

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Target Corporation¹
 DOCKET NOS.: 00-24805.001-C-3 thru 00-24805.006-C-3
 01-25823.001-C-3 thru 01-25823.006-C-3
 02-26690.001-C-3 thru 02-26690.006-C-3
 PARCEL NOS: 17-10-308-001-0000 thru 17-10-308-006-0000

The parties of record before the Property Tax Appeal Board (hereinafter PTAB or the Board) are Target Corporation (hereinafter Target), by Attorneys Gregory J. Lafakis and Ellen Berkshire of the firm of Liston and Lafakis, P.C., of Chicago; the Cook County Board of Review (hereinafter the board of review or the board or the CCBOR) by Assistant State's Attorney (ASA) Randolph T. Kemmer of the Cook County State's Attorneys Office (CCSAO) in Chicago; the Chicago Board of Education (hereinafter CBOE) by Attorneys Robert Swain and Sara Boucek of the law firm

¹ Target Corporation filed the appeals with the Property Tax Appeal Board for the years 2000 and 2001. For 2002 the City of Chicago filed the appeal with the Property Tax Appeal Board. For purposes of this decision and for ease of understanding Target Corporation has been designated as the appellant.

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

<u>DOCKET NOS.</u>	<u>PARCEL NOS.</u>	<u>LAND</u>	<u>IMPR.</u>	<u>TOTAL</u>
00-24805.001-C-3	17-10-308-001	\$1,786,172	\$ 864,707	\$2,650,879
00-24805.002-C-3	17-10-308-002	\$1,128,541	\$ 480,393	\$1,608,934
00-24805.003-C-3	17-10-308-003	\$2,089,739	\$1,008,825	\$3,098,564
00-24805.004-C-3	17-10-308-004	\$1,537,748	\$ 720,589	\$2,258,337
00-24805.005-C-3	17-10-308-005	\$2,059,077	\$1,008,825	\$3,067,902
00-24805.006-C-3	17-10-308-006	\$1,414,795	\$ 720,589	\$2,135,384

<u>DOCKET NOS.</u>	<u>PARCEL NOS.</u>	<u>LAND</u>	<u>IMPR.</u>	<u>TOTAL</u>
01-25823.001-C-3	17-10-308-001	\$1,786,172	\$ 864,707	\$2,650,879
01-25823.002-C-3	17-10-308-002	\$1,128,541	\$ 480,393	\$1,608,934
01-25823.003-C-3	17-10-308-003	\$2,089,739	\$1,008,825	\$3,098,564
01-25823.004-C-3	17-10-308-004	\$1,537,748	\$ 720,589	\$2,258,337
01-25823.005-C-3	17-10-308-005	\$2,059,077	\$1,008,825	\$3,067,902
01-25823.006-C-3	17-10-308-006	\$1,414,795	\$ 720,589	\$2,135,384

<u>DOCKET NOS.</u>	<u>PARCEL NOS.</u>	<u>LAND</u>	<u>IMPR.</u>	<u>TOTAL</u>
02-26690.001-C-3	17-10-308-001	\$1,786,172	\$ 864,707	\$2,650,879
02-26690.002-C-3	17-10-308-002	\$1,128,541	\$ 480,393	\$1,608,934
02-26690.003-C-3	17-10-308-003	\$2,089,739	\$1,008,825	\$3,098,564
02-26690.004-C-3	17-10-308-004	\$1,537,748	\$ 720,589	\$2,258,337
02-26690.005-C-3	17-10-308-005	\$2,059,077	\$1,008,825	\$3,067,902
02-26690.006-C-3	17-10-308-006	\$1,414,795	\$ 720,589	\$2,135,384

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of Hodges, Loizzi, Eisenhammer, Rodick & Kohn (Hodges, et. al.), of Arlington Heights; and the City of Chicago (City), by Attorneys Richard Danaher and Robert Gates of the City of Chicago Corporation Counsel.

These three appeals were consolidated for purposes of hearing. For the years 2000, 2001, and 2002 Target requests that the PTAB base the correct assessment for the subject property on a market value finding of \$39,000,000. For the year 2002, the City requests that the PTAB base the correct assessment for the subject property on a market value finding of \$82,000,000. For the years 2000, 2001, and 2002 the board of review requests that its current assessments be upheld. The current assessments are \$22,150,302 for years 2000 and 2001 and \$23,939,998 for year 2002, or a market value for the subject of \$58,290,268 for years 2000 and 2001 and a market value of \$62,999,995 for year 2002.

The parcels under appeal represent the flagship store for the nationally recognized retail department store chain, Marshall Field & Company (hereinafter Field's). It is the second largest department store in the world. Only the Macy's store on 34th Street between Broadway and 7th Avenue in New York City, known as "The World's Largest Store," which contains some 2,500,000 square feet, is larger. The subject property encompasses one square city block in the heart of downtown Chicago, the "Loop." The subject site is bounded by State Street on the west, Randolph Street on the north, Wabash Avenue on the east, and Washington Street on the south. The common address is 111 North State Street and is composed of six parcels.

The Field's store is a cultural landmark. Many Chicagoans are familiar with the large multi-ton clocks on both west corners of the buildings, which have come to be known as a meeting place. The Frango Mints Candy Factor, once occupying the entire 13th Floor of the store, was another well-known site within the store, as is the Walnut Room on the 7th floor. Dining in the Walnut Room, especially during the Christmas season, is a favorite pastime of many locals and tourists. A large Christmas tree displayed in the middle of the Walnut Room is a children's favorite. Store windows on three sides of the buildings were adorned with displays during the Christmas season based upon plays such as "Cinderella" or "Snow White." Truly, the Field's store is unique.

The improvements were constructed between 1893 and 1914 and are a consolidation of five buildings. The current store opened in 1907. The subject property is a multi-story, single-tenant, owner-occupied, retail department store and is a part nine-story, part thirteen-story, and part fourteen-story structure. There

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are 33 elevators and four pairs of escalators throughout the subject property. The gross building area of the subject property is 1,943,009 square feet and the site contains 131,295 square feet of land.

This one-of-a-kind structure contains a full basement and a partial second and third basement. The three basements comprise 380,598 square feet. The square feet of the three basement areas are included in the gross building area of 1,943,009 square feet. Approximately 800,000 square feet is retail selling area. The basements extend under the adjoining sidewalks on all three levels. This area is considered building space and contains what is commonly referred to as "vault" space. The property owner has a license to operate this space. The subject property is zoned by the City of Chicago as B6-7, Restricted Central Business District. The Cook County Classification Ordinance designates the subject as class 5A, commercial property. The land to building ratio of the subject is 0.07:1.00.

The building's foundation is poured concrete and the third basement floor is also concrete. The framing of the subject property is steel encased in concrete. The subject property contains ceiling heights within the interior structure that range from 8 feet to over 15 feet per floor. The building is heated with steam and is air-conditioned. The exterior of the building at street level is granite. The upper floors exterior is limestone except for the northeast corner, which is terracotta. Metal sash plate glass windows make up approximately 75% of the exterior walls. The building has an average actual age of 93 years.

Target Corporation began its case-in-chief by calling its first witness, Jay Mason, vice-president of property taxes for Federated Department Stores (Federated), the current owner of the subject property. Previous to this position Mason was the vice-president for property taxes for May Department Stores Company (May's), which was absorbed in a merger with Federated. The witness had held his position for 23 years and managed the company's department for property taxes for some 500 department stores owned by May's. Previous to that position, Mason was the supervisor of commercial assessments for the City of St. Louis, Missouri, for 11 years.

Mason testified that he was familiar with the history of the State Street Marshall Field Store. He testified that the Batus Company, the U.S. operation of the London-based BAT Industries, had sold this store to Dayton Hudson, later Target Corporation, in 1990. The witness was aware of this transaction because his employer, May's, was an active bidder in this process. Eventually May's would purchase the property several years later.

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Subsequently, the Marshall Field department store chain was purchased by May's in June 2004 and May's was then purchased by Federated in August 2005.

During the course of all of these transactions, Mason testified that he was unaware of any potential change of use of the subject property from its current use as a retail department store. Furthermore, the witness testified that he had done numerous analyses and tax projections for the Lord & Taylor Department Store regarding a potential site for Lord & Taylor at the Block 37 location, which is also one square city block located directly across from the subject property. The last improvement that existed on this site was torn down in 1989 and the land has sat vacant since that time. Based upon his analysis of this site, the witness testified that Lord & Taylor did not locate to Block 37 because there would be insufficient sales to justify building a new store.

The witness further testified that department stores are bought and sold in a nation-wide market. That market is driven by the stores productivity based upon its retail sales. A project would or would not go forward based upon its sales figures. The witness also testified that per square foot sales is the determining factor in what is or is not considered a good department store. Mason testified that Field's is considered a good department store based upon its sales figures.

During cross-examination, the witness testified he was aware of only a single facility during his tenure that May's sold which was subsequently put to a different use. Mason further testified that he was unaware of any use restrictions on the subject property, should an alternative use be sought. However, such an undertaking would be subject to restrictions as dictated by the City of Chicago and further complicated by the subject property's current landmark status, the witness testified.

The witness further testified that the profitability and the viability of a retail store are based upon sales per square foot and the store's cost of operation. These factors are more noticeable today, especially since the number of "players" in the merger and acquisition of department stores has been limited over the last decade.

On re-direct, the witness was asked the likelihood a change in use would occur at the the subject property if sales remained in the \$200.00 per square foot range. The witness testified that a change in use would never occur under such a sales scenario that currently exists.

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Target then called its next witness, Michael J. Kelly, Member of the Appraisal Institute (MAI). Kelly had prepared two appraisals on the subject property. Both appraisals were complete appraisals in summary reporting format. Kelly has been employed by Real Estate Analysis Corporation (REAC) for some 28 years and is the president of the company. Kelly has appraised in excess of 100 department stores and has appraised the subject a number of times. He was accepted by the PTAB as an expert in real estate appraisal and an expert in the valuation of department store properties.

Kelly personally inspected the subject property on several different occasions prior to 2000 and again in May 2003. The purposes of the REAC appraisals were to estimate the market value of the subject's unencumbered fee simple interest as of January 1, 2000 and January 1, 2003. The second appraisal also contained a valuation for the subject property's fee simple interest as of January 1, 2002. Kelly testified that the only use for the subject has been as an anchor flagship department store for over 90 years. Kelly considered the subject in good condition for its age and gave it an effective age of 35 years with a remaining economic life of 15 years.

At the time of his reports, the witness identified some 300,000 square feet within the subject as vacant. Part of this vacant area consists of the entire 13th floor, which was previously occupied by the Frango Mint Candy Factory. Kelly testified that on State Street, the only remaining anchor department stores are the subject and the Carson Pirie Scott Store (Carson's). The witness testified, however, it has been published that Carson's is closing, leaving only the subject as an anchor department store on State Street. The witness testified that a Sears store has re-entered the State Street market recently; however, that property is only 237,000 square feet, considerably smaller than either the subject or Carson's. In the last two decades most of the prime retail market has moved to Michigan Avenue or to the suburbs, Kelly testified.

The witness testified the subject's highest and best use was as an anchor department store, its current use. Kelly testified the subject's floor plates at approximately 130,000 square feet per floor are considered exceptionally large. According to Kelly this fact makes the subject a poor candidate for conversion to office use. The witness testified that office tenants do not wish to be in a location where the ratio of windows to office area is low, as is the case with the subject.

In estimating the market value for the subject of \$39,000,000 in both appraisals, Kelly developed the three approaches to value.

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The first method employed was the cost approach. The witness gave the cost approach minimal weight due to the older age of the subject and its extremely large size.

In estimating the land value under the cost approach, the witness utilized nine land sales located in the general area of the subject. Most are on Wacker Drive, a superior location according to Kelly. The properties ranged in size from 23,098 to 64,030 square feet of land area and sold for prices ranging from \$164.52 to \$786.22 per square foot. The price per square foot of floor-area-ratio (FAR) ranged from \$10.82 to \$49.14, and the adjusted price per square foot of FAR ranged from \$10.21 to \$25.36.

The witness also analyzed the retail sales for the subject to determine its land value, by using ground leases for the comparables. The witness determined in his appraisals that the contributory value of the land can be arrived at by applying 1% of the subject's retail sales of \$226,446,035, or \$2,234,460 for year 2000, or \$204,015,945 or \$2,040,159 for the year 2003 appraisal, which incorporated year 2002. By capitalizing the ground rent at approximately 9% the witness arrived at an estimated land value of \$189.10 per square foot, or \$190.00 per square foot, rounded for 2000, and at \$185.00 for 2002. After making these adjustments and the necessary calculations, the subject's site of 131,295 square feet was estimated to have an indicated land value of \$24,945,000.

To estimate the replacement cost new of the improvements, the appraiser relied on nationally recognized building cost publications, including Means Cost Manual. Applying data from these sources, he estimated a replacement cost new of \$120.24 per square foot, or a total of \$233,630,000 for 2000, and \$131.39, or a total of \$255,293,000, for 2002.

The witness' next step in the cost approach was to estimate depreciation. The appraiser utilized two methods to estimate depreciation. Method I employs total depreciation extracted from comparable sales and Method II uses total depreciation as abstracted based on the subject's ability to generate rent.

Method I calculates depreciation on a market basis. This method utilizes sales of other large department stores and extracts depreciation. The appraiser also included in this method the amount of depreciation which the sales prices of the suggested comparables exhibited when compared to their actual retail sales. Seven comparable sales in this analysis have ages ranging from 11 to 110 years and the total depreciation ranges from 53.9% to 99.7%. The second appraisal report uses figures of 64.1% to 99.7%. Using this method and based upon the size and the age of

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the subject, the appraiser estimated total depreciation of 90% and 92% for 2000 and 2002, respectively.

Method II estimates depreciation based upon the subject's ability to generate net rent, which is then compared to the subject's land value and the cost new of the subject to determine if the net rent is adequate to support the acquisition cost. First, one must estimate the physical deterioration, based upon the age and condition of the property. Here, that figure was estimated at 70% of the reproduction cost new of \$233,630,000 to arrive at a figure of \$163,541,000 of physical depreciation, or a net physically depreciated building value of \$70,089,000, which when added to the land value of \$24,945,000, the total value equaled \$95,034,000. The 2002 appraisal used a figure of 72% of the reproduction cost new of \$255,293,000, or physical depreciation of \$183,810,960.

The appraiser estimated a capitalization rate of 13% from the income approach to value to arrive at a market required net income of \$12,354,420. After subtracting the subject's stabilized net income of \$5,051,823, and dividing the remainder by 13%, the market required rate of return, the net figure for total functional/economic obsolescence of \$56,173,823 was derived for a total depreciation of \$219,714,823, which when divided by the cost new of \$233,630,000, resulted in a total depreciation of 94%.

Using both methods, the appraiser estimated a total depreciation of 92%, resulting in a depreciated value of improvements of \$18,690,400. When added to the land value of \$24,945,000, the appraiser's final estimate of value through the cost approach was \$43,635,000. Using similar methodology for the 2002 appraisal, the appraiser estimated a total depreciation of 93%, resulting in a depreciated value of the improvements of \$17,870,510, and a final estimate of value using the cost approach of \$42,160,000.

To estimate the value of the subject through the income capitalization approach, Mr. Kelly testified that he identified 13 rental properties as comparable to the subject in the 2000 report and 26 rental properties in the 2002 appraisal. These properties are leased on a pre-set per square foot rental rate. All of the comparables are retail department stores. Ages of the buildings range from new to 45 years, while the subject is 93 years old. The size of the comparables range from 61,000 to 237,281 square feet of building area in the 2000 report, and from 62,692 to 271,000 square feet in the 2002 report. Net rental rates per square foot ranged from \$3.11 to \$9.99 in the 2000 appraisal, and from \$2.74 to \$9.99 per square foot in the 2002 appraisal.

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The appraiser testified that these leases of the comparable properties are indicative of a percentage of sales of two to three percent (2%-3%). Kelly further testified that he consulted the national publication Dollars and Cents of Shopping Centers, which is published by the Urban Land Institute every three years. That source indicates that the median rent for a national chain department store is 2.2% of sales or \$3.43 per square foot and median sales of \$159.36 per square foot. Kelly testified rental rates for department stores are computed on either a pre-set square foot rental or on a percentage of store sales.

Using the subject's historical sales dating back to 1988, the subject's sales per square foot were \$100.93 in 1988 and \$101.10 in 2002 on sales that ranged from \$196,100,000 in 1988 and \$196,440,000 in 2002. The indicated rent at 2.5% to 3.0% of the subject's sales of \$115.00 per square foot indicates a range of rent of \$2.88 to \$3.85 per square foot per the year 2000 report and sales at \$105.00 per square foot, or a per square foot rental range of \$2.63 to \$3.15 for the 2002 report.

Reconciling these figures the witness determined the proper rental rate for the subject at \$3.25 per square foot. When multiplied by the subject's size of 1,943,009 square feet, the total nominal net rent is \$6,314,779 for 2000. The figures for the 2002 report were \$2.90 net rental rate per square foot and a total nominal net rent of \$5,634,726.

Deductions were made for management fees, and vacancy and collection losses. Kelly testified that since 1981 all the other anchor stores on State Street, with the exception of the subject and Carson's, have closed. The witness testified that vacancy in the State Street area in 1999 was 8.4% for specialty stores, not including department stores. If the subject were to become completely vacant and available for lease, the State Street vacancy rate for department stores would rise dramatically. Therefore, the appraiser used a figure of 20% for management fee, and vacancy and collection loss resulting in an effective net income of \$5,051,823 and \$4,507,781, for 2000 and 2002 respectively.

Kelly's next step in the income capitalization analysis was to determine the correct capitalization rate for the subject property. The witness testified that he used two methods: the abstraction of overall rates from the sales of other department stores and the band of investment approach. The capitalization rates utilizing the sales of department stores ranged from 9.6% to 15.2%. Using the band of investment method the following scenario was determined: 1). that it was possible to obtain a

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loan of 70% of the property's value at an 8.0% rate amortized over 15 years for the assessment year 2000 and a 70.0% loan of the property's value at a rate of 6.0% for year 2002; and 2). the remaining 30% was subject to an equity dividend rate of 14% for tax year 2000 and an equity dividend rate of 12% for the later years.

Considering the subject's large size and the fact that it is an older, single-tenant retail facility, the witness opined a capitalization rate of 13% for the subject property for assessment year 2000 and a capitalization rate of 12% for the subject property for assessment year 2002. When this capitalization rate is applied to the subject's net income, a value indicated by the income approach is \$38,860,000 for the year 2000. The final value using the income capitalization approach to value for the year 2002 is \$37,565,000. The witness testified that he applied moderate consideration to the income approach to value.

Finally, Kelly estimated the subject property's market value using the sales comparison approach. Kelly testified that he gave this approach substantial consideration when valuing the subject property. Kelly was not able to locate any sales of single-tenant anchor department stores in the subject's immediate area. Kelly testified that in order to value the subject he utilized a geographic region that encompassed the entire Midwestern United States, since potential buyers exist on a national stage. Buyers for such properties, the witness testified, include companies such as Dayton Hudson, May Company and Federated Stores.

In the 2000 appraisal, the witness testified that the sales in his sales comparison approach are all anchor department stores. One of the properties selected was the sale of the Marshall Field flagship store in Milwaukee. While this sale contained close to 600,000 square feet, considerably smaller than the subject property, it was also larger than the other comparables selected, which included Carson's, Sear's, J.C. Penney's, two Montgomery Ward's stores and one Gately's store; the smallest of these stores is 84,747 square feet. These properties were located in the following areas, respectively: Aurora, Illinois; Matteson, Illinois; Bloomingdale, Illinois; Normal, Illinois; Peoria, Illinois; and Tinley Park, Illinois. The stabilized retail sales per square foot of these properties ranged from \$65.00 to \$180.00 and the sales prices per square foot ranged from \$5.06 to \$44.34.

The Marshall Field flagship store in the Grand Avenue Mall in downtown Milwaukee is an older, single-tenant, eight-story, anchor department store. It is also considered to be similar in

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construction and design to the subject. This comparable property is 110 years old; the subject is 93 years old. The comparable's building size is approximately 600,000 square feet; the subject is 1,943,009 square feet. The land to building ratio of the comparable is 0.19 to 1.00; the subject's land to building ratio is 0.07 to 1.00. The property was listed for sale for an asking price of \$9,500,000 or \$16.46 per square foot and was sold for \$3,000,000, or \$5.06 per square foot.

In the 2002 appraisal report, the witness testified that he again used all anchor department stores. Along with the Marshall Field flagship store in Milwaukee, Kelly used the following properties: Marshall Field, Columbus Ohio; Saks Fifth Avenue, Dearborn, Michigan; Jacobson Stores, Ann Arbor, Michigan; Jacobson Stores, Livonia, Michigan; Montgomery Wards, Normal Illinois; Montgomery Wards, Peoria, Illinois; and Carson Pirie Scott, Aurora, Illinois. The last three properties were also used in the 2000 report. Again, the Milwaukee Field store in downtown Milwaukee is the largest department store at approximately 600,000 square feet. The other stores range in size from 84,747 to 428,036 square feet. The stabilized retail sales per square foot ranged from \$80.00 to \$240.00 and the sales prices per square foot ranged from \$5.06 to \$50.00.

The witness testified that an important element in the valuation process for such properties is the retail sales for these comparables. The witness testified that buyers of large department stores typically purchase these types of properties based upon the level of retail sales that the store can support, along with its age, location and size. From this data, a retail sales multiplier is developed showing the retail sales per square foot. From this information, sales prices are generated.

The witness used a retail sales multiplier (RSM) when valuing the subject. In the 2000 report he utilized seven sales where the price per square foot ranged from \$5.06 to \$44.34 per square foot, including land. The comparables had stabilized retail sales per square foot ranging from \$65.00 to \$180.00. The RSM's ranged from 0.06 to 0.25. Kelly did not use the one sale with the RSM at 0.06 and arrived at an RSM range from 0.18 to 0.24. Kelly's conclusion of value for the subject's RSM was 0.18. For the 2002 report, the witness utilized eight sales with a range of retail sales multipliers of 0.06 to 0.24 and again concluded an RSM value for the subject of 0.18 after eliminating the one sale with an RSM at 0.06. The witness testified that retail sales multipliers over time have not had any measurable change.

Using this information, the appraiser estimated a unit value of \$20.00 per square foot for the 2000 report and a unit value of

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\$20.00 for the 2002 report. Kelly testified the subject sold on December 18, 2002, in a sale-leaseback transaction, for a price of \$39,000,000, or \$20.07 per square foot. The witness testified that his analysis of retail sales multipliers supported this conclusion since the retail sales multiplier is approximately \$20.77 per foot. Kelly's conclusion of value for the subject as of both January 1, 2000 and January 1, 2002 is \$39,000,000.

The witness was questioned about the feasibility of redeveloping the subject for an alternative use and testified that an alternative use is not feasible. Kelly explained the subject has very large floor plates and it would be very difficult to redevelop such a structure wherein the average floor size is 130,000 square feet, or one square city block. Kelly indicated the average floor space in an office building is approximately 30,000 square feet. The subject's large floor plates result in a lack of window space should the subject ever be considered as a candidate for redevelopment into office space. The witness further testified that the subject property is on the list of historic properties and is a registered landmark. Lastly, with respect to Block 37, directly across the street from the subject, the witness testified that difficulty exists in getting development for the site. According to Kelly the failure of the Block 37 site to attract development for some 20 years has a negative impact upon the subject property.

On cross-examination, Kelly was questioned on the use of various sales and rental comparables. He was asked to analyze his methodology of comparison. He testified in relation to his methodology and how he considers certain comparables and/or their locations as either inferior or superior to the subject property. Kelly testified that more desirable lot sizes are close to 30,000 square feet, not nearly as large as the subject lot.

Turning to the retail sales data for the subject, Kelly testified he had received his information from the company itself, Marshall Field. During each year rent was in the 2.5% to 3.0% range of retail sales; that figure is in keeping with the findings in his appraisal reports. Kelly testified that due to the unique size and nature of the subject property, sales were utilized from other areas. The witness further testified to the lack of anchor department stores comparable sales in the area that actually sold in a given time period. Therefore, the witness considered it necessary to expand the marketplace to a much larger area than the greater Chicagoland area.

Kelly used an additional sale comparable in his 2002 report, comparable 9. However, this property is not a retail establishment; rather it is a single-tenant commercial building

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that sold in July 1999 for \$62,000,000, or \$25.82 per square foot, including land. This commercial property is a former Montgomery Wards distribution center, containing 2,401,099 square feet of building area on 633,481 square feet of land. Included is 243,220 feet of land that is non-contiguous, which the appraiser valued \$7,300,000, arriving at an adjusted sales price of \$54,700,000.

Kelly's report identifies this property as a large single-tenant property in an urban area, which has a parking advantage versus the subject property. This sale is considered similar to the subject in size and has a unit sale price of \$25.82 per square foot. Although this property sold for the price of \$25.82 per foot, the money to convert this property to another use will be substantial, the witness testified.

Kelly also clarified on re-direct examination that during the course of his discussions with the various owners of the subject property, none have ever indicated the possibility of the subject property being considered for an alternative use. Kelly has appraised the subject property a number of times over a number of years with multiple owners.

Kelly further testified to the use of the retail sales multiplier as the relationship between what a property sells for per square foot and what the retail sales are at the time of the sale. The witness testified that use of the RSM's is very reliable because that figure is the basis for what these types of properties, such as the subject property, are valued at and sold for in the national market. Furthermore, the witness testified that retail facilities are sold on this basis because retail department stores and anchor stores report their sales figures unlike office tenants, such as law firms, that do not report their gross revenues. Thus, historically the rental rate for such properties consistently falls within the 2.5% to 3.0% of sales. Here, the market controls what a tenant can pay for a property such as the subject. Therefore, according to Kelly, the best way to value such a property is through the use of the retail sales multiplier.

The witness was also questioned regarding the comparables respective locations throughout the entire United States. The witness testified that when considering a property such as the subject there is a national market and his search could not be restricted to the greater Chicagoland area. Using the data, a retail sales multiplier was developed from each property used in the appraiser's sales comparison approach. This figure was utilized to perform an analysis of market value for the subject

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property by using the sales price per square foot and the stabilized retail sales per square foot of each comparable.

The RSM factor ranged from 0.06 to 0.24. Another way to describe this figure is to say that the comparables are selling in a range of 0.06 to 0.24 times the stabilized retail sales. Based upon the age of the subject and its size, the appraiser testified that the subject's retail sales multiplier could be expected to be lower than the low end of the range for the comparables. The appraiser used a factor of 0.18 for the subject property because he eliminated from consideration the one comparable at 0.06. Multiplying this factor by the retail sales per square foot yielded an indicated value for the subject. Considering the retail sales multiplier of the other properties and their sales, the appraiser chose a value of \$20.00 per square foot of gross building area for the subject property.

The witness also testified that the subject property was the subject matter of a sale-leaseback transaction in December 2002 for \$39,000,000, or \$20.07 per square foot. The transaction is referenced in the Kelly 2002 appraisal report, with an effective date of January 1, 2003, including a retrospective value for the subject property as of January 1, 2002. Kelly testified that he put minimal weight on this sale-leaseback transaction since the rent is generally structured prior to the sale date and is based upon what the market rent is at the time.

When questioned about the possibility that the subject property might be sold to an investor for use as an office building, the witness testified that possibility is highly unlikely. The witness further testified that any alternative use would require significant modifications of the structure. The witness also testified that in the event such a scenario were to occur the subject would encounter the same issues as Block 37, which took some two decades to procure tenants.

Day two of the proceedings began with Susan A. Enright, MAI, as a witness for the CBOE. Enright was accepted by the PTAB as an expert in the field of real estate appraisal and as an expert in the area of downtown properties. Enright authored an appraisal report on the subject property with an effective date of January 1, 2000. Enright made a personal inspection of the subject property for the purposes of her report.

Turning to her highest and best use analysis, the witness testified that she considered physically possible uses, legally permissible uses, financially feasible uses, and maximally productive uses. The witness testified that if the Marshall Field store was not on the site, then the subject's land would

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likely be developed with an office building, a mixed-use hotel, retail, or residential property.

The witness testified that the structure as currently improved is so unique that after she first attempted to find sales of large comparable department stores in Chicago, and did not find any such sales, she performed a national search. Hypothetically, the witness testified, that if this property were to sell, considering the trend taking place in the Loop, the witness concluded that the subject's highest and best use as improved would be as a "shell structure that could have many adaptive uses in it."

When questioned further, the witness testified that although the present owners do not have any intentions to change the subject's current use, her highest and best use analysis would remain as she concluded. Moreover, the witness testified that the ongoing history of Block 37 and its inability to procure tenants, directly across from the subject, would have no impact upon her analysis. The witness testified that Block 37's lack of development is attributable to two factors. One is the inhibition of development based upon governmental influence; and, two is the fact that developers wish to develop the entire site all at once.

Enright testified that she concluded the greatest weight should be accorded the sales comparison approach. Enright was directed during questioning to her sales comparison approach. The witness utilized five sales of buildings in the downtown Loop area that she considered comparables. None of the properties were retail department stores. Sales prices ranged from \$9,775,000 to \$71,100,000 or from \$33.14 to \$69.06 per square foot of gross building area, land included. Sales dates were from July 1998 to June 2000. Gross building areas ranged from 211,304 to 1,450,000 square feet.

The witness opined the reason that she did not use retail department store comparables is because she concluded that there were no properties that could be consider comparable to the subject. Rather, there were sales in collar counties but these properties did not possess the features of the subject and the suburban anchor stores possessed a different highest and best use. In her report, the witness elaborated that based upon her highest and best use analysis she considered buildings in the Chicago Loop area that were purchased for redevelopment purposes. That list included office, hotel, residential and retail components.

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The witness testified that not many adjustments were needed for the sales she used. After making any necessary adjustments to the sales, the witness concluded a value of \$40.00 per square foot for the subject. Enright based upon her conclusion that the subject's size is 1,544,000 square feet, not the 1,943,009 square feet as set forth in the Kelly appraisals. The witness concluded the lesser size due to the fact that the subject contains several below grade areas for support systems and a vault area. The witness testified that the below grade areas should not be considered part of the subject for purposes of valuation. Enright concluded a value for the subject, as of January 1, 2000, under the sales comparison approach of \$62,000,000.

Turning to her cost approach, the witness first estimated a land value using six sales of vacant land in the Loop area that had unit prices that ranged from \$255.17 to \$875.66 per square foot. Enright concluded a land value for the subject site of \$325.00 per square foot and a total land value of \$42,700,000. Enright then estimated the cost new of the subject improvement. She considered the subject a class C, older building, and based her analysis on what she considered a conservative estimate of value. The witness used a figure of \$36.72 per square foot for the 1,544,000 square feet above grade and lesser amounts, \$21.13 to \$25.37 per square foot, for the basement areas. The witness used the Marshall & Swift Cost Manual as her resource for these figures.

After calculating a replacement cost new of \$61,702,135 and adding an entrepreneurial profit of 15% or \$9,255,320, a total cost new of \$70,957,455 was determined. Total depreciation of 60% was allotted at 50% for physical depreciation and 10% for functional obsolescence, leaving a depreciated value for improvements of \$28,382,981. After adding the land value of \$42,700,000, the witness opined a value under the cost approach of \$71,100,000.

The witness also developed an income approach to value. Enright testified that this approach is really not applicable to the subject since her assumption of the highest and best use considers a shell structure with a variety of uses, such as office, retail or residential. Nevertheless, the witness performed this approach.

The appraiser took the rent potential of the subject property as a typical department store and used the store sales per square foot and multiplied that figure by the actual size of floor area of 1.1 million square feet, a figure determined by the appraiser as the best indicator of retail floor area. The witness used a factor of 2.75% of the sales for year 1999 of \$223,525,000 or

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\$201.70 per square foot. The witness used 1,107,831 square feet and arrived at a market rent of \$5.55 per square foot of retail floor area. The remaining levels of some 400,000 square feet, the appraiser considered as rental office space. The witness testified that class "C" office space in the Loop would procure a market rent of \$17.50 per square foot gross and a net rent of \$7.50 per square foot.

The witness admitted that she mistakenly used a figure of \$10.00 per square foot, not \$7.50 per square foot as should have been the case in arriving at her conclusion of value for the subject property under the income capitalization approach of \$62,800,000. After reworking the numbers the final value estimate for the subject under the income approach is in the range of \$56,000,000, not the \$62,800,000 as stated in the report. The witness testified that this mathematical error had no impact on her final conclusion of value, since she put the most weight on the sales comparison approach to value. Again, the witness opined a value for the subject under the income approach of \$62,800,000 as of January 1, 2000.

Under cross-examination the witness testified that the only use for the subject has been as a retail department store. The witness further testified that the likelihood of the subject being demolished was very slim. Moreover, the witness testified that there were no department store sales in the nation that would be considered comparable to the subject property. Enright further testified that none of the assumptions she made for alternative uses were ever performed on the subject.

Further, on cross-examination, the witness testified that she did not have any large downtown department stores that were redeveloped as assumed in the highest and best analysis in her report. Instead, the witness used office buildings as comparable to the subject property. The witness further elaborated that she thinks that Block 37 has no impact whatsoever on the subject property since Block 37 is vacant while the subject is not.

The witness also testified that her highest and best use conclusion is as an adaptive re-use of a shell structure. The witness explained that in the event a sale of the subject occurred and the current owners vacated the premises, the existing improvement has potential for a "wide variety of alternate uses." Her market value definition assumes a sale, Enright testified. However, the witness further testified, that whether the subject sells for continued use or for redevelopment, the values would be the same. Enright explained how the Carson Pirie Scott store on State Street, in spite of the commitment from the City of Chicago to do a \$16 million renovation, decided

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not to remain in that location. The reported sale of the Carson's store was \$19 million for a little over 1,000,000 square feet, or about \$19 per square foot as detailed in the witness' appraisal report.

The witness was also questioned about the use and subsequent development of a number of her sales comparables. For example, one property was sold for \$19.00 per square foot and purchased for redevelopment into luxury condominiums at \$58.00 per square foot. Therefore, based upon the appraiser's opinions, she valued the subject property as a redevelopment. Enright acknowledged there exists no evidence that the subject property is being considered for redevelopment. However, in closing the witness was asked to explain her opinion of highest and best use. As cited on page 56 of the Enright appraisal:

Highest and Best Use-As Improved-Conclusion
"Reviewing the foregoing data, it is our opinion that the highest and best use of the subject property is a continuation of its present flagship store retail use with supporting office components as this use would warrant the least investment in the property. There is potential that excess office space within the building could be converted for non-owner office use. With little expense, vacant space could also be leased for storage use.

In the event that the current owners vacated the space, the existing improvement has potential for a wide variety of alternative uses including retail, office, residential, hotel, storage or some combination thereof. The design, history and special features of the property would make it an attractive redevelopment opportunity. Given the prominence of this structure, it is highly unlikely that it would be demolished for redevelopment." Market Value Appraisal of Marshall Field's and Company Flagship Property, as of January 1, 2000 by Susan A. Enright, MAI, of Appraisal Associates, Inc. pages 56-57.

On redirect examination the witness explained that her statement above means that the highest and best use conclusion is "adaptive reuse" out of the shell structure. The assumption is that if there were a sale of the subject property, the highest and best use would be an alternative use (adaptive reuse) of the subject property, the witness testified.

Upon questioning by the hearing officer regarding several matters, the witness testified that she did not consider the

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downtown Milwaukee Marshall Field store a flagship store. Enright also testified that, in her income capitalization approach, had she caught her mathematical error sooner "I probably would have changed my cap rate accordingly, because my cap rate was pretty conservative at 10 percent." Moreover, the witness testified that the subject property could be changed from a Class "C" building into a Class "B" building by renovation.

Gregory J. Hatfield, MAI, was called as the next witness. Hatfield is a valuation witness for the City of Chicago and owns the appraisal company Gregory J. Hatfield & Associates, LLC (Hatfield). Prior to the testimony of the witness, the City introduced four exhibits, two of which are appraisals from Hatfield, one with a valuation date of January 1, 2001 and another with a valuation date of January 1, 2002. Both appraisals had an opinion of the fee simple value for the subject property as of both lien dates of \$82,000,000. Also included in the exhibits was a review appraisal report by Richard G. Griego, MAI, of the appraisal firm of Frontera Realty Consultants, Inc. Lastly, the City included a previous PTAB decision, Sears Roebuck & Company v. Cook County Board of Review, 98-30684-C-3. This decision was introduced to address the valuation methodology employed by appraiser Michael Kelly. Hatfield was accepted by the PTAB as an expert in the field of real estate appraisal and retail real estate appraisal.

The witness prepared a complete appraisal communicated in a summary report for years 2001 and 2002. The letters of transmittal contain respective dates of March 7, 2003 and April 21, 2003, although the appraisal reports appear to be identical with very limited exceptions. Hatfield performed an inspection of the subject property and testified that he performed a "thorough look throughout the property from the lowest sub basement level up to the mechanical penthouse level above the 13th floor." Mr. Hatfield obtained information on the subject through the REAC appraisal, public records, assessor's records, and a variety of other sources.

Hatfield determined that the highest and best use of the subject as improved was as a retail department store with associated office use. Hatfield agreed with the REAC report that the subject contained 1,943,000 square feet; however in his approaches to value he utilized a figure of 1,642,629 square feet. The witness excluded basement space, mechanical penthouse space, space under the sidewalks (vault space) and mezzanine space. The witness excluded basement sub levels B2 and B3 but included B1 area in order to arrive at his figure for square footage.

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The witness considered all three approaches to value but did not perform a complete cost approach; however, he did perform a land valuation. Using five comparable land sales, the witness opined a range of value for the subject's land from \$244.41 to \$556.98 per square foot and arrived at a conclusion of land value for the subject property of \$300.00 per square foot, or \$39,400,000, rounded.

The witness was then questioned on his sales comparison approach. The witness testified that he identified five sales of large, vintage, downtown buildings that had some element of retail. The witness admitted that none of the comparables fit within the parameters of a single-tenant 100-year-old owner-occupied retail property containing over 1,500,000 square feet. In his 2001 report, the witness identified four comparable properties and in his 2002 report, the witness identified five comparable properties.

In both reports, the comparable sales had a price range from \$46.94 to \$69.01 per square foot for year 2001 and from \$46.94 to \$83.53 per square foot for year 2002. Based on this data Hatfield arrived at a conclusion of value for the subject of \$50.00 per square foot for both years. After making adjustments, the witness opined a total value for the subject of \$82,100,000 as of January 1, 2001, and as of January 1, 2002.

In estimating the subject's fee simple market value using the income approach, the witness analyzed department store rental comparables in Chicago. The witness used a total of five rental comparables for each year. The comparables had rents that ranged from \$4.41 to \$9.36 per square foot. The witness made adjustments to the five properties in comparison to the subject and concluded a stabilized market rent of \$6.00 per square foot for the subject. Based upon this analysis, the subject's estimate of gross potential income is \$9,855,774. Using market surveys, the witness figured a 10% vacancy and collection loss, arriving at an effective gross income of \$8,870,197. Next, the witness deducted management fees and administration fees of 5% of the effective gross income and a replacement allowance and reserve for replacement of \$0.25 per square foot resulting in deductions of \$443,510 and \$410,657, respectively. After deducting these expenses the appraiser arrived at a net operating income (NOI) of \$8,016,030.

Next, the witness estimated a capitalization rate to apply to the NOI using investor surveys and a band of investment approach. The witness opined a figure of 9.5% as a capitalization rate using the band of investment approach for both years. The investor surveys gave ranges from approximately 8% to 12% and the

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witness arrived at a 9.5% capitalization rate. Applying this figure to the NOI, the appraiser arrived at an estimated fee simple market value for the subject of \$84,379,263. The witness then deducted \$3,049,230 for the vacant 12th floor by opining a build-out of the floor's 101,641 square feet at a cost of \$30.00 per square foot. Hatfield rounded the conclusion of value for the subject to \$81,300,000. Having given most weight to the sales comparison approach to value, the witness opined a final conclusion of value for the subject of \$82,000,000 as of January 1, 2001 and as of January 1, 2002.

On cross-examination, Hatfield was questioned by taxpayer's attorney as to his competency to conduct such an appraisal on the subject property. Apparently, none of his appraisals of the 150 retail properties he had stated he appraised during his *voir dire* as an expert was for ad valorem tax purposes. Similarly, the witness had never taken any classes aimed at the instruction of property assessment valuation. The witness appeared to have a limited knowledge of the Cook County Real Property Classification Ordinance.

The witness further opined that he was not aware of any intent to change the use of the property. He also testified that he could not envision a scenario where the subject would ever be demolished. Further, the witness testified that it is rare to add entrepreneurial profit to an owner-occupied property such as the subject, as was done in the Enright appraisal report.

Upon questioning of the use of his land comparables, the witness admitted that sale one was a single-tenant owner occupied LaSalle Bank property; sale two was part of an assemblage, wherein the improvement was an office building and condominium building; sale three was only 16,000 square feet, projected as a condominium building; sale four was half the size of the subject and was to be improved with a multi-story tenant office building; and comparable sale number five was projected for development with an office-residential use. The witness was unable to answer if he had confirmed any of the sales data with the parties to the transactions. In reference to the subject, the witness agreed that since the subject has retail sales of some \$200 million a year, it is not likely its use would be changed.

Turning to the witness' comparables as used in the sales comparison approach, the Hatfield acknowledged that: Sale 1 was approximately 1/10 the size of the subject and was redeveloped into office space; Sale 2 was purchased and renovated into multi-tenant offices; Sale 3 was part of the purchase of five buildings and was not an arm's length transaction and the part of the purchase price that was allocated to this building is not given;

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and Sale 4 was only 110,000 square feet. The witness testified that the purchasers of Sale 4 were going to make this building into residential units, but that did not occur and the property was resold to two separate buyers for an amount less than it was originally purchased. The witness also testified that Sale 5 was an office building. None of the five sales as used in the appraiser's sales comparison approach to value were department store properties similar to the subject.

Day three of the proceedings began with Joseph Ryan, MAI, being called as a witness for Target Corporation. Ryan testified that he had performed 40 to 50 appraisals of large department stores for ad valorem tax purposes for clients such as Sears, L.S. Ayers, Lord & Taylor, and Marshall Field. Ryan was offered and accepted by the PTAB as an expert in the field of appraisals of department stores and as an expert in review appraisals for department stores, particularly in the area of ad valorem tax purposes.

Ryan was presented as a review appraiser on the two following valuation reports: the Appraisal Associates report performed by Susan Enright, MAI, containing an opinion of value for the subject property of \$62,000,000 as of January 1, 2000, and the Hatfield & Associates report performed by Gregory Hatfield, MAI, containing an opinion of value for the subject property of \$82,000,000 as of January 1, 2001. Ryan reviewed both reports.

Ryan made his reviews in light of the standards proposed by the Uniform Standards of Professional Appraisal Practice (USPAP) 2001 as issued by the Appraisal Standards Board. USPAP is subscribed to by appraisers to provide a framework for writing appraisal reports. Ryan conducted his review report in light of a desk review as per Standard 3 of USPAP. The reviewer conducted his review in a manner wherein the results of the analysis are that of a disinterested third party. No opinion of value was provided by the reviewer.

In reviewing the Enright report, the witness disagreed with a number of statements. First, Enright claimed that the fact that Sears re-entered the State Street market is an indication of the improving retail market on State Street. Rather, Ryan testified that Sears returned to the State Street market as a result of procuring \$13.5 million in subsidies. Moreover, the assumption in the Enright report that Sears would expect to perform at a rate of some \$320 of retail sales per square foot never materialized.

Ryan disagreed with Enright's statements that the subject property would be a "trophy" project for redevelopment. Ryan was

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of the opinion that the subject is not a good candidate for redevelopment because there is too much area per floor, approximately 130,000 square feet, and too much interior space. As such, there would not be market demand for such a project, the witness testified.

Turning to the Enright's highest and best use analysis, the witness again disagreed. The witness cited four highest and best uses in the Enright report. Ryan disagreed with the Enright report that the subject could be bought and renovated for multi-tenant office building use; Ryan termed it "highly speculative." Ryan also testified that using properties as comparables that have different uses than the subject is not appropriate in the valuation of a property for ad valorem tax purposes. This would make her conclusion of value not credible, the witness testified.

Regarding the Hatfield report, Ryan testified he also disagreed with its analysis. Ryan disagreed with the conclusion reached by Hatfield that the highest and best use of the subject was retail with associated office use. Ryan testified that the highest and best use should have been as single-tenant retail store, its current use.

On further examination, Ryan testified that he has employed the measure of retail sales to determine market rent for department stores. The witness considered this methodology to be the industry standard in valuing department store buildings. Hatfield did not employ this methodology, Ryan testified.

Moreover, the methodology that Hatfield utilized to determine sales consisted of comparisons between the subject, a single-tenant department store, and multi-tenant office buildings. Ryan testified that it would have been more appropriate for both appraisers Hatfield and Enright to use sales of department stores. Ryan elaborated that since department stores sell on basis of retail sales per square foot as the industry standard, that would have been the appropriate valuation method to use when valuing the subject property, a single-tenant department store. Moreover, Ryan testified, it would have been more appropriate for either appraiser to have used a retail department store outside of the subject's area, if the comparable used would have somewhat similar floor plate areas, in the 100,000 square foot range, even if the store was only one or two stories in height. Therefore, Ryan testified, that to use comparables that Enright and Hatfield used in their reports that had much smaller floor plates and were utilized as office buildings was not an appropriate method of comparison. According to Ryan adjustments can be made for size and location, but floor plates are rather difficult to adjust for.

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Ryan also testified that in the sales comparison approach he has seen the use of sales per square foot as a unit of comparison. A variety of properties can be compared using this unit of comparison, the witness testified. The witness did not regard the sales comparison approach employed by Hatfield as consistent with the highest and best use analysis he employed because it used comparables which were not department stores. As a result, Ryan testified that he did not consider the Hatfield appraisal's methodology credible.

On cross-examination on his review of the Enright report, Ryan was asked if it was appropriate for Enright to have reached several possible highest and best uses in her report. Ryan responded that unless a highest or best use is expected and not purely speculative then it should not be considered. Rather, Ryan testified, USPAP and the Institute of Real Estate Appraisal would recommend two highest and best uses: one as if vacant and one as improved.

When cross-examined on whether or not the subject could be put to a different use, the witness testified that was beyond the scope of his assignment because his assignment was to analyze the methodology of the Hatfield and the Enright reports. Ryan testified that Enright's methodology was inappropriate because the subject's conversion to office space was not imminent, planned, and no permits were taken for such use. Furthermore, all of the owners of the subject property to date have not contemplated such a use.

Ryan further testified that while some of the comparables used by Hatfield are owner-occupied department stores, these comparables are in multi-tenant buildings. The witness agreed that there were no single-tenant retail buildings with over 1,000,000 square feet of retail space in the area that could have been considered as comparable and only two or three such properties exist in the world.

The witness was asked if it was possible for some owner to convert the subject to something other than a single-tenant facility. In response, the witness replied that the intended use of the appraisal report was for ad valorem tax purposes and the property was improved with a single-tenant retail building as of the date of value and should have been appraised as such and not for some speculative purpose.

Upon questioning from the hearing officer, the witness testified that the standard unit of comparison in the industry for

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appraising a property such as the subject is gross retail sales per square foot.

Next, Richard Griego, MAI, of Frontera Realty Consultants, Inc., was presented as the City's review appraiser to evaluate the 2000 REAC report of the subject property. Griego testified that he had prepared appraisals on approximately five to ten retail anchor stores. The witness further testified that he had prepared approximately 20 technical reviews of anchor department stores. Griego was accepted by the PTAB as an expert in the field of real estate appraisal of anchor department stores and the review of anchor department store retail appraisals.

The witness testified that he had never prepared an appraisal of the subject property but was familiar with the property from a layman's perspective because he had shopped there and would walk through the building on his way to work as a shortcut.

The witness addressed the REAC report's use of the retail sales multiplier as a unit of comparison to determine value the market value of the subject property. The witness testified that the REAC methodology employed was not familiar to him and that unit of comparison was one that he had never seen before. The witness testified that he considered it inappropriate to consider retail sales per square foot when evaluating commercial real estate.

Turning to the sales comparison approach, the witness testified that this approach is premised upon analysis of the competitive market. The witness testified that the use of comparable sales in locations outside of the subject's area was not appropriate. Further, the witness opined that he expected to see the comparables have their land value allocated from the improvement value.

Griego considered the use of the retail sales multiplier inappropriate and testified as follows: "Notwithstanding that it's an inappropriate unit of comparison, the sales per square foot analysis is based on appraiser estimates and projections. I think that that certainly reduces the credibility of the sales comparison approach utilizing these retail sales per square foot analysis." In Re The Matter Of: Marshall Field's State Street Store Chicago, Illinois, Transcript of Proceedings, November 8, 9, 13, 14, 2006 at page 581.

The witness continued that the appraiser's utilization of the sales multiplier derived from retail sales per square foot is another unit of comparison that is not taught by the Appraisal Institute. Griego also testified that based up on his experience

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such a unit of comparison is not recognized by his peers in the industry.

The witness also took issue with the REAC appraisal report use as a comparable sale the Marshall Field flagship store in downtown Milwaukee. The witness testified that the main issue he had with the use of this comparable is that it was purchased for condominium conversion and that the highest and best use of the property is different from the subject. As such, the economics of the purchase would be different from that of the subject's. The witness also stated that the location is completely different from downtown Milwaukee to downtown Chicago. The witness also took exception to the use of several other properties based upon their location and the lack of adjustments for their respective locations in such areas as Aurora, Illinois; Tinley Park, Illinois; Matteson, Illinois; and Peoria, Illinois.

In conclusion, the witness testified that he considered the REAC conclusion of value not reliable, because it used retail sales per square foot and because locational differences were not accounted for properly.

The witness similarly discounted the REAC report use of the same unit of comparison in the income approach. Griego also disagreed with several of the REAC report income valuation considerations: the use of management fees with vacancy and collection losses; the REAC report's use of a 20% vacancy and collection loss factor; the band of investment approach that arrives at a capitalization rate of 12.4%; and the REAC report's final figure of a capitalization rate of 13%.

Under cross-examination of Griego was questioned about the use of his report, its credibility and validity. Since the report was intended for use by the PTAB and the board of review the witness was questioned if he was aware of the Illinois statutes and local procedures regarding legal and proper valuation for ad valorem tax purposes. The witness testified that he had not checked if there was any contradiction between USPAP applications and the local and state procedures and statutes. The witness testified that he had never worked for any governmental body that determines ad valorem assessments.

The witness also testified that he was aware that ad valorem valuation requires that the property be valued in accordance with its current use and not some speculative use. The witness further testified that he had never done an appraisal of a major department store for an owner; rather, he performed an appraisal for the lenders of such facilities. The witness testified he had never had any discussions with the owners and operators of

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department stores. The witness did not check the accuracy or the authenticity of the facts as reported in the REAC report for which he relied upon. Rather, the witness testified, he based all of his analysis upon those facts that were provided in the REAC report.

Griego agreed that the REAC report properly states the subject's building area and land area, as well as the history and the use of the subject property. The witness testified that he relied solely upon the information provided in the REAC report and did not perform any independent verification of his own.

Directing the witness' attention to the publication Dollars & Cents of Shopping Centers, there is a use provided for rent determined as a percentage of retail sales. The witness testified that unit of comparison is utilized by the entire retail sales industry. The witness agreed that Kelly used both lease rates and retail sales per square foot in his analysis. However, the witness testified that the Appraisal Institute does not teach that market rent is based upon retail sales per square foot.

Turning to the REAC report's highest and best use analysis, the witness testified that he did not find the analysis "meaningful" and testified off of his report. Griego read the following from his report: "This section of the report fails to address highest and best use criteria relative to the subject property facts and the market data that lead to the indicated conclusion. Therefore, the report's conclusion is not especially meaningful given the substantial nature of the structure, its significant architectural characteristics, and their impact on use in value especially in light of its Landmark status." In Re the Matter of: Marshall Field's State Street Store, Chicago, Illinois, Transcript of Proceedings, November 8, 9, 13 and 14, 2006, at page 637.

When questioned by Target's attorney about the highest and best use of the Kelly comparables, and, in particular the use of the downtown Milwaukee Marshall Field flagship store, the witness testified that the economics and the purchase price of that store would be different from the factors that drive the purchase of the subject property. The witness called the downtown Milwaukee area a "tertiary-type marketplace" and would have adjusted for the locational differences. The witness testified that all of the Kelly comparables required a similar adjustment.

The witness also did not agree with Kelly's use of vacancy and collection loss and management fee all included in one deduction.

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The witness did not consider the conclusion of value in the REAC report reliable.

On cross-examination, the witness testified that he intended his review report to be relied upon by the courts of Illinois, the board of review and the PTAB. The witness was asked if he was aware of the procedures on the legal and proper valuation for ad valorem tax purposes. The witness replied that he complied with USPAP, but he did not check to see if his report was in compliance with proper legal valuations for ad valorem tax purposes. The witness also testified that he never worked for any agency or board that hears appeals on ad valorem tax purposes or assessments. The witness also testified that he had never done any appraisal reports for owners of department store properties. The witness went on to also testify that he did not check the accuracy of the facts of the appraisal report he reviewed.

When further questioned on this issue and whether or not an analysis regarding the subject's highest and best use should be applied to the use of various comparables such as nursing homes, office buildings and properties that employ other uses, when compared to a subject property, the witness testified that "I'm not sure."

The board of review submitted its "Board of Review-Notes on Appeal" wherein the subject's final total assessments for years 2000 and 2001 of \$22,150,302 were disclosed. These assessments reflect a market value of \$58,290,268, when applying the Cook County Real Property Classification Ordinance level of assessments of 38% for class 5A property, such as the subject. The subject's assessment for year 2002 was \$23,939,998 reflecting a market value of \$62,999,995. Furthermore, the board submitted the Cook County Real Property Assessment Classification Ordinance, which provides for an assessment level of 38% for Class 5A property such as the subject. The board also submitted case law, In re: Application of Rosewell v. U.S. Steel Corp., 106 Ill. 2d 311, 478 N.E.2d 343 (1985) and In re: Application of County Treasurer v. Twin Manors West of Morton Grove Condominium Association, 175 Ill. App. 3d 564, 529 N.E.2d 1104 (1st Dist. 1988). No brief with an explanation as to each case's relevance in the present appeal was submitted.

The board of review then submitted two reports. The first report is entitled The Illinois Ratio Study for Commercial and Industrial Properties: Review and Recommendations, by Robert J. Gloudemans and Alan S. Dornfest [hereinafter, the "Dornfest report"]. The "Dornfest report" reviewed and evaluated the

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procedures and methodology used by the Illinois Department of Revenue in its annual sales ratio studies.

The second report is entitled IAAO Technical Assistance Project - Review of the Assessment/Sales Ratio Study Program for the Illinois Department of Revenue, by Roland Ehm [hereinafter, the "IAAO report"]. The purpose of the "IAAO report" was to ascertain compliance with IAAO standards and offer recommendations for improvement.

Attached to the board of review's notes for the year 2000 was a cover letter to the Honorable Commissioners Cook County Board of Review dated November 20, 2001. Said letter stated the following:

Attached is a copy of the 1998 PTAB appraisal that was submitted to the Board of Review for the 1999 PTAB # 28000 to 28005 and the 1998 PTAB # 29272 to 29277. The 2000 total AV \$22,150,302 yields a market value of \$58,290,268. The 1998 & 1999 total AV was \$19,317,639. I believe that the attached data supports the current assessment. [signed] Sincerely,
Hugh MacKinnon.

Similarly, attached to the board of review's notes for the year 2001 was a cover letter to the Honorable Commissioners Cook County Board of Review dated January 23, 2003. Said letter stated the following:

RE: PTAB # 01-25823
PIN: 17-10-308-001 thru 006

The subject property is the Marshall Field department store located in downtown Chicago. Attached is an appraisal report from our office dated 1/1/98 concerning this property in the matter of PTAB # 00-24805. The market value estimate of this report is \$58,000,000. We will be resubmitting this report for 2001. [signed] Sincerely, James P. Connelly.

The PTAB case referred to in the above memos to the CCBOR is Dayton Hudson Corporation v. Cook County Board of Review, 98-29272-C-3 to 98-29277-C-3 and 99-28000-C-3 to 99-28005-C-3. The board's valuation report, as referenced above, with an effective date of January 1, 1998, reflects a market value for the subject property of \$58,000,000. The author of the report, James G. Frommeyer, III, MAI, was not called by the board of review as a witness to testify to the findings of his report. Neither was James P. Connelly or Hugh MacKinnon called to testify as to their

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findings. Nevertheless, the PTAB will attempt to outline the findings of fact and conclusions of value as given in the Frommeyer report.

Using information from the assessor's property record cards and Kelly's REAC appraisal, the Frommeyer report ascertained a description of the subject property. The appraiser employed the customary three approaches to value in his report. Frommeyer used information developed from Marshall & Swift's Commercial Estimator to determine a replacement cost new (RCN) for the subject to be \$173,610,866.

From the RCN the appraiser deducted accrued depreciation. Physical depreciation was estimated to be 75% using an effective age of 30 years and an economic life of 40 years. Functional and external depreciation were determined to be 0%. Frommeyer estimated a total depreciation for the subject property of \$130,208,149 resulting in a depreciated improvement value of \$43,637,716. The appraiser then added a land value of \$21,430,347 to arrive at an indicated value for the subject, using the cost approach of \$64,980,000 as of January 1, 1998.

The next approach Frommeyer employed in his report was the sales comparison approach summarized on a single page. A grid demonstrating the sales of 16 freestanding retail and/or department stores was presented. The 16 comparables range in age from 5 to 78 years. Building sizes range from 26,040 to 315,000 square feet and land sizes range from 16,200 to 874,859 square feet. The properties were sold for prices ranging from \$837,500 to \$15,250,000 or from \$9.49 to \$155.52 per square foot of building area. Frommeyer estimated a value of \$30.00 per square foot for the subject's 1,943,009 square feet resulting in a total value for the subject of \$58,290,000, as of January 1, 1998. In the appraiser's sales comparison approach, as in the cost approach, he did not incorporate any written analysis or documentation to support this conclusion.

Lastly, Frommeyer determined an estimate of value for the subject through the income capitalization approach, which was one page in length. No supporting documentation or analysis was included in the report. Frommeyer determined stabilized NOI of \$7,050,000 using a percentage rent method of 3% of store retail sales of \$235,000,000, or a rental rate of \$3.50 per square foot. Using the NOI figure of \$7,050,000 and a vacancy and collection loss of 10%, and then applying a capitalization rate of 10.77%, Frommeyer arrived at a final conclusion of value using the income approach for the subject property as of January 1, 1998, of \$58,930,000. Reconciling all three approaches to value the appraiser arrived

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at a final conclusion of value for the subject property of \$58,000,000, as of January 1, 1998.

At this point in the proceedings all of the parties rested their case-in-chief. Closing arguments followed.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal.

The issue before the Property Tax Appeal Board is the determination of the subject's market value for ad valorem tax purposes. 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. Property Tax Appeal Board 331 Ill.App.3d 1038 (3rd Dist. 2002) and Winnebago County Board of Review v. Property Tax Appeal Board 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill. Adm. Code 1910.65(c). Having considered the evidence and testimony presented, the Board finds that the taxpayer has satisfied this burden for tax years 2000, 2001, 2002 and a reduction is warranted.

Five appraisals were submitted: two by the taxpayer for years 2000 and 2002, one by the CBOE for the year 2000, and two by the City for the years 2001 and 2002. Three review reports were submitted: one by the City in review of the taxpayer's (REAC) appraisal report for the year 2000; and two by the taxpayer. One of the taxpayer's review reports was a review of the CBOE's (Enright) valuation report for the year 2000 and the other was a review of the City's (Hatfield) valuation report for the year 2001.

Testimony was given by three of the taxpayers's witnesses: Jay Mason, vice-president of property taxes for Federated Department Stores; Michael Kelly, MAI, president of REAC for purposes of valuation of the subject property; and Joseph Ryan, MAI, as the taxpayer's review appraiser. The intervenors' witnesses that provided testimony are: Susan Enright, MAI, for the CBOE for purposes of valuation of the subject property; Gregory Hatfield, MAI, for the City for purposes of valuation of the subject property; and Richard Griego, MAI, the City's review witness. The board of review did not present any witnesses or testimony as to its valuation report in its "Notes on Appeal" and, similarly, provided no witnesses to support the assessments years at issue.

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The taxpayer's appraisals reached conclusions of value for the subject property of \$39,000,000 as of January 1, 2000 and January 1, 2002. The CBOE's appraisal reached a conclusion of value for the subject property of \$62,000,000 as of January 1, 2000. The City's appraisal reached conclusions of value for the subject property of \$82,000,000, as of January 1, 2001 and January 1, 2002. The board's appraiser reached a market value conclusion for the subject property of \$58,000,000, as of January 1, 1998.

The PTAB finds that the taxpayer has proved by a preponderance of the evidence that the subject is over assessed for all three years. The Board further finds that the best evidence of market value for the subject property in the record is the appraisal and testimony provided by Michael Kelly, MAI. The Board gives less weight to the Enright report, and the testimony of its valuation witness, Susan Enright, MAI. Similarly the Board gives less weight to the Hatfield report, and the testimony of its valuation witness, Gregory Hatfield, MAI. The Board gives no weight to the board of review's report prepared originally by James Frommeyer, MAI, and adopted by James Connelly and Hugh MacKinnon, none of which appeared, nor did any witness testify on behalf of the board of review.

The PTAB finds that the REAC reports were the most credible evidence in estimating the subject's market value in fee simple estate presented to the PTAB. As stated in the Kelly report 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 stimulus. Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sale concessions granted by anyone

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associated with the sale. Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) and Uniform Standards of Professional Practice, 2002.

Real property must be valued at its fair cash value, which the Property Tax Code defines as "the amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." 35 ILCS 200/1-150.

According to the Illinois Supreme Court, fair cash value is "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 at 430 (1970).

Fee simple as defined is:

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. The Dictionary of Real Estate Appraisal, Appraisal Institute 4th Edition.

As required, each valuation appraisal in evidence cites as its purpose the estimation of the subject's market value. The Board finds that the REAC report not only is the only report that complies precisely with the terms given above, but is the only report in evidence that clearly follows these definitions and standards for purpose of valuation, consistent with the holding of the Illinois Supreme Court. Real property for ad valorem tax purposes should be valued at its highest and best use. That is the basis for property tax assessments and its application should be strictly adhered to.

The PTAB further finds that, based on this record, the subject's land size is 131,295 square feet and its improvement size is 1,943,009 square feet of building area. The Board finds Kelly has extensive knowledge of the property and has done numerous appraisals and inspections of the subject. These figures were relied upon by Kelly, Ryan and review appraiser Griego. Only Enright and Hatfield used different figures for computing the property's size for purposes of valuation. Enright cites the fact that close to 400,000 square feet is vacant and elected not to use the sub basement and vault areas in her valuation process. Enright notes that much of the building's gross area is for support offices and stock and storage area. Hatfield also does

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not use the sub basement area commonly referred to as vault space since it is not owned outright but is leased from the City of Chicago to the owner. Hatfield does not use space above the 13th floor since it is mechanical and storage area. While the vault area may be licensed for use, it has been this way for some 100 years, and has been used for purposes of fee simple ownership. Therefore, the PTAB finds for these appeals that the correct estimation of the subject's size is that articulated in the REAC report.

The only issue in this case is the subject's fee simple market value for ad valorem tax purposes. For all these reasons, the CBOE and the City failed to successfully establish that the subject is under assessed in relation to its market value. The board of review failed to defend its current assessment. The most reliable and credible conclusion of the subject's market value is the appraisal report and the testimony provided by Michael Kelly, MAI. The PTAB gives considerable weight to the testimony of Michael Kelly and the REAC appraisal report and its conclusion of value for the subject property.

The Board finds that Kelly understood and was able to articulate the subject's market, which was that of a retail department store, much better than either the CBOE's witness or the City's witness. All parties in this appeal and their respective experts utilized the data and descriptions in the REAC report and Kelly was without question the expert that was most familiar with the subject property and its history. Kelly had appraised the subject building a number of times and had personally inspected the subject property on several occasions over the course of a number of years.

Kelly's report was both clear and concise and easy to read and follow. The report provides a detailed analysis of its findings and conclusions of value. Each step in the valuation process is articulated in detail and substantiated throughout. The intervenors' reports are not nearly as detailed or explanatory. A number of assumptions are given by the intervenors' appraisers with little or no basis in fact. The Board finds the intervenors' reports to be less reliable based upon those assumptions.

The REAC report was clear, it's reading concise and descriptive, its conclusions of value were direct and supported by the facts and the testimony in the case. The testimony of Kelly was that of a professional appraiser explaining with a great degree of clarity and confidence his findings, all of which were supported. Kelly's answers were both detailed and concise. He provided testimony that was easy to understand and his professionalism was

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obvious. Kelly's experience and knowledge in the field of appraisal of a large, single-tenant, retail department store was evident. His analysis of the subject's highest and best use was clear and convincing and his use of comparable sales was directly supported by both his report and his testimony.

During cross-examination, Mr. Kelly was thoroughly questioned on his methodologies employed when preparing the appraisal and determining a fee simple market value for the subject property. The witness' replies to the inquiries were both comprehensive and detailed. He was candid in his answers and knowledgeable in his responses. Kelly expressed a clear understanding of the nature of the subject and the market for such a property and his finding of the subject's fee simple market value for ad valorem tax purposes was persuasive. The taxpayer has demonstrated by a preponderance of the evidence that the subject property is over assessed for all three years.

The Board gives little weight to the Enright report as it relied upon several assumptions that the Board finds were speculative in nature. The appraiser uses a speculative highest and best use in its analysis. The appraiser also uses comparable sales that did not have the same use as the subject, a retail department store. The report had a mathematical error in its conclusion of value under the income approach for which the witness testified would have no impact on her final reconciliation and conclusion of value for the subject property since she had relied upon the sales approach. However, the error does impact the credibility of her report. Moreover, the use of an entrepreneurial profit of \$9,255,320 is not supported by market data in the record.

Also, the witness determined the subject, a 100-year-old building to have a total depreciation of only 60% with no external obsolescence, an assumption that is not supported. Furthermore, Enright testified that the failure of Block 37 to be developed had no effect on her valuation, despite its location directly across from the subject. The subject's site size and Block 37 are the same, one square city block, yet Enright testified that a prudent buyer of the subject would simply ignore this comparable. All of these factors combined lead to the PTAB's finding that the Enright report is to be given little weight and that her testimony and the conclusions of value in her report are not credible.

Enright's highest and best conclusion is as a shell structure with adaptive reuse. The witness' report has some two pages of highest and best use, contrary to the customary approach of one highest and best use as vacant and one as improved. One claims that the highest and best use is the continuation of a flagship

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department store, but if the property were to sell it is as a shell structure with a variety of possible uses. In testimony, the witness testified that the subject's highest and best use conclusion "adaptive reuse out of the shell structure."

The PTAB finds this conclusion of highest and best use is not supported. The definition of highest and best use must be one that is legally permissible, physical possible, financial feasible and maximally profitable. The highest and best use cannot be speculative. Here, Enright makes assumptions that are theoretical in nature. There is no foundation in fact that such an adaptive reuse possibly exists or would ever be contemplated. The building has always and continues to be a retail department store. Enright's highest and best use conclusion detracts from the credibility of the appraisal.

Further, when Enright compares the subject to a number of downtown office buildings, the results of the comparability analysis are suspect. The properties used as comparables are totally different types of buildings and have different uses than the subject property. The sales comparables used by Enright do not appear to be of properties of similar utility and desirability as the subject. This violates the principle of substitution. Therefore, the PTAB finds this further detracts from the credibility and weight to be given the Enright appraisal.

Similarly, Hatfield uses comparable sales in the downtown "Loop" area. Yet, Hatfield explains on page 39 of his report that, "In the Sales Comparison approach, sales and offerings of similar properties are analyzed and adjusted to provide a value indication of the subject property. This Approach reflects the actions of buyers and sellers in the market and is based upon the Principle of Substitution, which states that when several similar properties are available, the one with the lowest price will attract the greatest demand." Hatfield goes on to use sales of buildings that are not similar to the subject, but rather employ a variety of different uses. Hatfield ultimately establishes, based upon this evidence, a conclusion of value for the subject property of \$82,000,000 for years 2001 and 2002, a substantially higher value than either the taxpayer's expert or the current assessment by the board of review.

The Board finds that Hatfield also makes assumptions about the highest and best use of the subject property. Hatfield states that the highest and best use is for retail with associated office use. However, the subject property has never been used as office space by any of the owners, current or former. Based upon the subject's history none of the subject property has been

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leased as office space. The Board finds Hatfield's highest and best use analysis was not credible which, in turn, detracts from weight to be given his opinion of value.

Even within the board of review's rather limited report, Frommeyer provides his opinion of highest and best use of the real estate as follows: As Originally Built: Department Store; As Currently Used: Department Store; Opinion of Highest and Best Use: Department Store. The PTAB finds the highest and best use assumption of the intervenors' appraisers to be speculative and unpersuasive.

In a recent decision handed down from the Illinois Appellate Court, it held that property should be valued for the purposes for which it was constructed and not for any other purpose which it might be used. Bloomington Public Schools, District No. 87 v. Illinois Property Tax Appeal Board, Sears Store No. 2840 and the McLean County Board of Review, Appellate Court of Illinois Fourth District, No. 4-07-0405, at page 10, filed January 31, 2008, citing State of Illinois v. Illinois Central R.R. Co., 27 Ill. 64 (1862). The court went on to state that values which are future in character may not be taken into consideration where they are so elusive and difficult to ascertain that they have not affected the present market value of the property. See Bloomington Public Schools, at page 11, citing to In re Rosewell, 120 Ill.App. 3d. 369, 458 N.E.2d 121, 126 (1983). Similarly, here, the PTAB finds that both the Hatfield report and the Enright report highest and best use analysis to be speculative, elusion and difficult to ascertain.

Furthermore, Hatfield, in his sales comparison approach, uses sales of what he considers similar properties. However, these sales are multi-tenant office buildings. None of the properties are single-tenant retail department stores, like the subject. Moreover, none of these properties has floor plates nearly the size of the subject property. The result of such an analysis once again is in violation of the definition of highest and best use, since such an analysis leads to the subject's fee simple market value for ad valorem tax purposes as speculative in nature. There is no justification for such a result. The comparables cannot be considered substitutes for the subject. The Board finds that these comparables are not similar to the subject in utility and desirability. As such, the PTAB finds the Hatfield report shall be accorded little weight and is not reliable for purposes of determining the subject property's market value in fee simple for assessment purposes.

The Board finds that the REAC appraisal report to be thorough and complete. The appraisal gave descriptive detail of the layout of

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the property, its history and its present use. The appraisal's highest and best use analysis was in keeping with the four elements of the definition given above and the highest and best use conclusion is as it currently exists. The highest and best use conclusion was not speculative and not theoretical. Kelly did not base either the sales comparison approach or the income approach to value on other types of properties such as multi-tenant office buildings. As such, the taxpayer's appraisal did not suffer from the flaws of the other reports which used data that was unrelated to the subject's present use as a single-tenant department store. In all the years of its existence and throughout the entire history of the store and the number of recent sales over the past 20 years, the property has always remained a single-tenant department store. That is how it was valued in compliance with the property's highest and best use for ad valorem tax purposes in relation to its fair market value in fee simple estate.

The board of review, in its *voir dire* of the witness, attacked Kelly's credibility based upon two Illinois Appellate Court opinions from DuPage County. Moreover, and more importantly, the REAC analysis was the subject of much criticism by the other parties to the appeal because Kelly valued the subject based upon its retail sales per square foot. Kelly used a retail sales multiplier (RSM) in order to compare the subject to his comparables. The PTAB will address both of these concerns.

Turning first to the appellate court cases, the board of review attempted to discredit Kelly as an expert based upon two appellate court decisions from the Second District Appellate Court, DuPage County Board of Review v. Property Tax Appeal Board, 277 Ill.App.3d 532, 660 N.E.2d 985 (2nd Dist. 1996) and DuPage County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 538, 708 N.E.2d 525 (2nd Dist. 1999). In these two cases, the appellate court was presented with a case wherein the valuation method utilized by REAC and appraiser Michael Kelly reduced the subject's market value in an amount attributable to the value of the common areas at a shopping mall. In both cases, the appellate court ruled against the REAC methodology, which attributed a separate, contributory value, to the surrounding common area and did not allow for the reduction in the extra land value. Based upon two unrelated rulings in two cases from another jurisdiction the board of review and the intervenors attempt to discredit Kelly's expertise. In its closing, the City goes so far as to state that Kelly's "expert status was sufficiently challenged by the board of review, based on the rejection of the appraisal methodologies and other cases-an Illinois appellate court cases cited by the board of review and the PTAB decision that was cited by the City of Chicago in its

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opening." The PTAB finds this attempt to discredit Kelly unpersuasive.

In the first instance, the appellate court disagreed with Kelly's deduction of the valuation of common area at a mall to an anchor store. Kelly subtracted the value of the contributory land from the subject's value because the extra land was common area used by a number of other establishments, not owned by the taxpayer. Here, however, Kelly is valuing a single-tenant, free-standing, anchor department store in the heart of the Loop. Under the facts of this appeal there is little similarity and Kelly made no deduction to his value conclusion for the contributory value of the common area land, since there is no such common area.

Turning to the PTAB decision cited as Sears Roebuck and Company v. Cook County Board of Review, 98-30684-C-3 (October 18, 2005), the board of review and the intervenors use this single decision as an attempt to further discredit Kelly's methodologies. To quote from that decision, "the PTAB finds questionable the appellant's appraiser's reliance upon retail sales per square foot in his cost and income approaches to value without articulating any source or treatise for said methodology. *Although this methodology may have merit, it was not evident at this hearing.*" (emphasis added) See Sears, at page 21. Based upon this fact, the board and the intervenors attempt to establish that Kelly's entire methodology is not sound. The City argues that based upon this one decision "Mr. Kelly's opinion of value is meaningless." They fail to state the additional proviso added after the statement and emphasized in quotes, above. While it was held not to have merit in that case, the decision certainly allows for the possibility to exist that said methodology has merit. In the instant appeals, the REAC methodology has been adequately supported.

In at least two other PTAB cases, issued prior to the Sears case, which the board of review and the intervenors neglected to mention to this tribunal, the methodology used by Kelly was accepted. One case directly on point was an appeal of the 1998 and 1999 assessments of the subject property before the PTAB referred to as Dayton Hudson Corporation v. Cook County Board of Review, under PTAB Docket Numbers 98-29272-C-3 thru 98-29277-C-3 and 99-28000-C-3 thru 99-28005-C-3. The PTAB decision was issued on May 6, 2004. In that case, the PTAB found Michael Kelly and the REAC appraisal analysis and methodology, including the use of a retail sales multiplier, to be sound and its conclusions controlling in its finding of the subject's market value in fee simple estate of \$34,500,000 as of January 1, 1998 and \$37,000,000 as of January 1, 1999. Kelly's appraisal included the use of comparable sales of retail department stores located

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from Chicago to Texas. Adjustments were made on the basis of the retail sales multiplier and retail sales per square foot.

Sak's Incorporated v. Cook County Board of Review, PTAB Docket Nos. 98-28832-C-3 and 98-28833-C-3 (issued July 19, 2002), which was also decided prior to the Sears, is another case that involved the use of a REAC appraisal and the appraiser was Michael Kelly. Again, Kelly used a retail sales multiplier based upon the sales per square foot in the determination of the subject's correct assessment. As stated in the decision herein referenced:

Furthermore, the Board found Kelly's appraisal and testimony: to be based upon his thorough experience and knowledge in the area of appraisal theory and practice; to have personally inspected the subject property; to have used actual and market data to support the value analysis in the income approach to value; *to have credibly explained why he chose to utilize sales outside the Downtown Chicago area located within regional shopping malls; and to explain the methodology used in the application of the retail sales multiplier in the sales comparison approach to value.* (emphasis added) Sak's at page 11.

It is clear that the PTAB has found Kelly's experience and his methodology sound in both the use of comparable properties outside of the subject's region and the use of a retail sales multiplier in determining the subject property's market value in fee simple estate for ad valorem tax purposes. The record discloses that Kelly has appraised over 100 such properties for purposes of ad valorem tax assessments. He has also lectured on the Illinois Institute for Continuing Legal Education (IICLE) circuit and is considered an expert in the valuation of such properties. The PTAB further finds the board of review and the intervenors selective use of appellate court decisions and PTAB decisions to be somewhat disingenuous in their attempt to discredit the appraiser's expertise in the area of real estate appraisal and valuation of the subject property.

Griego testified that the unit of comparison used by Kelly in his report is not taught by the Appraisal Institute. Griego testified that the use of the retail sales multiplier in the sales comparison approach is also not an appropriate unit of comparison. Griego testified that he would have made adjustments for locational differences between the subject and the comparables. Griego states that Kelly's methodology is not taught by the Appraisal Institute in an effort to discredit Kelly. However, Mason's testimony bolsters Kelly's technique in

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that he explained that retail sales are the driving force behind the sales of department stores.

Moreover, the board of review and the intervenors cite solely to the Sears case wherein it is noted that there is a lack of source material for the methodologies employed by Kelly. Kelly does state in his testimony that there are very few appraisers that appraise these types of properties. He goes on to testify that retail sales multiplier is nothing more than another use of the gross income multiplier which has been "around forever" in both IAAO (International Association of Assessing Officers) and MAI textbooks.

Kelly's testimony is verified in an IAAO publication. In the second edition of the IAAO's Property Assessment Valuation, this relationship is discussed as follows:

One economic unit of comparison in general use for appraisal of commercial and apartment properties is the gross income multiplier (GIM). A GIM expresses a relationship between gross annual income and value of property; thus, it compares the income-producing characteristics of properties in the sales comparison approach. Property Assessment Valuation, 2nd edition, International Association of Assessing Officers, at page 118.

Kelly uses a different term of art, albeit its terminology may not be common knowledge among the appraisal industry, for, as Kelly noted, these properties are appraised only by a handful of people. Ryan is one of those appraisers and he found the use of a retail sales multiplier in the valuation of a property such as the subject to be sound application. Additionally, Mr. Mason testified that the valuation of such properties nationally based upon their retail sales is fundamental to the buyers and sellers of these types of properties and it is the threshold to determine whether or not a sale or purchase will be consummated.

Kelly elaborated that the retail sales multiplier, much like the gross income multiplier, is merely a mathematical relationship between sales and revenue per square foot. As illustrated, sources of this information include MAI and IAAO textbooks, the Dollars and Cents of Shopping Centers, and the testimony of Kelly, Ryan, and Mason. Kelly was the only valuation witness that concluded the property's market value based upon its highest and best use as its present use and not for some other future or speculative possible use. The mere fact that very few people in the industry employ this terminology does not make his methodology systematically unsound. Rather, the record contains

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both expert testimony and references to other source material that indicate the appraiser's methodology is fundamentally sound and based upon well-known factors common to the industry.

In his appraisal and his testimony, Kelly utilized the publication The Dollars & Cents of Shopping Centers, a recognized publication in the appraisal industry, published by the Urban Land Institute. This publication is referenced in both the REAC appraisal and Kelly's testimony and in other witnesses' testimony and documentation. This source provides data on retail sales of national chain shopping centers that reached a high in the year 2000 and began to decline thereafter. Sales per square foot were an average of \$175.91 in 2000 and \$173.24 in 2002.

That same publication, The Dollars & Cents of Shopping Centers, indicates a median rent of \$3.07 and \$3.43 per square foot or a percentage of sales at 1.9% and 2.2% in U.S. Regional Shopping Centers and U.S. Super Regional Shopping Centers, respectively. Kelly utilized this information in his analysis of the subject's fee simple market value. Sales in his sales comparison approach were single-tenant anchor stores located in shopping centers.

Anchor retail department stores in shopping centers were used extensively by Kelly in his analysis. These properties are most closely comparable to the subject; not the multi-tenant office buildings as selected by the other Enright and Hatfield. Kelly's comparables are also more similar to the subject in terms of size of floor plates, a significant factor in the appraisal of the subject property, which possesses floor plates of approximately 130,000 square feet. Testimony revealed that office buildings in the downtown Chicago area have an average floor plate size of 20,000 to 30,000 square feet. This size differential makes the intervenors' appraisers assumptions about redevelopment of the subject property questionable in their highest and best use analysis.

Richard Griego, MAI, the review appraiser for the City, testified that he has appraised somewhere between five and ten anchor department stores. In his critique of the REAC report, Griego testified he was familiar with the subject because he shopped there and used the subject as a convenient "shortcut" to his office location.

On cross-examination, Griego admitted that he had not done a single appraisal of a major department store for an owner and had no experience in the assessment of properties. He also has never had discussions with owners of department stores for purposes of valuation for ad valorem tax purposes. The witness also failed to secure any independent verification of the information

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contained in the Kelly report, such as the facts pertaining to the comparables. He also did not verify the subject's land and building sizes. Griego testified that the publication Dollars & Cents of Shopping Centers is used more for its expense information and not the retail sales per square foot application employed by Kelly. Based upon the witness' testimony, the PTAB finds Griego's review of the Kelly report unpersuasive.

Ryan also prepared a review report. Ryan, an expert in the field of a real estate review appraiser of department stores for ad valorem tax purposes, has appraised between 40 and 50 such properties for the owners. Ryan testified that unless a change in use was imminent the highest and best use conclusion present as of the date of value was to be the basis of the appraisal. Any contrary highest and best use violates the standards set by USPAP.

Moreover, Ryan testified that due to the subject's large floor plates, it is necessary for purposes of comparison to use properties with large floor plates. That is not accomplished in the intervenors' appraisals in comparing the subject with downtown office buildings. Ryan's understanding of the valuation process of the subject property was thoroughly articulated and knowledgeable. The PTAB finds Ryan's testimony completely credible.

Ryan, an expert in this area of appraisals, also testified that he has used retail sales as a unit of comparison. He also called the term percentage rent, as employed by the REAC report, as the standard in the industry. Moreover, Ryan testified that the use of department stores, even in different locations from the subject, would be appropriate for purposes of valuing the subject property. One reason is that department stores generally have large floor plates such as the subject. Two, Ryan testified, is that department stores sell on a basis of sales per square foot.

Therefore, Ryan testified that it is proper to use such stores for purposes of comparison. Ryan testified that he would use as a unit of comparison gross retail sales divided by building area. Other similar approaches to value using such a unit of comparison are gross rent multipliers when valuing apartment buildings. Therefore, Kelly's analysis is not unique. The PTAB finds that Ryan's testimony was both credible and persuasive.

The PTAB further finds that Jay Mason's testimony is credible and persuasive. Mason, vice-president of property taxes for Federated Department Stores, and previously employed by May Department Stores has held that position for 23 years. Prior to his tenure as vice-president of property taxes, Mason was the

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supervisor of commercial assessments for 11 year for the city of St. Louis, Missouri.

Mason testified that properties, such as the subject, are bought and sold on a national market. The industry buyers and sellers of such properties base their purchases on the properties retail sales. Mason testified that sales per square foot are the driving force in such transactions. The witness was direct and responsive to all questions posed. The PTAB finds his testimony to be unrefuted, insightful and explanatory into the workings of the retail department store market and the use of the factors that drive sales of properties such as the subject in that national market. The witness has had substantial experience in the area of sales and purchases of large department stores and the PTAB finds his testimony credible and persuasive.

The first approach developed by Kelly was the cost approach to value. The witness took into consideration that the subject has a large area that is vacant. Conversely, the intervenor's appraisers suggested the possibility that this area could be developed as office space for rental purposes. The PTAB finds such an argument unpersuasive.

In his cost approach to value, Kelly first estimated the subject's land value using comparable land sales. These sites had sales of prices per square foot of site area ranging from \$164.52 to \$786.22. Based upon its size and uses, Kelly valued the land at \$190.00 per square foot in the first appraisal and \$185.00 per square foot in the second appraisal. Kelly also valued the land by analyzing the ground leases. Kelly explained in his income approach that anchor stores can afford net rents at 2.5% to 3.0% of retail sales based upon land and building. Kelly opined that the contributory value of the land only is 1.0% of the subject's retail sales. The subject's retail sales in the 2000 REAC report are quoted at \$223,446,035. The subject's retail sales in the 2002 REAC report are quoted at \$204,015,945. Respectively, 1.0% is \$2,234,460 and \$2,040,159. Indicated land values after capitalization are \$24,945,000 and \$24,290,000, respectively. The Board finds Kelly's estimate of the subject's land value credible and persuasive.

Kelly then valued the improvements. In order to estimate the replacement cost new of the improvements, Kelly relied on nationally recognized building cost publications, including Means Cost Manual. Utilizing data from these publications, Kelly estimated a replacement cost new of \$120.24 per square foot, or a total of \$233,630,000 for 2000, and \$131.39, or \$255,293,000, for 2002.

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Kelly used two methods to determine depreciation. A combination of all forms of depreciation of the subject, including economic, functional and physical, totaled 92.0% in one appraisal and 93.0% in the second appraisal. The value indicated by the cost approach was \$43,635,000 in 2000 and \$42,160,000, in year 2002. Kelly testified that in his reconciliation and final value estimate, the cost approach was given the least consideration since this valuation approach requires estimates of cost new and depreciation of the subject, a property that is close to 100 years of age. The cost approach, based upon the age and size of the building is given little consideration to the appraisal's final conclusion of value, but is rather of check of the other approaches to value. Kelly's analysis of the cost approach to value was thorough and extensive.

The Hatfield report does not contain a cost approach to value. Enright, in her estimating the land value under the cost approach, uses sites all of which are considerably smaller than the subject that range in size from 25,200 to 64,030 square feet and in price from \$255.17 to \$875.66 per square foot and estimates a land value for the subject site of \$325.00 per square foot. Enright concluded a land value for the subject site of \$325.00 per square foot and a total land value of \$42,700,000.

Next, Enright estimated the cost new of the subject improvement. Enright used a figure of \$36.72 per square foot for the 1,544,000 square feet that she calculated as above grade and lesser amounts, \$21.13 to \$25.37 per square foot, for the basement areas. The witness used the Marshall & Swift Cost Manual as the source for these figures.

Enright determined a replacement cost new for the subject of \$61,702,135. She then added an entrepreneurial profit of 15% or \$9,255,320, a total cost new of \$70,957,455. Total depreciation of 60% was allotted at 50% for physical depreciation and 10% for functional obsolescence, leaving a depreciated value for improvements of \$28,382,981. After adding the land value of \$42,700,000, the witness opined a value under the cost approach of \$71,100,000, rounded.

Here, Enright uses a total figure of 60.0% from all sources of depreciation, of which she uses a figure of 0.0% for functional obsolescence. In her report on page 73: "the large overall size of the subject property is not considered to represent any significant functional obsolescence as it is noted that most of the vacant sites purchased were for development of buildings in the general size range of the subject property." The Board finds such an analysis lacks credibility. Based upon this statement and Enright's highest and best use analysis for the subject

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property as a shell structure with adaptive reuse, it would seem to indicate that Enright believes that the subject property would entail little or no redesign or reconstruction of the improvements to make it adaptable to a new user. Therefore, the PTAB finds the Enright report cost analysis to be of little weight.

With respect to the board of review's appraisal report there were no comparable land sales that could be analyzed by the PTAB. Its analysis of depreciation of the subject improvement considered an amount of 75% total depreciation with 0.0% depreciation for either functional or external obsolescence. Its conclusion is not credible and has no supporting data or analysis. With no witness presented the PTAB finds the board of review's cost approach is to be given no weight.

Regarding the income approach to value, the Board finds the Kelly's analysis is the most credible in the record. In estimating market rent, Kelly considered rents of large retail buildings. Economic rent is imputed based upon comparable market rents and rents based upon a percentage of the store's retail sales. Bearing in mind the size and uniqueness of the subject property, the REAC report analysis utilizes two methods of application of the income approach. Kelly used both lease comparables and percentage of retail sales to estimate market rent.

In his report, Kelly uses 13 comparable properties in the 2000 report and 26 comparable properties in the 2002 report. These leases were on a pre-determined square foot basis and the rentals ranged from \$3.11 to \$9.99 or from \$2.74 to \$9.99 net rental rate per square foot, respectively.

In the publication The Dollars & Cents of Shopping Centers, statistics are given for national chain department stores. One statistic is for U.S. Regional Shopping Centers and the other is for U.S. Super Regional Shopping Centers. Rent is given as a percentage of sales of 1.9% and 2.2%, respectively. Keeping with the testimony given during the case, the driving factor in the sales and purchases of such properties are retail sales per square foot.

Sales figures for the subject ranged from a low of \$195,000,000 to a high of \$226,315,000. Sales were \$196,440,000 in 2002. Sales per square foot ranged from \$100.93 to \$116.48. Kelly stabilized the subject's retail sales per square foot at \$115.00 in year 2000 and \$105.00 in year 2002. The indicated rent based upon 2.5% to 3.0% is from \$2.88 to \$3.85 per square foot for year 2000 and from \$2.63 to \$3.15 per square foot for year 2002.

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After consulting CB Richard Ellis-Chicago Market Index Brief-Retail Market, Kelly utilized a vacancy rate, as well as collection loss and management fee of 20%. Kelly used an overall rate and a band of investment approach, consulting the American Council of Life Insurers and Korpacz Real Estate Investor Survey, to reach an overall capitalization rate of 12% and a conclusion of value, using the income approach, of \$37,565,000 for 2002. Using similar analysis Kelly opined an opinion of value for the subject of \$38,860,000 for 2000.

In contrast, the Frommeyer Report provided no analysis or information. It arbitrarily uses a 10% capitalization rate and store sales of \$235,000,000, higher than any year disclosed by the Kelly report. Yet, the board of review does use Kelly's percentage rent method and square foot method. However, the lack of analysis, data and testimony results in little weight being given to the board of review's income approach.

The board of review report used a net income figure of \$7,050,000 and a vacancy and collection rate of 10% for the subject property, using an 8% vacancy factor and 2% collection loss. In this report, Frommeyer opined the subject's final net operating income of \$6,345,000. The appraiser used a capitalization rate of 10.77% to arrive at a final opinion of value for the subject as of January 1, 1998, via the income approach, to be \$58,930,000. Frommeyer reconciled his opinions of value to conclude a final estimate of value for the subject property of \$58,000,000 as of January 1, 1998. The appraiser did not include any analysis to support his conclusion of value. Additionally, Frommeyer did not perform a personal inspection of the subject property and, again, was not available as a witness to testify and be cross-examined as to his findings; therefore little weight can be given this analysis.

Enright's somewhat limited income approach consists of flawed data. It assumes rental for the three vacant floors, a use never contemplated by the owners, at \$17.50 per square foot, gross. It also assumes a build-out of the same area at a cost of \$25.00 per square foot. Somehow, the appraiser arrives at a figure of \$5.55 gross income per square foot for the subject property and another \$10.00 per square foot for the assumed office space. A capitalization rate of 10% is arrived at without supporting analysis. The ultimate market value conclusion is \$62,800,000 under the income approach. However, as discovered during testimony, this figure is actually \$56 million, a fact that the appraiser states are merely a mistake and does not change her ultimate value conclusion. Due to these deficiencies the Board gives little weight to Enright's income approach.

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Hatfield's report is also somewhat limited, its analysis making several assumptions. One of those is that the subject would be, similar to the Enright report, built out for office use. He also uses a figure of \$30.00 per square foot to build out. Hatfield uses comparables that are substantially newer and three of the five properties are on Michigan Avenue's "Magnificent Mile" a considerably better location. The appraiser opines a rental rate of \$6.00 per square foot, also with limited analysis. Based upon these factors, the PTAB finds that Hatfield's income approach is unpersuasive.

Finally, the sales comparison approach is given in substantial detail in the REAC report, unlike the other three intervenor reports. Kelly thoroughly explains his use of single-tenant anchor department stores located in shopping centers in other areas. Again, use of the retail sales per square foot methodology is explained. Buyers of a property such as the subject will base their purchase on the store's retail sales on a stabilized basis. As stated previously, the subject's stabilized sales are \$105.00 per square foot for year 2002 and \$115.00 per square foot for year 2000.

Kelly considered properties which were all large single-tenant department stores. These sales occurred in Illinois, Michigan, Wisconsin, and Ohio. Sales outside of Illinois are used due to a lack of similar properties locally. All sales are thoroughly analyzed for comparison purposes. The stabilized retail sales per square foot for the 2000 report ranged from \$65.00 to \$180.00 and the prices per square foot ranged from \$5.06 to \$44.34. Stabilized retail sales per square foot ranged from \$80.00 to \$240.00 and prices per square foot ranged from \$5.06 to \$50.00 in the 2002 report. The properties sold from 1996 to 2003. The data indicates that the retail sales multiplier over time does not seem to change. This multiplier is used when applied to the store's current stabilized retail sales. This provides for a reasonable comparison between the subject and other properties.

Kelly, in addressing several of the concerns of the intervenors and the board of review, clearly details in his report that the typical unit of comparison is the total price per square foot of building, including land. Also, Kelly states in his report that because of locational differences he has analyzed the retail sales per square foot for each of the properties, since the subject's value as a department store is based upon the amount of retail sales it can generate. These stores are checked for the business viability as a retail store, and are compared to the subject. Concerning the business value of a property, in a national chain store the merchandise offered has minimal difference from location to location. Thus, the retail sales per

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square foot are more of a factor of a store's location and its performance as a large retail department store, no matter whom the retailer is, whether it is J.C. Penney, Sears, Carson Pirie Scott or Marshall Field. If a store has an unsuccessful product line the analyst will look to sales generated by other more successful anchor stores. In so doing, the appraiser established a constant unit of comparison. In this case, that unit of comparison, as appropriately stated by Kelly, is the retail sales multiplier. In his reports, Kelly only used sales of large single tenant department stores. Accordingly, the factors of retail sales per square foot remained relatively constant, from 0.18 to 0.24 or from 0.18 to 0.25.

The retail sales multipliers ranged from 0.06 to 0.25 in year 2000 and from 0.06 to 0.24 in year 2002. This means that stores are selling in a range of 0.06 to 0.24 or in a range of 0.06 to 0.25 of the store's stabilized retail sales. Kelly chose an indicated retail sales multiplier for the subject of 0.18 for both appraisal reports. Kelly derived a value, using the retail sales multiplier, for the subject of \$18.90 per square foot for the tax year 2002. In his 2000 appraisal, Kelly used a figure of sales of \$115.00 per square foot and an indicated value for the subject of \$20.70 per square foot. Kelly used a final figure of \$20.00 per square foot of building, including land, for both appraisal reports. The REAC report opines a final value for the subject, via the sales comparison approach, of \$38,860,000 for each year. The final reconciliation for subject property's market value in fee simple estate is \$39,000,000 for each year.

Hatfield's report uses sales of office buildings in the Loop area for comparison purposes. Each sale is different in use and design from the subject. His comparable sales are used for commercial office purposes and contain substantially smaller floor plates. Again, the PTAB finds the use of such sales results in conclusions of value that are unpersuasive in attempting to determine the subject property's market value in fee simple estate for either year 2001 or 2002.

Also, as noted previously, the Enright report uses an assumption that the subject's highest and best use is as a shell structure with adaptive reuse. Enright also uses sales of multi-tenant office buildings in the Loop, not single-tenant retail department stores like the subject. The Board finds such an attempt at comparison is speculative. The PTAB finds that the analysis and conclusion of value reached in the sales comparison approach by both Enright and Hatfield to be of little weight.

Frommeyer Report's limited methodology consists of only one page. It merely gives a list of 16 sales purported to be similar to the subject with no explanation or analysis offered when comparing

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these properties to a two million square foot, free-standing, single-tenant, retail department store. However, no witness was present to give testimony or be cross-examined. Therefore, PTAB further finds that the board of review's sales comparison approach, from its 1998 report on the subject property and accompanying analysis, to be of no weight.

The PTAB finds the analysis of the comparable sales contained in the sales comparison approach to value performed by the appellant's appraiser is superior to that developed by both intervenors' appraisers and the board of review's appraiser. Similarly, the PTAB finds that the analysis contained in the income capitalization approach to value performed by the appellant's appraiser is superior to that developed by both intervenors' appraisers and the board of review's appraiser. Lastly, the PTAB further finds that the analysis contained in the cost approach to value performed by the appellant's appraiser is superior to that developed by the CBOE's appraiser and the board of review's appraiser.

In conclusion, the PTAB finds that the taxpayer and its witnesses were more credible and more persuasive than the other parties' witnesses and their evidence. After considering all the evidence and testimony presented, the Property Tax Appeal Board finds the subject property had a market value of \$39,000,000, as of January 1, 2000, January 1, 2001, and January 1, 2002. Since market value has been determined the 38% level of assessment for class 5A property under the Cook County Real Property Assessment Classification Ordinance shall apply. 86 Ill.Admin.Code 1910.50(c)(3). Accordingly, a reduction is warranted for all three years.

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This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member

Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: April 1, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

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"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.