



A M E N D E D
FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Target Corporation a/k/a
May Department Store Company
DOCKET NO.: 03-27564.001-I-3 through 03-27564.019-I-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Target Corporation a/k/a May Department Store Company, the appellant, by attorneys Gregory J. Lafakis and Ellen Berkshire, of Verros, Lafakis & Berkshire, P.C. in Chicago; the Cook County Board of Review by Assistant State's Attorneys Randy Kemmer and Vicent Yee; as well as two intervenors, the City of Chicago, by attorneys Bernard Murphy and Brian Gates of the City of Chicago Law Department in Chicago, and the Chicago Board of Education, by attorneys Ryan B. Ponton and John Broderick of Pugh, Jones, Johnson & Quandt, P.C. in Chicago.

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:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
03-27564.001-I-3	13-26-123-001-0000	7,968	1	\$7,969
03-27564.002-I-3	13-26-123-002-0000	8,010	1	\$8,011
03-27564.003-I-3	13-27-228-001-0000	19,020	500	\$19,520
03-27564.004-I-3	13-27-228-007-0000	88,110	59,016	\$147,126
03-27564.005-I-3	13-27-228-008-0000	48,604	30,000	\$78,604
03-27564.006-I-3	13-27-228-014-0000	681,271	186,456	\$867,727
03-27564.007-I-3	13-27-403-028-0000	60,219	3,000	\$63,219
03-27564.008-I-3	13-27-403-029-0000	36,061	1,500	\$37,561
03-27564.009-I-3	13-27-404-010-0000	5,953	1	\$5,954
03-27564.010-I-3	13-27-404-027-0000	5,646	1	\$5,647
03-27564.011-I-3	13-27-404-028-0000	5,646	1	\$5,647
03-27564.012-I-3	13-27-404-035-0000	5,906	1	\$5,907
03-27564.013-I-3	13-27-404-036-0000	5,906	1	\$5,907
03-27564.014-I-3	13-27-404-042-0000	17,010	1,500	\$18,510
03-27564.015-I-3	13-27-404-044-0000	15,828	1,200	\$17,028

03-27564.016-I-3	13-27-404-045-0000	45,000	14,945	\$59,945
03-27564.017-I-3	13-27-404-046-0000	25,766	2,500	\$28,266
03-27564.018-I-3	13-27-404-047-0000	11,340	1	\$11,341
03-27564.019-I-3	13-27-404-052-0000	5,670	1	\$5,671

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 17.58 acres of land improved with two structures. The main structure is a multi-story, warehouse complex of masonry construction with a secondary structure used as a parking garage. The main building is a part five-story and part six-story retail warehouse, which was constructed in six stages from 1928 through 1993, as well as an attached part one-story, loading dock building which was constructed in 1993. The second building is an out-building used as a garage. Both buildings are of brick and concrete construction; while the 1993 addition is a metal panel steel framed structure.

The PTAB found that the 2003 and 2004 appeals involve common issues of law and fact and a consolidation of the appeals for hearing purposes would not prejudice the rights of the parties. Therefore, without objections from the parties and pursuant to Section 1910.78 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78), the PTAB consolidated the 2003 and 2004 property tax appeals for hearing purposes.

At the commencement of the hearing, the intervenor, City of Chicago, submitted a Motion in Limine to bar evidence relating to the description, physical characteristics or condition of the subject property pursuant to Section 1910.94 of the rules of the Property Tax Appeal Board. (86 Ill.Admin.Code 1910.94) The intervenor argued that its appraiser, Hatfield, had made two requests to inspect the subject and/or to make documentary requests of the appellant, which were effectively denied due to lack of any response. Appellant's position initially asserted that at the time the 2003 and 2004 property tax appeals were filed, this section of the Board's rules did not exist having become effective on May 16, 2006. Therefore, the intervenor's inspection requests predate this provision. Further, appellant's attorney noted that the appraiser's requests were addressed to the corporate owner of the subject instead of being sent to the attorney of record. Moreover, one request occurred during a time period when present counsel for the appellant was just substituting in as legal representatives, while initial counsel was withdrawing representation. Thereby, no such request was received. Appellant further asserted that a property inspection by the intervenor's appraiser was undertaken in tax year 2005, which is not a subject of these proceedings, but that Hatfield will be called as a witness and at that time can testify

regarding any adjustments to his description of the subject property, if necessary. The board of review and the second intervenor choose not to respond to the pending motion. Upon due consideration of the parties' positions, the intervenor's motion was denied due to the fact that the cited rule was not in affect when the appeals were filed.

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

As to the overvaluation argument, the appellant's pleadings included a copy of a complete, summary appraisal undertaken by appraiser, Michael Kelly, with the Real Estate Analysis Corporation (hereinafter REAC). Kelly testified that he holds the designations of Member of the Appraisal Institute (hereinafter MAI) and a Member of the Society of Real Estate Appraisers (hereinafter SRPA) as well as appraisal licenses in Illinois, Iowa, Indiana, and Michigan. He stated that he has been an appraiser for approximately 33 years, while also teaching appraisal theory and practice at the Illinois Property Assessment Institute. Further, he indicated that he has appraised primarily industrial and commercial properties throughout Illinois and other parts of the country. Specifically, Kelly stated that he had appraised in excess of 500 general warehouse properties and distribution center properties. Moreover, of those 500 properties, he indicated that he had appraised in excess of 50 such properties containing over one million square feet of area. Kelly was offered as an expert in the valuation of warehouse and distribution centers as well as an expert in the valuation of real estate such as the subject. After additional voir dire by the parties' attorney's and the hearing officer, Kelly was accepted as an expert by the PTAB over the objections of the board of review and the two intervenors.

The Kelly appraisal was a complete, summary appraisal addressing the three traditional approaches to value, while opining an estimated market value of \$4,280,000. This timely submitted appraisal was marked for the record as Appellant's Exhibit #1. As to this appraisal, Kelly testified that he had supervision and control of the appraisal process, while being assisted by the remaining three signatories on this appraisal. He stated that the purpose of his appraisal was to determine the market value of the unencumbered fee simple estate of the subject and that the effective date of his appraisal was January 1, 2003. Further, Kelly indicated that the scope of his appraisal was to determine the value of the subject based upon its existing use as an industrial building rather than its highest and best use for redevelopment to commercial or residential use. Moreover, he stated that this methodology was in conformity with assessing practices based upon his prior work experience in an assessor's office as well as his personal knowledge of the customs and practices found within the county assessor's office. Kelly stated that the assessing custom and practice in terms of valuing a property was as the existing use versus an alternative highest

and best use. In support of this custom and practice, Kelly cited and explained a recent PTAB case relating to another subject property wherein PTAB ruled that a property should be valued at its existing use rather than a speculative use.

Kelly testified that he originally inspected that subject property in the 1980's and again in the 1990's because his firm had been appraising this subject property since 1985 comprising approximately five or six appraisals. In addition, he stated that he reinspected the property during the week prior to this hearing. As to the subject's immediate area, he testified that there were industrial properties to the north and south of the subject with residential properties or retail properties to the east and west.

He described the subject's site as containing 771,100 square feet of land based upon his calculations of data on the area's Sidwell map. He stated that he checked this size with the subject's property record card, which reflects approximately 765,000 square feet of land. The subject property is improved with two buildings. The main building is a multi-story warehouse building with a loading dock building, the latter of which was built in 1993. However, he testified that 95% of the building is the original structure. Kelly's appraisal stated that this building contains 1,411,742 square feet of building area including 8,015 square feet of office area, while he testified that the total gross building area was 1,428,000 square feet based upon the subject's survey. He stated that the building also included ceiling heights ranging from 13 to 15 feet. The appraisal noted a loading dock addition including 50 truck doors adjacent to the main building and containing 64,857 square feet. The second, masonry building is a one-story, out-building constructed in 1928 and used as a garage. This building contains 16,328 square feet without office space and is used for truck maintenance.

As to the highest and best use analysis, Kelly testified that he developed this analysis under a jurisdictional exception comprising a request by the owner's legal counsel that the property be valued based upon its current use as an industrial building rather than its future highest and best use. *He testified that without that preclusion, the highest and best use for the subject would be for commercial or residential redevelopment.* He described the improvements as being of average condition with an average weighted age of 54 years, while the subject's property rights were as an unencumbered, fee simple interest. Kelly opined that the estimated economic life of a typical industrial building is 60 years. He testified that he researched the sales history of the subject property and noted a transfer declaration was filed subsequent to the date of value in the latter part of 2004. This transfer declaration related to the purchase of the entire Marshall Field's chain from the seller, Target Corporation, to the buyer, May Company. He noted that this sale included not only realty, but also inventory or tangible value as well as intangible value or the name of the

business. Therefore, Kelly indicated that an allocation was made on the transfer declaration for the property. Nevertheless, in his verification of the sale, he concluded that the realty value was an allocated price for the subject based upon a portion of the larger transaction, which was the purchase of the entire Marshall Field's chain.

The Kelly appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of \$4,655,000, rounded; the income approach reflected a value of \$3,920,000, rounded; and the sales comparison approach indicated a value of \$4,280,000, rounded. In reconciling these approaches to value, Kelly placed maximum emphasis on the sales comparison approach with moderate consideration to the income approach to reflect his final value of \$4,280,000 for the subject.

In Kelly's appraisal, the first method developed was the cost approach. The initial step under the cost approach was to estimate the value of the site and in doing so Kelly undertook an analysis of four suggested land sales of local sites that ranged in size from 13,450 to 2,152,735 square feet and in price from \$2.55 to \$11.90 per square foot. These properties sold from March, 1999, through May, 2001. Under examination, he testified that these vacant, land sales were all industrial sites, as is the subject, and these had no probability of being converted to commercial or residential usage. Upon consideration of the data, Kelly opined that the market value of the land would be \$4.00 per square foot or \$3,085,000, rounded.

Using the Means Cost Manual, Kelly estimated a replacement cost new of both buildings consisting of 1,428,071 square feet of building area at \$55.00 per square foot or a total of \$78,543,000, rounded. Thereafter, Kelly determined the total amount of depreciation present at the subject by utilizing the market abstraction method. This method was opined as most reliable as the total amount of depreciation is estimated from analysis of market transactions of properties comparable to the subject. He utilized the six market sales present in the appraisal's sales comparison approach. These sales ranged in age from 58 to 82 years; in total depreciation rates from 89% to 99.8%; and in average annual depreciation rates from 1.2% to 1.7%. Kelly's appraisal indicated that generally average annual depreciation rates do not progress at a constant rate but decrease as the property ages. Therefore, the appraisal opined that improvements will experience higher rates of annual depreciation during their early years. Based upon this depreciation analysis and observations made during the appraiser's inspection, Kelly opined an annual depreciation rate of approximately 1.815% for the subject. Applying this rate to the subject's weighted age of 54 years reflected a total accrued depreciation of 98% resulting in a depreciated value of the improvements at \$1,570,860. Adding the land value of \$3,085,000 reflected a final estimate of value under the cost approach of \$4,655,000, rounded. Kelly testified that he gave minimal

weight to the cost approach because of the large amount of calculated depreciation

The next developed approach was the income approach. Kelly obtained and analyzed lease data on four properties; however, he noted that the subject property is extremely large, containing approximately 1,400,000 square feet of building area. He also testified that there are basically no market leases anywhere to compare to a 54-year old, multi-story, industrial building of the subject's extreme size. He stated that typical comparables are usually owner-occupied, so there is no available lease data.

Nevertheless, Kelly applied significant size adjustments to the leases he obtained, which ranged: in age from 42 to 72 years; in number of stories from one to five; in building size from 22,500 to 54,659 square feet; in ceiling heights from 10 to 17 feet; in office space from 2% to 22%; and in net rental rates from \$0.34 to \$1.84 per square foot with varying degrees of comparability to the subject. Kelly testified, at length, regarding the four leases opining that all have inferior locations in comparison to the subject property. He also stated that multi-story buildings in the industrial market, today, are basically considered very nonfunctional. He indicated that modern warehouse buildings are all one-story buildings with ceiling heights from 24 to 28 feet and significant amounts of off-site parking to maneuver trucks. Therefore, he estimated a rental rate for the subject of \$0.60 per square foot of building area, triple net, or \$856,843.

He estimated and deducted an allowance for management fees as well as vacancy and collection losses at 20%, or \$171,369. Kelly credibly stated that industry data does not reflect vacancy rates for such a large building; therefore, his estimates were based upon his appraisal experience. This deduction resulted in an effective net rent of \$685,474 for the subject. Kelly's appraisal indicated that there was market data relating to lower overall rates which generally apply to newer and smaller industrial properties that entail less risk in ownership than older and larger industrial properties. Conversely looking at the subject's age, extreme size, and multi-story configuration, Kelly abstracted an overall rate from his improved sale comparables indicating a range from 16.1% to 18.4%. Capitalizing the subject's annual income by 17.5% produced a value estimate under the income approach of \$3,920,000, rounded. He testified that he accorded this approach moderate weight due to the absence of market rental data for properties the size and configuration of the subject's buildings, which was basically nonexistent.

Under the sales comparison approach to value, Kelly utilized six suggested comparables that are multi-story, masonry, industrial complexes composed of more than one building all of which were of average condition. He testified that the real challenge in obtaining comparable properties was the extreme size of the subject. However, he stated that sale properties #1 through #3 range from 1,000,000 to 2,000,000 square feet. Further, he noted that the subject property would compete in a larger area than just its immediate environment. Due to the subject's large size

and location, he stated that the subject would compete at least across the city. Kelly's six properties sold from March, 1997, through August, 2004, for prices that ranged from \$0.62 to \$5.46 per square foot including land value, before adjustments. The improvements ranged: in age from 58 to 82 years; in ceiling heights from 10 to 14 feet; in office space from 3% to 5%; and in size from 228,000 to 2,100,000 square feet of building area. The properties' contained land-to-building ratios that ranged from 0.20:1 to 0.77:1. Moreover, three properties contained from 9 to 52 truck docks.

Kelly testified that sale #1 was utilized because of its extreme size, which was comparable to the subject. He explained sale #2 was a former Spiegel Distribution Center, located within the city of Chicago, with approximately 2,000,000 square feet of building area. His appraisal detailed why the seller accorded the buyer an additional credit for 800,000 square feet of area pending demolition; that the buyer anticipated spending \$1,600,000 to demolish some of the complexes' buildings; and that the city of Chicago was anticipated to provide Tax Increment Financing (hereinafter TIF) at approximately \$1,600,000 to the buyer. Kelly also stated that after undertaking all of the aforementioned calculations resulted in the same price of \$0.80 per square foot of building area. As to sale #3, Kelly indicated that this was a former Brach Candy manufacturing and warehouse facility on the north side of the city containing 2,100,000 square feet of building area. He stated that the appraisal erroneously reflected that the sale closed in August, 2003, but it actually concluded in August, 2004. He succinctly stated that size was a major consideration in choosing this comparable. He disclosed that he adjusted the sale price to include the credit for cleanup of the environmental contamination. In addition, Kelly stated that the cost to demolish the subject's improvements would be from \$2 to \$3 per square foot of gross building area depending on the type of construction materials and whether there was any salvageable material. As to the deviation in building sizes, Kelly testified that larger buildings sell for less on a per square foot basis than smaller buildings, particularly when comparing a building over 1,000,000 square feet to a building under 500,000 square feet. Further, he indicated that the number of companies or buyers that can use or can afford such a large building narrows considerably as the building size increases over 500,000 square feet.

Kelly's appraisal detailed that sale #4 was a multi-story, industrial building used to store records and documents, therein. Sale #5 related to two multi-story, industrial buildings used as a warehouse and distribution center for fresh food produce. Sale #6 related to two, multi-story buildings used as a packaging plant for pharmaceuticals. He stated that this sale, to the Chicago Public School system, was verified by the deed as well as a conversation with the buyer's attorney.

As to all of the improved sales, Kelly testified thoroughly, explaining the comparability and adjustments applicable to each

sale property, while confirming that the details of each sale were verified using available sale documents and at least one principal party to the sale. After making adjustments, Kelly considered a unit value of \$3.00 per square foot of building area to be appropriate for the subject resulting in a market value of \$4,280,000, rounded.

Moreover, Kelly's appraisal indicated that several large, multi-story industrial complexes were purposefully not included in his appraisal because the properties were converted to other uses after their sale. He specifically cites three sale properties: a Montgomery Wards warehouse sale wherein the property was converted to residential condominiums and office buildings; a Helene Curtis complex sale wherein the property was converted into a Walmart; and an industrial complex sale located at Cicero and Armitage wherein the property was converted into a Home Depot Store. Kelly stated that since the subject property is being appraised on its existing use and not on a speculative use, the aforementioned sale properties represent sale prices for a highest and best use other than industrial. Further, he testified that there was no indication that the subject property would incur a change in use in the future.

In reconciling the three approaches to value, Kelly accorded minimal weight to the cost approach due to the subject's age asserting that this approach to value is most effective on newer buildings. In contrast, moderate consideration was accorded the income approach with maximum emphasis on the sale comparison approach to value. Therefore, he testified that his market value estimate for the subject was \$4,280,000. Moreover, he testified that he was unaware of any physical changes to the property from January 1, 2003 to January 1, 2004.

Under cross-examination, Kelly testified regarding his rental comparables lease data as well as the application of market trends and data relating to his vacancy and collection and management fees totaling 20% in his income approach to value. He indicated that he considered market trends even though they were not enumerated in his report. Moreover, he opined that as a general matter that older industrial properties present a greater risk for an investor than a newer industrial property and that this greater risk would be reflected in a higher overall capitalization rate.

As to the subject's highest and best use, Kelly testified that properties consisting of large, multi-story, industrial warehouses have been converted to commercial or residential use in the subject's area, but he stated that he did not undertake that type of valuation of the subject. He indicated that he valued the subject under its existing use. He elaborated that if he were to undertake a valuation in a differing use, then other elements would be added to the equation such as: the extreme size of the subject building, the cost of demolition, and the market for buildings of this large size to be converted to another usage. Therefore, he did not analyze all of these

conditions in relation to the subject. In addition, he testified that he applied the jurisdictional exception of the Uniform Standards of Professional Appraisal Practice (hereinafter USPAP) regarding an appraisal being undertaken contrary to law or public policy. Specifically in the subject's case, Kelly stated that he was aware that the custom and practice of the assessor's office was to value properties, especially large industrial buildings, at their existing use until the time when that usage changes thereby varying their highest and best use. Therefore, as to this subject property, he noted via a jurisdictional exception his highest and best use development. He also noted in his appraisal that as part of his assignment, appellant's legal counsel had requested that the subject's appraisal be undertaken based upon its existing use.

Further, Kelly was questioned regarding his improved sale comparables and the adjustments applied thereto. He stated that the property rights of all of his sale properties were fee simple. He also indicated that three of his six improved sale properties were located in planned manufacturing districts (hereinafter PMD), while the subject was not. He described a PMD as a city designated zoning district that attempts to keep industrial uses consistent and restrict the number of nonindustrial users; thereby, industrial uses are kept in certain areas with no competing users. In addition, he stated that land in the city of Chicago located in an area not zoned PMD where there is a higher commercial possibility would have a higher value than land located within a PMD. Further, he stated that he chose his improved sale properties available at the time of the appraisal based upon their industrial use and their large building size. As to the sale properties, Kelly responded credibly regarding the background of each sale. He also testified that he did not use two industrial sales of small properties that were purchased by the current taxpayer-appellant and added onto the subject site in May, 2002, and April, 2003 ranging in price from \$21.00 to \$30.00 per square foot, because these were smaller properties in comparison to the subject's extreme size.

On redirect examination, Kelly reiterated that his report was a complete summary appraisal wherein there is minimal detail and limited narrative. As to market demand, he testified that there is a greater demand for industrial space of smaller buildings than larger ones. He indicated that he chose not to include the two sales of smaller parcels which were added to the subject's site in 2002 and 2003 first because of the buildings' smaller size ranging from approximately 15,000 to 50,000 square feet of building area. Secondly, he stated that these purchases were made by an adjoining owner which may call into question the price while causing heavy downward adjustments. Further, he testified that as of this hearing date, the subject site is still used as an industrial warehouse and distribution center.

The board of review timely submitted "Board of Review Notes on Appeal" wherein the subject's final assessment of \$3,308,678 was

disclosed indicating a market value of \$5,058,091 or \$3.54 per square foot applying the ordinance level of assessment at 36% for class 5b property and the ordinance level of assessment at 16% for class 6b property as designated by Cook County Real Property Assessment Classification Ordinance for the 2003 and 2004 tax years.

At hearing, the appellant moved to Strike the board of review's evidence as hearsay due to the absence of preparer's testimony and opportunity for cross-examination. Upon due consideration of the parties' positions, the Board denied appellant's motion to strike ruling that the Board shall accord the appropriate weight to the evidence submissions.

For tax year 2003, the evidence includes a market analysis prepared by Jeffrey Hortsch consisting of a cover memorandum and raw sales data for five suggested comparables represented on CoStar Comps printouts. The sales indicated an unadjusted range from \$1.42 to \$6.87 per square foot. The printouts state that the information reflected thereon was obtained from sources deemed reliable, but not guaranteed.

For tax year 2004, the board of review submitted a market analysis prepared by Jeffrey Hortsch with an effective date of January 1, 2004 and a market value of \$11,425,000. The analysis provided limited data and explanation, while addressing only two of the three traditional approaches to value, the income and sales comparison approaches. The Hortsch analysis indicated that the subject consisted of 771,100 square feet of land improved with several multi-story, buildings comprising 1,428,071 square feet of building area used for industrial purposes. It opined a weighted average age for the subject property of 55 years. Hortsch developed a highest and best use, as vacant, was for development consistent with zoning; *while the highest and best use, as improved, was for continued use as an industrial facility.* Mr. Hortsch was not present to testify regarding either his qualifications or the methodology used in his 2003 analysis or his 2004 analysis.

In the 2003 tax year appeal, the City of Chicago as an intervenor, submitted a summary appraisal report prepared by Gregory J. Hatfield of Hatfield & Associates, who holds the MAI designation as of 1999. At hearing, the intervenor requested that this appraisal be marked for identification purposes as Intervenors' Exhibit #1. The appraisal had an effective date of January 1, 2003 and a market value estimate of \$24,500,000. Hatfield testified that he has been a real estate appraiser for 15 years. He stated that during that time period he had undertaken approximately 900 appraisals of retail, industrial, office structures, or vacant land in the Midwest for varying purposes, such as: mortgage financing, ad valorem tax, condemnation, planning, as well as estate and divorce proceedings. He indicated that of this number, at least 350 appraisals were industrial properties with 95% of these

assignments located within the Chicago Metropolitan area. He noted that of these 350 properties only from 30 to 40 were commercial or industrial properties containing more than 100,000 square feet of building area. The intervenor offered Hatfield as an expert in appraising industrial properties, wherein the appellant objected to Hatfield's lack of sufficient knowledge of ad valorem tax appraisal methodologies to be considered an expert. Under voir dire, Hatfield stated that he had not been employed by the county assessor, board of review, or any similar organization that conducts ad valorem assessments. Asked about the specific and proper methods of valuation for ad valorem tax purposes in Illinois, Hatfield responded that he was aware of the basic requirements. Over the appellant's objections, the Board accepted Hatfield as an expert in the appraisal of industrial properties. Hatfield testified that he was hired by the City of Chicago to prepare complete summary appraisals of the subject for the valuation dates of January 1, 2003 and January 1, 2004.

The 2003 Hatfield appraisal addressed two of the three traditional approaches to value, while opining an estimated market value of \$24,500,000. It stated that the subject's surrounding area was personally inspected by the appraiser. Hatfield testified that he reviewed the subject's exterior and the interior sections open to the general public. He stated that he based the subject's size and description upon the descriptive data in the appellant's appraisal, the subject's property record cards, and public records. At hearing, he also testified that he personally inspected the interior of the subject property on May 20, 2008 involving a thorough walk-through of the site's sections and grounds. Further, he noted that all parts of the subject property were accessible to him.

Hatfield estimated that the subject consisted of 765,805 square feet of land area improved with a complex of industrial buildings and parking lots owner-occupied by the Target Corporation. He estimated that the buildings contained 1,441,924 square feet of building area based upon the assessor's property record cards. He testified that based upon his review, the buildings were of good condition with all new windows and a new roof in 1998 for the multi-story building. In addition, he stated that the buildings were of good overall utility with new roofing on the multi-story building undertaken in 1996.

Hatfield's appraisal indicated that the subject's improvements included a one-story, masonry, garage structure built in 1929 and used to repair trucks for warehouse operations. This building was identified as containing 19,110 square feet of which 10% was used as office space. The dock-area expansion building constructed in 1993 was identified as containing 67,959 square feet with an eastward expansion in 2001 of 7,028 square feet; thereby, totaling 74,987 square feet. He stated that the main, multi-story building contained approximately 79 truck docks and typical ceiling heights ranging from 13 to 14 feet. The appraisal further indicated that this building's multi-story

component and ceiling heights are elements of functional obsolescence compared to modern warehouse facilities.

As to the subject's area, Hatfield's appraisal stated that the subject was sited in a predominantly industrial area on the northwest side of the city of Chicago, while outside of that immediate area are stable, residential properties which may contain a labor pool. He testified that there was a high demand in that area for industrial uses with the added benefit of being in close proximity to two major expressways. The appraisal noted that the subject also benefits from its location within one of Chicago's enterprise zones designated by the city to provide various tax incentives and other benefits to maintain the city's industrial base. Further, the appraisal indicated that according to the CB Richard Ellis Market Index Brief, 1st Quarter, 2003, the overall Chicago industrial market showed a further increase in vacancy up to 9.3% within a one-year time period. In addition, new construction starts in the 1st Quarter were down 17% from the 1st Quarter of 2002. Based upon his experience, Hatfield testified that there was a greater demand for north side industrial properties than on the west or south side of the city due to the neighborhood stability and close proximity to the Kennedy Expressway.

As to the highest and best use analysis, Hatfield testified that the property's highest and best use, as if vacant, was for the development of commercial or industrial use within the existing zoning parameters, *while its highest and best use, as improved, was to the existing use as a long-term warehouse/distribution use with the associated parking lot use.*

The Hatfield appraisal reflected a value under the income approach of \$24,370,000, rounded, and under the sales comparison approach a value of \$24,510,000, rounded. In reconciling these approaches to value, he testified that he placed main reliance on the sales comparison approach because the subject was an owner-occupied property and not an income-producing property to reflect his final value estimate of \$24,500,000 for the subject.

The appraisal indicated that the cost approach was not undertaken due to the advanced age of the subject and the increased depreciation; thereby, this approach was deemed significantly less meaningful in estimating the subject's market value. Without developing a cost approach, Hatfield reviewed five land comparables to estimate the value of the subject's site. The land sales ranged in size from 105,732 to 397,267 square feet and in price from \$7.89 to \$16.03 per square foot. The properties sold from January, 2001, through March, 2003, with only properties #1, #2, #4, and #5 containing the same zoning as the subject property. The appraisal indicated that sales #1 and #5 were purchased as part of an assemblage for a retail development, which may have led to a premium being paid for sale #1. In addition, the appraisal reflected an estimation of a weighted-average price for sale #2 at approximately \$10 per square foot,

rather than the stated sale price of \$14.25 per square foot. Sale #2 was purchased for the development of a Menard's home improvement store. After making adjustments, Hatfield attributed a land value of \$9.00 per square foot to the subject's land size indicating a value of \$6,890,000, rounded. Hatfield's appraisal also indicated that not included within his appraisal was the acquisition by the taxpayer-appellant in April of 2003 of an adjoining parcel to the subject property affording the subject property's expansion of the truck trailer parking lot. This parcel's purchase price was \$325,000 or \$21.40 per square foot of land, which accorded the appellant ownership of an entire city block.

As to the income approach, Hatfield considered six leases on a net basis per square foot reflecting a range of rates from \$1.70 to \$4.50 per square foot of building area. He testified that all of the properties were in the subject's submarket with similar main characteristics. The appraisal reflects that five of the six leases were for multi-tenant space. The properties ranged: in size from 8,840 to 155,000 square feet; in ceiling heights from 12 to 18 feet; and in office spaces from 1% to 15%. Thereby, he estimated a market rent of \$2.10 per square foot on a net basis for the subject's improvement size of 1,441,924 square feet of building area, or \$3,028,040.

The 2003 appraisal indicated that pursuant to market research reflected in CB Richard Ellis, 1st Quarter, 2003, the overall industrial vacancy rate in the City-North submarket was 8.6%. However, Hatfield opined that due to the subject's large size and multi-story component, an above-average rate was appropriate. Less a vacancy and collection loss of 12% indicated an effective gross income of \$2,664,675. Deducting a management fee of 5% and replacement allowance of \$349,523 indicated a net operating income of \$2,315,152.

In developing an overall capitalization rate, Hatfield referred to three investor surveys which reflected a range from 8.84% to 9.54%. Using the band of investment method, Hatfield estimated an overall rate of 9.5%. Applying this rate to the stabilized net operating income produced a value estimate of \$24,370,000, rounded.

Under the sales comparison approach in the 2003 appraisal, Hatfield utilized seven industrial properties, five of which were single-user or owner-occupied properties. They sold from March, 2000, through July, 2003, for prices that ranged from \$2,485,000 to \$5,000,000, or from \$13.26 to \$34.48 per square foot before adjustments. The improvements ranged: in size from 102,207 to 207,372 square feet of building area; in number of stories from one to six; in ceiling heights from 11 to 28 feet; in office space from 1% to 10%; in truck docks from 3 to 12; and in age from 32 to 84 years. The properties range in land size from 39,100 to 272,686 square feet.

As to his 2003 sales comparables, Hatfield testified that his main criterion in selecting improved sale properties was location, age and multi-story component. As to sale #1, he stated that this property was a multi-story industrial loft building in shell condition. Hatfield indicated that the main adjustments were for inferior condition, more advanced overall age, and inferior location. As to sale #2, he stated that this property was located within a close proximity to the subject with a similar age and a multi-story element, while selling less than three years from the valuation date. This property contained 207,000 square feet of building area and sold for \$13.89 per square foot. Adjustments to this property were made for advanced effective age, inferior condition, inferior ceiling heights, higher percentage of ground floor area and higher office percentage. As to sale #3, he stated that this property was located within a two-mile radius of the subject with a similar age and multi-story element selling within two years of the valuation date for \$22.58 per square foot. Adjustments were made to sale #3 for inferior condition, land to building ratio, lower parking ratio, inferior loading amenities, basement amenity and smaller building size. As to sale #4, he stated that this property was similarly situated, of similar age and contained a similar multi-story element, but that the sale consummated seven months after the valuation date for a price of \$13.26 per square foot. Adjustments were made for inferior location, inferior parking amenity, advanced overall age, higher ground floor percentage and its higher office percentage. As to sale #5, he stated that this property was similarly situated and has a similar age in comparison to the subject. However, he stated that he included this property because it provides an indication of the higher per unit value for a one-story property within the subject's same submarket selling seven months prior to the valuation date for \$29.35 per square foot. As to sale #6, he stated that the subject property was adjacent to this parcel on two sides and that this sale property had already been leased for a number of years as a warehouse and distribution warehouse by Marshall Field's or the current taxpayer-appellant. This one-story building sold for \$30.82 per square foot. In addition, Hatfield testified that he did not make any specific adjustments to sale #6 because it was already part of the overall subject's complex. As to sale #7, he stated that this was an older, multi-story loft building located in the city, which sold five months prior to the valuation date for \$34.48 per square foot. Hatfield testified that adjustments were made to this property for location, size, land-to-building ratio, and inferior ceiling heights.

After making narrative adjustments, Hatfield testified that a unit value of \$17.00 per square foot to be appropriate for the subject because this was the central tendency of the comparables' adjusted range; thereby, he estimated a market value for the subject of \$24,510,000, rounded.

In the 2004 tax year appeal, the City of Chicago also submitted a second summary appraisal report prepared by Gregory J. Hatfield.

At hearing, the intervenor requested that this appraisal be marked for identification purposes as Intervenors' Exhibit #2. This 2004 appraisal had an effective date of January 1, 2004 and a market value estimate of \$24,600,000.

The 2004 Hatfield appraisal addressed two of the three traditional approaches to value, while opining an estimated market value of \$24,600,000. This 2004 appraisal reiterated the same subject description, area description as well as highest and best use analysis found in Hatfield's 2003 appraisal.

Hatfield's 2004 appraisal noted two exclusions from his appraisal scope. The first was a May, 2002, purchase of an adjacent parcel to the subject by the taxpayer-appellant for a purchase price of \$3,150,000 or \$30.82 per square foot. This parcel consisting of 117,070 square feet was improved with a one-story, steel-sided warehouse of 102,207 square feet of building area. He noted that although this parcel became part of the subject's complex, it was not part of the 2004 property tax appeal; and therefore, his client requested that it be excluded from the appraisal scope. Nevertheless, Hatfield uses this as his improved sale #6 within the 2004 appraisal of the subject.

Further, this 2004 appraisal noted a second purchase of another adjacent parcel to the subject, which occurred in April, 2003, for a price of \$325,000 or \$21.40 per square foot. This parcel consists of 15,188 square feet, which was used for trailer truck parking expansion and is also not part of the 2004 property tax appeal, but is used by Hatfield as land sale #1. His appraisal stated that to the best of his knowledge, neither of these purchases was publicly offered for sale, under contract, or subject to any purchase option as of the January 1, 2004 date of valuation.

As to the subject's area, Hatfield's 2004 appraisal noted that the subject benefits from its location within one of Chicago's enterprise zones designated by the city to provide various tax incentives and other benefits to maintain the city's industrial base. Further, the appraisal indicated that according to the CB Richard Ellis Market Index Brief, 4th Quarter, 2003, the overall Chicago industrial market was showing signs of improvement after three years of weakening; therefore, vacancy rates were down slightly from 9.1% in the 1st Quarter to 9.0% in the 4th Quarter.

The Hatfield 2004 appraisal reflected a value under the income approach of \$25,030,000, rounded, and under the sales comparison approach a value of \$24,510,000, rounded. In reconciling these approaches to value, he placed main reliance on the sales comparison approach to reflect his final value estimate of \$24,600,000 for the subject.

Nevertheless, Hatfield estimated the 2004 land value of the subject using six land comparables to estimate the value of the subject's site, which comprised one different suggested property than the 2003 land sale properties. The six land sales ranged in size from 105,732 to 507,910 square feet and in price from \$8.51

to \$21.40 per square foot. The properties sold from November, 2002, through January, 2004, with the same zoning as the subject property with the exception of sale #5. The 2004 appraisal indicated that sales #2 and #4 were purchased for development of a single-tenant, commercial retail building, while sale #5 was purchased to construct a multi-tenant, produce distribution facility. After making adjustments, Hatfield attributed a land value of \$10.00 per square foot to the subject's land size indicating a value of \$7,660,000, rounded.

As to the income approach, Hatfield considered six leases on a net basis per square foot reflecting a range of rental rates from \$1.46 to \$3.87 per square foot. Three of these leases were for multi-tenant space. He testified that the rental comparables were basically the same as those in his 2003 appraisal, with the exception of two new properties: rental #2 and #6. In total, the properties ranged in size from 8,840 to 483,107 square feet and in ceiling heights from 12 to 27 feet. Thereby, he estimated the same market rent of \$2.10 per square foot on a net basis as in the 2003 appraisal for the subject's improvement size of 1,441,924 square feet of building area.

The 2004 appraisal indicated that pursuant to market research reflected in CB Richard Ellis, 4th Quarter, 2003, the overall industrial vacancy rate in the City-North submarket was 8.5%. However, Hatfield opined that due to the subject's large size and multi-story component, an above-average rate was appropriate. Less a vacancy and collection loss of 12% indicated an effective gross income of \$2,664,675. Deducting a management fee of 5% and replacement allowance of \$349,523 indicated a net operating income of \$2,315,152.

In developing an overall capitalization rate, Hatfield testified that he selected a different rate than employed in his 2003 appraisal. He referred to four investor surveys which reflected an average range from 8.45% to 9.5%. Using the band of investment method, Hatfield estimated an overall rate of 9.25%. He stated that the surveys reflected that capitalization rates were declining over the course of 2003. Applying this rate to the stabilized net operating income produced a 2004 value estimate of \$25,030,000, rounded.

Under the 2004 sales comparison approach, Hatfield utilized seven industrial properties, four of which were single-user or owner-occupied properties. They sold from March, 2000, through July, 2003, for prices that ranged from \$1,860,000 to \$5,000,000, or from \$13.26 to \$34.48 per square foot before adjustments. The improvements ranged: in size from 102,207 to 207,372 square feet of building area; in number of stories from one to six; in ceiling heights from 11 to 28 feet; in truck docks from 3 to 12; and in age from 32 to 84 years. The properties range in land size from 39,100 to 272,686 square feet. Five of the properties contained office space ranging from 1% to 10%.

Hatfield testified that six of the seven 2004 sale properties were also utilized in his 2003 appraisal of the subject. He indicated that sale #3 was the new comparable property located on the northwest side of the city with a multi-story building of advanced age, which sold for \$15.76 per square foot. He indicated that adjustments were made to this property for an advanced effective age, inferior condition, and inferior location.

After making narrative adjustments, Hatfield testified that a unit value of \$17.00 per square foot to be appropriate for the subject because this was the central tendency of the comparables' adjusted range; thereby, he estimated a market value for the subject of \$24,510,000, rounded. In reconciling the two approaches to value in the 2004 appraisal, Hatfield testified that he accorded primary weight to the sales comparison approach to value reflecting a final value estimate at \$24,600,000.

Under cross-examination of both the 2003 and 2004 appraisals, Hatfield testified that he has appraised only one other industrial property containing over 1,000,000 square feet besides this subject property. He indicated that his experience is generally with smaller properties because he characterized the subject as unusually large and in a select category, while stating that any property containing over 100,000 square feet is considered a significant building. He confirmed that there had been some discussion amongst him and the city's attorneys regarding the legal requirements of an ad valorem appraisal and property valuation in its current use versus an alternative use when said use is imminent. As to the subject, Hatfield indicated that he valued the subject's multiple buildings in the complex as a whole instead of each building, individually, while also being aware four of the subject's parcels include a partial application of a county class 6-B classification, thereon. He indicated that the subject was purchased by Marshall Field's in 1965 and since that time it has been used as a warehouse distribution center, which was also Hatfield's highest and best use as improved reflected in both of his appraisals.

As to Hatfield's 2003 land sales, he stated that: sale #1 was purchased as part of an assemblage for retail development and that a premium may have been paid for the property due to the assemblage circumstances; sale #2 was also purchased for a change in use regardless of the fact that a sizeable industrial building was on the property; and sale #4 encompassing one-third of an acre was purchased by an adjacent owner as an improved property with the building subsequently demolished and the property used as a parking lot for the buyer's industrial complex. As to Hatfield's rental comparables, he credibly testified as to the varying components of these properties including the significantly smaller rental size, differing building style, multi-tenant usage, and varying often inferior locations.

As to his overall capitalization rates, Hatfield testified that the Integra survey related to some market participants in

Illinois, while the two remaining surveys related to market data on a national basis. However, he could not indicate either the amount of market participants polled within the Chicago area or the building size and storied component of the properties used in the surveys.

As to Hatfield's 2003 improved sales, he testified that optimally sales comparables should reflect the extremely large size of this subject property at approximately 1,500,000 square feet; however, he stated that with a unique property as is the subject you look for the best available data. He indicated that he concluded a blended rate for the subject given that the majority of the building area was in a multi-story structure, while smaller areas were included in younger, one-story buildings. In addition, he stated that he gave significantly more weight to the older, multi-story lofts, which were the focus of his sales comparison approach understanding that 90% of the subject was built from the 1920's to the 1950's as a multi-story structure. However, he noted that he felt it important to reflect one-story or two-story, smaller properties as well.

As to the 2003 appraisal's improved sales, he testified that: sale #1 contained a significantly smaller, multi-tenant building on a smaller site; sale #2 was a non-traditional, sale-leaseback transaction, which offered multi-tenant occupancy in 2003 after this sale; sale #3 was a two-story loft building containing 171,000 square feet of building area, which was used as a storage facility after the sale; sale #4 related to a part one-story and part two-story, industrial building containing 207,000 square feet of building area with 88% of said building area located on its first floor and 157,000 square feet leased to industrial multi-tenants, while the buildings were of inferior condition sited in an inferior location; sale #5 comprises a one-story building containing 126,000 square feet; sale #6 related to a one-story building containing 102,000 square feet which was purchased by the owner of an adjacent parcel, specifically the taxpayer-appellant in this proceeding; and lastly, sale #7 related to two connected, multi-tenant loft buildings as well as an attached industrial facility containing 145,000 square feet of total building area.

As to the 2004 appraisal's improved sales, Hatfield testified that only sale #3 was different from his prior appraisal's improved sales. He stated this sale #3 related to a part one-story and part four-story building containing 118,000 square feet of building with 52% of this area concentrated on the first floor. Overall, he indicated that the cumulative building size of all of his improved sale comparables' building area totaled 1,071,179 square feet of building area, which would be less than the subject's total building area of 1,441,924 square feet. Moreover, he stated that there was an inverse correlation between the size of the property's building and the unadjusted price per square foot, wherein as the building's size increases that the price per square foot would decrease.

Overall, Hatfield testified that his 2003 and 2004 improved sales all contained over 100,000 square feet of building area, but that none were over 1,000,000 square feet for he was unaware of any such appropriate sale properties.

In reconciling the two approaches to value, Hatfield testified that he accorded primary weight to the sales comparison approach to value. He indicated that secondary weight was accorded the income approach to value, while asserting that market participants do not rely on the cost approach in valuations of properties such as the subject due to its high degree of functional obsolescence in the structure's age and increased depreciation.

Moreover, in the 2004 tax year appeal, the Chicago Board of Education as intervenor submitted a summary appraisal report prepared by Susan A. Enright of Appraisal Associates Inc., who holds the MAI designation. The appraisal had an effective date of January 1, 2004 and a market value estimate of \$21,000,000.

At hearing, the appellant moved to Strike the Intervenor's Evidence as hearsay due to the absence of this preparer, Enright, to provide testimony and be cross-examined. Upon due consideration of the parties' positions, the Board denied appellant's motion to strike ruling that the Board shall accord the appropriate weight to the evidence submission.

The Enright appraisal addressed two of the three traditional approaches to value: the income and sales comparison approaches. However, as previously noted, Ms. Enright was not present to testify regarding either her qualifications or the methodology used in her 2004 appraisal.

Furthermore, in the 2003 appeal, the Chicago Board of Education submitted two technical review reports of the appellant's evidence, which was the REAC appraisal undertaken by Kelly. The first review report was undertaken by Kathleen M. Dart, MAI, for Midwest Appraisal Company.

Despite the intervenor's earlier disclosure that Dart would be called upon to testify, the intervenor did not call Dart as a witness on day #2 of this matter's hearing. At the commencement of proceedings on day #2 of hearing, this intervenor officially withdrew Dart as a prospective witness while expressly asserting that the testimony would have been duplicative. Therefore, appellant's attorney moved to Strike the Dart evidence submission and requested sanctions against both intervenors, City of Chicago and Chicago Board of Education, for failing to call Dart as a witness. With due consideration of the parties' positions, the Board denied appellant's motion to strike the Dart evidence and took the appellant's request for sanctions against both intervenors under advisement. The PTAB hereby denies appellant's motion to strike and request for sanctions with the PTAB according the appropriate weight to the Dart evidence.

In addition, the City of Chicago moved for a Directed Verdict asserting that there was a lack of evidence for the January 1, 2004 valuation date beyond the intervenor's evidence, which was the Hatfield second appraisal reflecting a valuation date of January 1, 2004. Upon due consideration of the parties' positions, the Board denied the intervenor's motion for a directed verdict.

Also submitted in the 2003 tax appeal year by the intervenor, Chicago Board of Education was a second appraisal review report of the appellant's REAC evidence. This second technical appraisal review was undertaken by Brian F. Aronson, MAI, with Aronson & Associates. Aronson was called to testify regarding his technical review. He stated that he has been in private appraisal practice and real estate consulting service. He testified that he holds a Certified General Real Estate Appraisal license as well as the MAI designation from the Appraisal Institute, the latter of which he has held for approximately 10 years. He stated that he has appraised from 800 to 1,000 assorted properties within the Midwest area during that time period, while undertaking from 300 to 500 of these appraisals, individually. His appraisals are for varying purposes including but not limited to mortgage financing, estate matters, marriage dissolution, eminent domain and real estate tax matters. Further, he stated that he has completed approximately 30 to 40 appraisal reviews. Aronson was offered as an expert in appraisal and review of appraisals for industrial sites. Without objections from the parties, the Board accepted Aronson as an expert in the field of real estate appraisal.

Aronson's report reflected that a value estimate was beyond the scope of his assignment. However, it stated that on January 12, 2006 he undertook a partial exterior inspection of the subject as part of the scope of his assignment. At hearing, Aronson testified that this inspection of the subject property consisted of driving along the property's perimeter and viewing available interior areas. However, upon cross-examination, he admitted that he had only been in the parking lot and had never been inside the subject property's improvement.

In summary, the Aronson report reviewing the appellant's REAC appraisal opined that: the REAC appraisal employed erroneous methodology in developing a market-derived highest and best use; the REAC appraisal included four signatories without a breakdown of professional involvement within the appraisal; the REAC appraisal's inappropriate methodology resulted in an unreliable cost approach; and the REAC appraisal did not segregate a vacancy and collection loss as well as applying a cumulative expense deduction resulting in a flawed income approach. In addition, Aronson's report critiqued Kelly's adjustments to the improved sale comparables. In conclusion, Aronson's report stated that the REAC appraisal contained technical deficiencies and Aronson considered it to be incomplete or unreliable.

As to highest and best use, Aronson testified that this determination is made via analysis of market trends and market transactions that have a similar highest and best use in comparison to the property being appraised. On this point, Aronson cited several portions of the REAC appraisal wherein Kelly disclosed that the subject's owner requested that the subject be appraised based upon its current use as an industrial building. Further on this point, Aronson was asked questions regarding Intervenor's Exhibit #B, which is a three-page document of copies from the *The Appraisal of Real Estate*, 12th Edition. He read portions of this exhibit into the record:

. . .Through highest and best use analysis, the appraiser interprets the market forces that affect the subject property and identifies the use or uses on which the final opinion of value is based. . .Analyzing the highest and best use of the land as though vacant helps the appraiser identify comparable properties. Whenever possible, the property being appraised should be compared with similar properties that have been sold recently in the same market. Potentially comparable properties that do not have the same highest and best use are usually eliminated from further analysis. Estimating the land's highest and best use as though vacant is a necessary part of deriving an opinion of land value. . .

Based upon this particular citation, Aronson opined that the REAC appraisal was contradictory on this point by enumerating another highest and best use, while not appraising the property at said use thereby failing to interpret market trends.

As to Kelly's land value development, Aronson stated that some of the vacant land sales were located within a PMD and lack the same highest and best use in comparison to the subject's zoning of industrial or commercial use. As to Kelly's income approach, Aronson testified that Kelly failed to include ancillary data, even though, indicating that Kelly's analysis was appropriate appraisal methodology as indicated in the 12th Edition of the *Appraisal of Real Estate*. As to Kelly's sales approach, Aronson indicated that the sales were older in sale date or varying usage; therefore, he opined that Kelly's sales approach was not reliable.

At the conclusion of Aronson's direct examination, appellant's attorney renewed and amended its prior Motion for Sanctions, which the Board previously took under advisement. Appellant asserted that both intervenors disclosed Ms. Dart as a prospective witness having both previously tendered and/or adopted Dart's review report. Upon appellant's review of the Aronson and Dart report, he noted that the reports are two separate and distinct reports with different conclusions as opposed to the intervenor's prior characterization that the

reports were duplicative. The PTAB denied appellant's reiterated request for sanctions.

Under cross examination, Aronson testified that location is one of the main criteria in choosing rental and sales comparables as well as improvement size, while sale date of a unique property permits the appraiser to go back further in time. However, he opined that using evidence with a value date of January 1, 2003 is not credible for a January 1, 2004 valuation date. He also stated that he was not privy to Kelly's testimony on the REAC appraisal of the prior hearing day. Aronson evasively testified that having been familiar with the appraisal methodology for an ad valorem tax purposes that whether a property contained a leasehold would be property specific and that a prudent appraiser would look to related legal counsel for any case law or jurisdictional exception as to further action. Moreover, he defined a jurisdictional exception as allowing an appraiser to preclude or exclude otherwise appropriate appraisal methodology if it was a matter of law or common practice. Aronson reluctantly stated that in any hypothetical deviation from appraisal methodology, a prudent appraiser would cite the case law or common practice to give the appraiser a level of comfort. Further, he grudgingly admitted that an income approach to value for an extremely large, very old, outmoded industrial building would have less emphasis in reconciling a value. He also confirmed his prior testimony that if a very large property is unique, an appraiser may be required to go further back in time and use sale properties that maybe a little dated if there is no other pertinent data.

Aronson having testified to the county assessor's definition of a 'letter' property and its applicability to the subject responded that this was not within the purpose of his review report. He was then questioned regarding Appellant's Exhibit #2. This document included three copies of printouts from the Cook County Assessor's Database relating to three of the subject's multiple parcels. After an objection from the remaining parties which was sustained by the PTAB, the appellant's attorney made an offer of proof regarding a statement reflected on this exhibit, indicating that these subject parcels had a unique status accorded by the county assessor and that the assessment values were not displayed; and therefore, not available for inclusion at the time the REAC appraisal was undertaken. Furthermore, regarding how many large industrial properties containing over 1,000,000 square feet of building area were included in the published market surveys, Aronson responded that he was unaware of the contents, therein.

As to the subject's area, Aronson stated that the properties surrounding the subject were both industrial and single-family residential uses. He also stated that the REAC appraisal readily and repeatedly disclosed that the highest and best use analysis for the subject property was based upon its current use. Moreover, he opined that for ad valorem tax purposes it would be appropriate to value a property on its highest and best use

meeting all criteria regardless of the property's current use. As to additional questions regarding Intervenor's Exhibit #B, Aronson was referred to several passages therein, which stated that:

. . . Land value must always be considered in terms of highest and best use. . . in some circumstances the appraisal of a property may require that the land be considered in terms of a use other than its highest and best use. . .

Under examination by the PTAB hearing officer, Aronson testified as to the USPAP definitions of complete appraisal and summary report. The latter of which he defined as would summarize pertinent information regarding the property that is being appraised, market data considered, and the analysis of the market data that was considered. Furthermore, he stated multi-tenant buildings could be compared to owner-occupied buildings depending on the availability of other market data for the property being appraised.

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

When overvaluation is the basis of the appeal, the value of the property must be proved by a preponderance of the evidence. 86 *Ill.Admin.Code 1910.63(e)*. Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 *Ill.Admin.Code 1910.65(c)*.

Having considered the evidence presented, the PTAB finds that the sales data in the record demonstrates that a reduction in the assessment is warranted for the assessment years at issue.

Within these appeals, various evidentiary submissions were made as well as testimony of numerous experts in the field of real estate appraisal. These experts either expounded on their work product or were called upon to rebut and review the validity and reasonableness of other evidence submitted by the parties.

In determining the fair market value of the subject property for tax years 2003 and 2004, the PTAB closely examined the REAC and Hatfield appraisals and Aronson's review appraisal report. The PTAB accords little weight to the board of review's Horstch evidence submission, the intervenor's Enright appraisal, as well as the intervenor's Dart review appraisal due to the failure of the parties to present the preparer for testimony and cross-examination concerning his/her qualifications, the methodology regarding data used therein, and his/her conclusions. The PTAB then looks to the remaining appraisal evidence that comprises the Kelly appraisal and testimony submitted by the appellant as well as the 2003 and 2004 Hatfield appraisals and testimony submitted

by the intervenor. This appraisal evidence is augmented by the appraisal review and testimony of Aronson submitted by the intervenors.

In determining the subject's market value and correct assessment, the PTAB finds there are basic principles of valuation that form the foundation for the concepts of market value and highest and best use. The development of a highest and best use for the subject property is the cornerstone from where market value may be determined. In these appeals, the PTAB finds both Kelly and Hatfield valued the subject property based upon the existing use of the subject being the highest and best use of the property. Further, the PTAB finds that the Hortsch analysis submitted by the board of review also stated that the subject's highest and best use, as improved, was for continued use as an industrial facility.

As to the remaining appraisal components of market valuation, the PTAB found that the intervenors' evidence reflected in the Hatfield 2003 and 2004 appraisals less than persuasive due to: the appraiser's distinct lack of experience in appraising uniquely large, commercial and/or industrial properties; the inappropriate and/or unexplained data on suggested comparables; the usage of inappropriate rental or improved sale comparables wherein many were multi-tenant properties; and the varying property rights related to his improved sale comparables.

In looking to the three traditional approaches to value, both appraisal experts, Kelly and Hatfield, opined that the cost approach was less than applicable to a uniquely large and aged complex of structures with increased functional obsolescence. Further, these experts accorded secondary emphasis to the income approach to value wherein the speculative nature of locating rental comparables for such an owner-occupied, aged, multi-storied, industrial complex with multiple buildings totaling approximately 1,500,000 square feet of building area diminished reliance on this approach. In support of this position, Kelly testified that multi-story buildings in the industrial market, similar to the subject, are considered nonfunctional. He stated that modern warehouse buildings are currently all one-story structures of high ceiling heights as well as containing significant amounts of off-site parking to accommodate truck maneuvering. The difficulty in locating appropriate rental comparables is further supported in the Hatfield appraisals wherein the vast majority of his rental comparables located in the subject's submarket contained leases for multi-tenant building space. Moreover, these appraisal experts confirmed a distinct lack of market data on capitalization rates for the subject property. Kelly testified that lower overall rates in the market generally apply to newer and smaller industrial properties that entail less risk in ownership than older and larger industrial properties, like the subject. While Hatfield also opined that due to the subject's large size and multi-storied component, an above-average rate was appropriate.

In addition, the courts have stated that where there is credible evidence of comparables sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App. 3d 207 (2nd Dist. 1979). The Court further held that significant relevance should not be placed on the cost approach or the income approach especially when there is market data available. Id. Moreover, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989), the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach. In the present property tax appeals, the sales comparison approach was accorded the most weight by the appellant's and the intervenors' appraisers; therefore, the PTAB will also accord this approach and the sales data provided therein the most weight.

The PTAB finds that the REAC improved sale comparables' data to be most relevant and similar to this uniquely large, multi-storied, industrial, subject property. These six comparables consisted of multi-story, industrial complexes containing more than one building, therein. The six comparables sold from March, 1997, through August, 2004, for prices that ranged from \$0.62 to \$5.46 per square foot. Specifically, the PTAB found three of these six comparables most relevant, containing building areas in a range from 1,255,510 to 2,100,000 square feet. These three properties sold from March, 1997, through August, 2004, for prices that ranged from \$0.62 to \$1.05 per square foot of building area. They ranged in age from 58 to 79 years and in ceiling heights from 11 to 14 feet. The PTAB further finds that the subject property's unique size would exceed its immediate environment and include a city-wide area for market comparables. These sale comparables are further supported by Hatfield's testimony that there is an inverse correlation between the size of a property's building and the unadjusted price per square foot, wherein as the building's size increases the price per square foot decreases.

In further support of these sale comparables, Aronson testified that location is one of the main criteria in choosing comparables as well as improvement size, while sale date of a unique property permits an appraiser to go back further in time. Moreover, Dart's review report of the REAC appraisal indicated that even though three of the sale comparables were smaller in size, sales of large, multi-storied industrial buildings within the city of Chicago are limited. These six comparables sold from March, 1997, to August, 2004, for prices that ranged from \$0.62 to \$5.46 per square foot of building area including land value.

In contrast, the PTAB finds that even though several of Hatfield's sale comparables contained a more recent sale date, only three of the seven comparables were single-user and/or owner-occupied properties. In addition, sale #6 contained different property rights, as a leased fee sale. Moreover, sale #1 and #3 in the 2004 appraisal not only contained significantly

smaller improvement sizes, but distinctly varied in style wherein from 52% to 88% of the total improvement square footage was located on the building's first floor. In summary, the PTAB accorded diminished weight to these comparable sales due to: drastically smaller land and building square footage; varying ceiling heights; fewer numbers of truck docks; and the absence of a multi-storied component.

The intervenors assert that two related sales of smaller-sized properties ranging in price from \$21.00 to \$30.00 per square foot located either adjacent to or surrounded by the on-going concerns of the taxpayer-appellant are reflective of market value. However, this record is devoid of evidence or testimony indicating that these sale prices were the result of an arm's length transaction. On the contrary, there was evidence that the sales were not advertised on the open market. In addition, there was testimony that one of these sales contained leased fee property rights and not fee simple property rights; thereby, diminishing its relevance. Reviewing the limited data in this record relating to the proximity of and the current use of these small, adjacent properties; the relationship of the buyer and seller; as well as the absence of other circumstances surrounding the two sales, diminishes the reliability of the sale prices, which may have been set at a premium to the buyer-neighbor. Therefore, the PTAB finds the intervenors' argument that the subject's assessment should be increased, as unpersuasive and unsupported.

The PTAB finds that the sale comparables' data submitted in the REAC appraisal reflect an unadjusted range of values from \$0.62 to \$5.46 per square foot of building area. After making adjustments to these comparables with greater reliance upon comparables #1 through #3, the PTAB finds that the subject's market value is \$4,280,000 or \$3.00 per square foot.

On the basis of this analysis, the Property Tax Appeal Board finds that the subject's fair market value for tax years 2003 through 2004 is not supported by the evidence and that a reduction is warranted.

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

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario Morris

Member

Shawn R. Lerbis

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: August 20, 2010

Allen Castrovillari

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

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

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

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