaining 25% is leased to Ram Industrial, LLC. It is located on Jarvis Avenue in Elk Grove Village, Cook County, and is situated on a 41,940 square foot rectangular-shaped interior site. The appellant, via counsel, argued that the fair market value of the subject property was not accurately reflected in its assessed value as the basis of this appeal.

In support of the market value argument, the appellant submitted an appraisal for the subject property with an effective date of January 1, 2016. The appraiser estimated a fair market value for the subject of \$625,000 based on the income and sales comparison approaches to value. The appraiser also conducted an inspection of the subject, however, was not present at the hearing to offer testimony. Based on this evidence, the appellant requested a reduction in the subject's assessment to \$156,250.

The Cook County Board of Review submitted its "Board of Review-Notes on Appeal," wherein the subject's final assessment of \$172,296 was disclosed. This assessment yields a fair market value of \$689,184, or \$40.97 per square foot of building area (including land), after applying an assessment ratio of 25%.

In support of the subject's assessment, the board of review submitted raw sales data for five industrial buildings. The sales data was collected from the CoStar Comps service, and the CoStar Comps sheets state that the research was licensed to the Cook County Assessor's Office. However, the board of review included a memorandum which states that the submission of these comparables is not intended to be an appraisal or an estimate of value and should not be construed as such. The memorandum further states that the information provided was collected from various sources, and was assumed to be factual, accurate, and reliable; but that the information had not been verified, and that the board of review did not warrant its accuracy.

The comparables are described as single-story, industrial buildings. Additionally, the comparables range from 38 to 51 years old and contain between 14,250 to 17,700 square feet of building area. The comparables sold between December 2013 and October 2016 for \$755,000 to \$809,310, or \$45.20 to \$53.33 per square foot of building area, including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

At hearing, the appellant's attorney offered his appraisal as evidence that the subject is overvalued. The board of review's representative also rested on their written submission.

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Conclusion of Law

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. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The appellant's appraiser was not present at the hearing to provide direct testimony or be cross-examined regarding the appraisal methodology and final value conclusion. 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. Therefore, the appraiser's conclusion of value is given no weight.

The board will, however, examine the unadjusted sales comparables submitted by the appellant and the board of review. The appellant submitted five unadjusted sales comparables into evidence. All of the appellant's comparables were comparable to the subject based on location, age, gross building area and sale date. The best comparables submitted by the board of review were comparables #3 and #4 based on location, sale date, conditions of sale, age and gross building area. Therefore, the Board finds the best comparables contained in the record are the appellant's comparables #1 through #5 and board of review's comparables #3 and #4. These unadjusted sales comparables range in value from \$29.55 to \$52.89 per square foot, including land. The subject's current assessment reflects a market value of \$40.97 per square foot, including land, which is within the range of these comparables. The Board notes that the subject property's current market value is also within the range of the unadjusted comparables submitted solely by the appellant.

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APPELLANT:	<u>Springfield Farm & Home Supply Company, Inc.</u>
DOCKET NUMBER:	<u>17-05845.001-I-3</u>
DATE DECIDED:	<u>February, 2020</u>
COUNTY:	<u>Sangamon</u>
RESULT:	<u>Reduction</u>

The subject property consists of a stand-alone commercial (“big box”) retail building of metal exterior construction containing 80,856 square feet of building area. The building was constructed in 1987. The building is located on a site containing 340,204 square feet (7.81 acres) of land area. The site has asphalt surfaced parking spaces for approximately 360 vehicles along with sidewalks, concrete slabs, exterior lighting, signage and landscaping. The property is located in Springfield, Capital Township, Sangamon County.

The appellant appeared before the Property Tax Appeal Board by its counsel, attorney Jackson Donley, contending overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal report of the subject property prepared by Michael Lipowsky, MBA, MAI. The purpose of this appraisal was to estimate the fair cash value of the subject property as of January 1, 2017 as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). The intended use of the appraisal was for the sole purpose of assisting the client in connection with the estimate of market value of the subject property for real estate taxation. The interest valued is the fee simple estate. The final conclusion was that the subject property had a market value of \$2,600,000 or \$32.16 per square foot of building area, including land as of January 1, 2017.

Michael Lipowsky, MBA, MAI was called as appellant’s witness and testified regarding the contents of the appraisal report. Lipowsky is a State of Illinois Certified General Real Estate appraiser, who has been appraising real estate for over 25 years. Lipowsky testified that he conducted a personal inspection of the interior and the exterior of the subject property on October 17, 2017. He described the subject property as ordinary “big-box” type of commercial building of relatively “cheap construction”. Lipowsky further noted that the subject building has an exposed (open) ceiling with hanging heaters, concrete floors and metal walls which is typical of an average to below-average type of commercial retail building. He also asserted that the market in Springfield for big-box stores has been declining over the past decade, pointing out several similar stores in the area which have gone out of business.

Lipowsky testified that he developed the sales comparison approach to value in arriving at an opinion of value for the subject property. Lipowsky identified eight comparable sales consisting of stand-alone commercial buildings. Three comparables were located in Springfield. The remaining comparables were located in Washington, Oswego, Loves Park, Rockford and O’Fallon, Illinois. These properties were improved with stand-alone commercial buildings of various exterior construction and ranged in size from 28,400 to 145,000 square feet of building area. The comparables were constructed from 1987 to 2006. The comparables had a land-to-building ratio ranging from 2.65:1 to 5.57:1. The comparables sold from February 2014 to November 2017 for prices ranging from \$553,300 to \$4,100,000 or from \$7.09 to \$42.65 per square foot of building

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area, including land. The appraiser made adjustments to each of the comparables for such items as age, building size, location, and land-to-building ratio resulting in an adjusted sale prices ranging from \$7.09 to \$42.65 per square foot of building area. Based on the adjusted sale price, the appraiser estimated the subject property had an indicated value under the sales comparison approach of \$2,600,000 or \$32.16 per square foot of building area, including land.

The cost approach to value was considered by Lipowsky, but deemed not relevant due to the overall age and condition of the subject along with the inherent difficulty in accurately estimating depreciation and obsolescence from all causes when in a weak market with numerous retail closures.

Similarly, Lipowsky considered (but did not develop) the income approach to value because he deemed it to be an unreliable indicator of value in this case due to the substantial oversupply with little demand for big-box retail properties as rental income. Lipowsky opined that users of this type of space have been shrinking their footprint in order to remain competitive or have altogether closed operations. Given the economic climate of large retailers, the probability that this property would be purchased by an investor in hopes of renting to a user is extremely low. Therefore, the income approach was not developed and the sales comparison approach to value was the only approach developed.

Upon questioning by the Administrative Law Judge, Lipowsky indicated that comparable sales #3, #4 and #8 were sales following a foreclosure, auction or bankruptcy. Lipowsky also testified that he made upward or downward adjustments to the comparables' building size, noting that buildings of this nature with lesser building area tend to be more marketable and thus superior to similar buildings with more square feet of building area. Moreover, adjustments were made to the comparables' price per square foot of building area due to a well know and accepted real estate valuation theory which provides that, all other factors being equal, as the size of a property increases, its per unit value decreases. Likewise, as the size of a property decreases, its per unit value increases. Lipowsky also made adjustments to the comparables' land-to-building ratio, age of the properties, location and functional utility depending on whether the comparables had inferior or superior features in order to make the comparables more like the subject property.

Under cross-examination, Lipowsky acknowledged that at the time of the subject property's sale in 2011 for \$2,650,000, it was occupied by a tenant. Also, Lipowsky stated that as of the assessment date of January 1, 2017, the appellant, Springfield Farm & Home Supply Company, Inc. was in operation at the current site, unlike the appellant's comparable sales which were vacant at the time of their sales.

Based on this evidence, the appellant requested the subject's total assessment be reduced to reflect the appraised value.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total equalized assessment for the subject of \$1,328,051. The subject's assessment reflects a market value of \$3,984,551 or \$49.28 per square foot of living area, land included, when using the 2017 three-year average median level of assessment for Sangamon County of 33.33% as determined by the Illinois Department of Revenue.

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During the hearing, the appellant's counsel raised an objection to the admission into the evidence the grid analysis submitted by the board of review based on the fact that the preparer of said document was unavailable to testify to the circumstances surrounding the preparation of said grid analysis. Attorney Donley argued that he was unable to conduct an effective cross examination of the preparer of the document regarding the contents and, therefore, the document itself should not be admissible into evidence. Mr. Donley agreed to allowing the representative of the board of review to summarize the contents of the document but argued that the grid analysis should not be given any weight.

In support of its contention of the correct assessment, the board of review submitted limited information on four comparable sales and one comparable listing located in Sangamon County. Three comparable sales are improved with stand-alone commercial ("big box) retail building of various exterior construction. One comparable sale is a multi-tenant strip center. The single comparable listing consists of free-standing commercial building. The comparables range in size from 18,750 to 91,154 square feet of building area. The buildings were constructed 1973 to 2007. No other descriptions were produced for analysis. The four comparables sold from February 2016 to October 2018 for prices ranging from \$2,175,000 to \$11,550,000 or from \$42.00 to \$127.00 per square foot of building area, including land. The comparable listing has a listing price of \$3,470,000 or \$185.00 per square foot of building area.¹

The board of review called as its witness Jason LaMar, Deputy Assessor for Capital Township. LaMar testified that the grid analysis was prepared by his predecessor, but he is very familiar with the document which is a very typical comparative analysis that is done in due course of business in Capital Township. LaMar contended that he is also familiar with the subject property as well as the comparable properties. LaMar indicated in general terms that Capital Township often conducts field visits and analyses pertaining to any appeal for the purpose of checking for any discrepancies in the records along with making various adjustments in their electronic database for such things as condition of the property, physical deterioration, etc.

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

Under re-direct examination, appellant's counsel called Lipowsky to clarify that he considered board of review's comparables #2 and #3 but did not use these sales in his appraisal report due to the fact that these properties are leaseholds meaning they had tenants leasing the buildings at the time of the sale which in Lipowsky's opinion tends to inflate the sale price and thus is less reflective of market value.

Conclusion of Law

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

¹ The board of review also submitted four equity comparables located in Springfield consisting of properties of various similarity to the subject. The Board finds that the basis of the appellant's appeal is overvaluation rather than inequity in assessments and, therefore, the board of review's equity comparables are non-responsive. Therefore, the Board will only consider the evidence regarding the overvaluation issue and will not analyze the equity comparables submitted by the board of review or give the equity comparables further consideration.

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be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

Initially, with regard to appellant's counsel's objection, the Property Tax Appeal Board finds that the board of review's grid analysis was timely submitted into evidence and is therefore admissible. Furthermore, board of review's grid is simply a compilation of readily discoverable public information regarding the sale or listing of properties, parcel numbers, sale prices, sale dates, building and lot sizes, location, age and sale price per square foot of building area which goes to the weight of the evidence rather than its admissibility. Finally, there was no testimony at the hearing presented by board of review regarding the preparation of the document in question nor does the grid contain any opinions by its author such as developed approaches to value, analysis, adjustments made to the comparables or value conclusions. Therefore, Property Tax Appeal Board finds that the grid analysis submitted by the board of review is allowed into evidence and the Board will give it such weight in its analysis as is appropriate.

The Board finds that the parties submitted for the Board's consideration an appraisal report along with a grid analysis containing four comparable sales and one listing. The Board finds that comparables #4 through #8 contained in the appellant's appraisal report are too distant in proximity to the subject; comparables #3, #4 and #8 are sales following foreclosure, auction and bankruptcy, respectively; finally, comparables #3, #5 and #7 are substantially different in building size when compared to the subject. These facts detract from and diminish the reliability of the value conclusion as determined by the appellant's appraiser. Therefore, the Board gave diminished weight to the value conclusion contained in the appellant's appraisal report.

As to the board of review comparables, the Board gave less weight to comparable #1 due to it being a multi-tenant strip center, unlike the subject which is a stand-alone commercial ("big box") retail building. The Board gave less weight to the board of review comparables #2 and #3 due to these properties being leaseholds transactions. Finally, the Board gave less weight to board of review comparable #5 due to this property being a listing rather than a sale, along with being substantially smaller in size compared to the subject.

The Board finds that the best evidence of market value is the parties' common comparable sale which is appellant's appraisal's comparable sale #2/board of review comparable #4. This property is most similar to the subject in design/style, functional utility and quality. This most similar comparable sold in February 2016, which is more proximate in time to the subject's January 1, 2017 assessment date. However, given this comparable's inferior location, building size and land-to-building ratio, an upward adjustment to the overall value is needed to be made. The property sold for \$2,175,000 or \$44.00 per square foot of building area, land included. The subject's assessment reflects a market value of \$3,984,551 or \$49.28 per square foot of living area, land included which is higher than the best comparable in this record. Furthermore, given this comparable's smaller building size when compared to the subject, it is logical that this comparable's price per square foot of building area should be greater than that of the subject. After considering adjustments to the best comparable in this record when compared to the subject, the Board finds that a reduction in the subject's total assessment is warranted.

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