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

APPELLANT: May Department Store Co.
DOCKET NO.: 04-21604.001-C-3 through 04-21604.004-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are May Department Store Co., the appellant, by attorney Gregory J. Lafakis, of Verros, Lafakis & Berkshire, P.C. in Chicago; the Cook County Board of Review.

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
04-21604.001-C-3	10-09-411-075-0000	1,200,000	308,330	$1,508,330
04-21604.002-C-3	10-09-411-080-0000	3,988,005	3,853,998	$7,842,003
04-21604.003-C-3	10-09-411-083-0000	14,000	2,895	$16,895
04-21604.004-C-3	10-09-411-084-0000	17,900	3,872	$21,772

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of four land parcels containing 1,086,730 square feet or 24.95 acres of land improved with two structures. The main structure is a part one-story and part three-story, commercial building of masonry construction used as an anchor department store within a super-regional mall. This single-tenant, retail department store contains 429,949 square feet of building area. The second structure is a three-story parking garage containing 234,000 square feet of building area. The subject's structures are located in a shopping mall containing 1,814,000 square feet of building area.

The PTAB found that the tax appeal years 2004, 2005 and 2006 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 2004, 2005 and 2006 property tax appeals for hearing purposes, solely.

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, Indiana, and Michigan. He stated that he has been an appraiser for approximately 34 years, which entailed over 10,000 appraisals of which over 500 appraisals have related to various retail and/or commercial properties. In addition, he testified that he has studied anchor department stores and has spoken at different industry organizations on the valuation of anchor department stores, including the International Association of Assessing Officers as well as being the co-author of a section on appraisal theory including a section on valuing anchor department stores for the Illinois Continuing Legal Education.

Further, Kelly testified 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 100 anchor department stores associated with regional malls. Kelly was offered as an expert in the valuation of anchor department stores as well as an expert in the valuation of real estate such as the subject. After additional voir dire by the appellant's attorney and the hearing officer, Kelly was accepted as an expert by the PTAB over the objection of the board of review.

The Kelly appraisal was a complete, summary appraisal addressing the three traditional approaches to value, while opining an estimated market value of $24,700,000. This timely submitted appraisal was marked for the record as Appellant's Hearing 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, 2004.

Further, Kelly indicated that the scope of his appraisal was to determine the value of the subject based upon its existing use as a commercial building located within a regional mall. Thereby, Kelly's appraisal indicated that the subject was valued on an analysis of rental and sales data that pertains to anchor department stores located in regional malls. Because of these factors and the scarcity of such data relating to anchor department stores, the appraisal indicated the necessity to expand the geographic area from which the market data could be drawn. The appraisal states that these properties compete on a national basis and their rental rates and unit sale prices show a relatively consistent pattern that is primarily controlled by the buyer and seller's expectation of what retail sales will be for that store on a stabilized basis. While considering other typical characteristics, retail sales per square foot is a measure that encompasses several economic factors. The appraisal also indicated that the analysis and comparison of unit sale prices from a national geographic market is made manageable and reliable by using retail sales per square foot as a primary unit of comparison.

As to a retail market analysis, Kelly's appraisal detailed various types of retail shopping centers. The appraisal stated that during the 1970's and 1980's, super-regional shopping centers became one of the most sought after property types by institutional investors. The economic justification for these sale prices was centered on the assumption of mall tenant sales increasing at average rates of 4% to 8% per year. In addition, the appraisal indicated that rental rates at super regional shopping centers are based on a percentage of tenant sales, while the anticipated level of tenant sales is the critical factor in valuing a super regional shopping center.

Kelly's appraisal also explained retailing trends indicating that these revolve around the consumer's pursuit of lower prices, better quality goods, great service and improved convenience. Specifically, the appraisal indicated that the pursuit of the consumer's retail dollar has promoted the growth of various retailers, such as: discount retailers which caused the demise and restructuring of traditional mass merchandise department stores thereby dominating the retail field with strong sales growth; off price retailers which purchase overstock, discontinued items or canceled orders from department stores and specialty retailers thereby offering steep discounts; category killers which specialize in focusing their sales efforts on a single merchandise type thereby purchasing their goods in massive quantities at a discount prices while passing the savings to consumers; power centers which are a type of super community shopping center containing one anchor of a discount store or warehouse club as well as multiple off-price stores or small tenant stores thereby gaining a market share with developers; warehouse clubs which are very large, semi-finished big box stores which sell a wide variety of goods and clothing allowing consumers to buy goods in bulk at steep discounts; and lifestyle centers which offer shoppers convenience with a retail tenant mix and movie theaters commonly located in high-income areas. In reconciling all of the retail trends, the appraisal stated that the retail market will continue to experience significant changes as competition increases and the once powerful position enjoyed by super regional shopping centers will be challenged by various other retail offerings identified herein.

As to the subject property, Kelly testified that his staff appraiser inspected the subject property on October 26, 2004 including the interior and exterior of the subject, while the subject's land area was obtained from the assessor's records as well as reference to Sidwell maps. He also indicated that he had personally inspected the property when he initially appraised it in April of 1985 and again in 1998, while also reinspecting the property a week prior to this hearing date. Moreover, Kelly testified that the subject was located within a super-regional, open-air, shopping mall with a total of five anchor department stores therein totaling approximately 1,000,000 square feet of anchor space, inclusive of the subject. He stated that in addition there was another 765,000 square feet of smaller, in-line stores for a total mall size of about 1,800,000 square feet.

Kelly described the subject's site as containing 1,086,730 square feet of land consisting of irregularly shaped, non-contiguous land parcels located within a regional shopping center located in Skokie, Illinois. The subject is improved with a part one-story, and part three-story, anchor department store including basement area. The building contains 429,949 square feet of area and was constructed in 1955 with an addition completed in 1965. He indicated that the average age of the subject was 47 years, but that the subject was completely renovated in 1995; thereby, he opined that the effective age of the subject was 25 years due to this renovation. Moreover, he testified that there was approximately 650,000 square feet of asphalt paving used for parking and driveway areas on the subject. Kelly noted that the anchor store also contains 12,850 square feet of mezzanine area used to store inventory which was not included in the building's total square footage. The building includes four escalators, two freight elevators, four passenger elevators, and four truck bays in the dock area. The appraisers opined that the building was adequately maintained and was in good condition.

Further, Kelly testified that there were two parking garages to the west and east of the anchor department store, which he described as support buildings. He explained that both are effectively used as common area for the whole mall, but that one of the garages which he believed to be attributed to the mall was in fact located on one of the subject's four land parcels and was treated by the appraisers as a yard improvement. He stated that there is no way to determine to what extent a public-access garage used by anyone visiting the subject's mall and is tantamount to becoming a common element, such as this one, could contribute to the retail sales of the anchor department store.

Therefore, he concluded that the inclusion of another parking garage in the valuation of this subject would not significantly change his final opinion of value via the cost approach, for his valuation conclusion for the subject is predicated on the income and sales comparison approaches. Nevertheless, he stated that the initial garage had already been included in the development of his cost approach for this subject. This particular improvement on the subject property is a three-level, parking garage containing approximately 234,000 square feet as well as a 4,000 lb. capacity passenger elevator.

As to the subject, Kelly testified that as of the effective date of this appraisal, January 1, 2004, that there was no sales history during the time period required by the Uniform Standards of Professional Appraisal Practice (USPAP). He stated that the subject's chain was sold in August of 2004. He indicated that the later transfer was not relevant to the subject property's valuation. He elaborated that the subject's entire chain, Marshall Field's, was sold for a total gross price of approximately $3,000,000,000. He indicated that included in that sale price was approximately 60 stores, 3 warehouses, inventory, accounts receivables, and goodwill. Kelly testified that the chain could only allocate a price to each particular location; and therefore, he would place little weight on those types of allocated prices.

As to the highest and best use analysis, Kelly testified that the subject's highest and best use as vacant and available would be for the development of a large anchor department store similar to its existing use and in conformity with zoning. The subject's highest and best use as improved was the existing use of the property. He stated that the most probable buyer for the subject's location would be another major national retailer, which would develop the subject as an anchor department store.

In developing the subject's useful life, Kelly stated that the actual age of the subject was 47 years even though the current useful life of a similar commercial property is 40 years. The appraisal stated that occupants of a larger single-tenant store are conscious of property image and design as it influences consumers. In addition, the appraisal indicated that the highly competitive nature of the retail industry requires that the property's useful life reflect the time period during which the structure remains useful as a merchandising tool; thereby, retail properties require continual maintenance and redecoration. Moreover, the useful life of a commercial property similar to the subject reflects the emergence of increased competition between companies selling the same type of goods, where this trend creates a shift from traditional retailing techniques. Therefore, the subject's useful life was estimated at 40 years with an effective age of 25 years and a remaining useful life of 15 years.

Kelly indicated that his appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of $24,190,000, rounded; the income approach reflected a value of $25,705,000, rounded; and the sales comparison approach indicated a value of $23,650,000, rounded. In reconciling these approaches to value, Kelly placed substantial emphasis on the income and sales comparison approaches with moderate consideration to the cost approach to reflect his final value of $24,700,000 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 five suggested land sales of local sites that ranged in size from 76,349 to 620,006 square feet and in price from $7.00 to $21.06 per square foot. These properties sold from December, 2001, through October, 2003. However, he stated that none of these sites are to be developed with an anchor department store in a regional mall. Therefore, he indicated he also considered using the typical ground rent for an anchor, which was explained in his appraisal.

Kelly's appraisal stated that developers have been paying higher land prices for entire shopping center sites; however, the mall portion generates a higher land value per square foot than the average price paid for the entire site because of their higher rent level. The anchor store portion generates a lower land value per square foot than the average for the entire site because of the economic limits on rent levels for anchor stores and their negotiating leverage on the developer. The appraisal indicated that in some cases, the entire site is purchased and the developer then sells or rents the anchor sites for less than the average price or value of the entire center site. As a result, the appraisal stated that when valuing the anchor portion only of an entire shopping center it should be noted that it will have a lower square foot contribution to the value of the entire shopping center site than that of the mall portion and the average for the entire center. In addition, the appraisal explained that there were no available sales transactions for sites developed only with an anchor store as part of a shopping center in the subject's immediate area. These sales would show the differential in the land price per square foot between the anchor portion and the mall portion. Nevertheless, Kelly stated that ground leases for anchor store sites are typically executed at approximately 1% of store retail sales.

In Kelly's income approach, the subject's retail sales were analyzed and stabilized at $245.00 per square foot. This yields total sales of $105,337,505 as well as an indicated ground rent of sales at $1,053,375 for the subject. Kelly stated that he capitalized the ground rent at approximately 9% reflecting a capitalized value for the subject of $11,704,167 or $10.77 per square foot. In comparison, the aforementioned suggested sale transactions of local commercial sites contained a range of sale prices from $7.00 to $21.06 per square foot. Therefore, Kelly stated that he estimated a unit value for the subject's land site at $12.00 per square foot or $13,040,000, rounded. In addition, he expounded on the methodology and rationale used herein.

Using the 2004 Edition of the Means Cost Manual as well as the Marshall and Swift Valuation Service, Kelly estimated a replacement cost new of both structures on the subject as follows: $75.00 per square foot of the department store building and approximately $32.00 per square foot for the parking garage. In addition, the following costs from the Marshall and Swift

Valuation Service were added to the cost of the subject, such as a price for the mezzanine of approximately $20.00 per square foot and the price of asphalt paving was $1.50 per square foot. Therefore, the total replacement cost new was estimated at $44,595,000, rounded.

Thereafter, Kelly stated that he determined the total amount of depreciation present at the subject by utilizing two methods: the abstraction of total depreciation from comparable sale properties and abstraction of total depreciation based on required return on local land value and cost new. In the first method, he stabilized the retail sales of each of the six sale properties and multiplied by 1% to obtain the indicated ground rent, which was then capitalized at 9% to indicate the contributory value of the land. This land value was subtracted from the total sale price and the remainder was the residual of the sale price attributable to the improvements. The appraisers then estimated the replacement cost new for each sale properties' improvements and deducted the building residual sale price from the estimated replacement cost of the improvements to obtain an estimate of total accrued depreciation for each sale property. The appraisers then divided the accrued depreciation by the replacement cost new for an indication of the total percentage of depreciation from all causes, which was then reduced by dividing the respective ages into the total accrued depreciation percentage to arrive at an annual rate of depreciation. Each step of these calculations was reflected on a detailed chart within the subject's appraisal. Under this method, the appraisers estimated total depreciation as 63% plus obsolescence of 15% resulting in a total depreciation of 78%.

In the second method, Kelly stated that total depreciation was abstracted based on the subject's ability to generate net rent. The appraisal indicated that to economically justify the replacement cost, a property must provide income sufficient for an acceptable rate of return on the land and a return on and of the improvements. The appraisal stated that the rate of return necessary for the subject's real estate was 10.5% which was developed in the income approach to value. A detailed chart reflecting the development of the subject's land value, physical depreciation, market required rate of return, deficient income and total obsolescence was included within this appraisal. Thereafter, the subject's obsolescence of $3,835,343 was added to the physical depreciation for a total depreciation of $31,930,193, which was divided by the cost new of $44,595,000 to reflect a total percentage of depreciation at 72.0%, rounded.

Based upon this analysis, Kelly opined a total depreciation of 75% or $33,446,250, which was subtracted from the replacement cost new resulting in a depreciated value of the improvements at $11,148,750. Adding the land value of $13,040,000 reflected a final estimate of value under the cost approach of $24,190,000, rounded. At hearing, Kelly revised this value to reflect the addition of the second parking garage culminating in a final estimate of value under this approach would be $25,400,000.

Moreover, Kelly stated that entrepreneurial profit was not provided for within this approach because the market does not indicate that buyers of properties similar to the subject are paying for or expect to achieve such profit. He indicated that there was no market evidence that department stores, such as the subject, are constructed for resale or lease after construction or for a profit on a speculative basis. In addition, the appraisal noted that sale prices of similar properties do not indicate that an increment is being paid for entrepreneurial profit. For these reasons, he stated that it was not added in the cost approach to value.

The next developed approach was the income approach; Kelly's appraisal employs two methods in analyzing lease data. In the first method, Kelly stated that he used lease data of fixed rental rate per square foot of building area, while the second method of structuring leases is based strictly on a percentage of the retail sales of each store. In the first method, he obtained and analyzed lease data on 23 properties. These leases were structured on a pre-set per square foot basis and indicated a range of rates from $2.74 to $8.75 per square foot. The base rent divided by breakpoint sales range was 1.3% to 3.3% with an average of 2.3%. In the second method, Kelly used two rentals that were structured strictly as a percentage of store retail sales which ranged from 2.75% to 3.0% of sales.

In addition, Kelly explained that he consulted a nationally recognized publication on shopping centers, <u>The Dollars & Cents of Shopping Centers</u>, the 2002 edition, published by the Urban Land Institute. He stated that this data reflected a range from 1.9% to 2.2% of sales for national chain department stores located in regional or super regional shopping centers.

Kelly also detailed his analysis of the retail sales at the subject's anchor store as well as the other four anchor stores in the subject's mall. The indicated rent for the subject based on a percentage of actual retail sales was $5.59 to $7.23 per square foot. The indicated rent for the subject based on a percentage of stabilized retail sales was from $6.13 to $7.35 per square foot. Lastly, the rental rates based on the pre-set square footage of the 23 submitted lease comparables was from $2.74 to $8.75 per square foot.

Based upon all this data, Kelly testified that he estimated a net rental rate for the subject of $6.75 per square foot or $2,902,156. Deducting an allowance for management fees and vacancy and collection losses of 7% reflected an effective net rent of $2,699,005.

Kelly stated that he looked at three different indicators of what the overall capitalization rate should be for the subject. He indicated that first he abstracted an overall capitalization rate from his improved sale comparables indicating a range from 9.6% to 15.2%. His appraisal stated that rates from multi-tenant shopping centers are substantially lower than the overall rates from sales of single-tenant department stores. The appraisal further noted that the subject property has an average size and high age when compared to the improved sales; and therefore, should have an overall rate at the middle to high end of the range established by these sale comparables.

In order to further check on the subject's capitalization rate, Kelly testified that he employed the band of investment method, while consulting with the American Council of Life Insurers, Fourth Quarter 2003, to review mortgage interest rates. This analysis resulted in estimated overall capitalization rate of 9.8%. In addition, he also explained that he consulted with the Korpacz Real Estate Investor Survey, First Quarter 2004, wherein overall rates ranged from 8.0% to 10.0% for institutional-grade national power centers and from 7.0% to 11.0% for institutional-grade national strip centers. Kelly testified that there was no category of data designated as national regional malls. After considering all of the aforementioned data, he determined that the subject's overall capitalization rate was 10.5%. Capitalizing the subject's net income of $2,699,005 produced a value estimate under the income approach of $25,705,000, rounded.

Under the sales comparison approach to value, Kelly testified that he utilized six suggested comparables that are multi-story, single-tenant, anchor department stores that are attached to malls. Further, he stated that all of the properties were national regional anchor department store chains, which he had personally inspected. The six properties sold from February, 1996, through March, 2003, for prices that ranged from $26.67 to $50.00 per square foot of gross building area including land prior to adjustments. The improvements ranged: in age from 10 to 26 years; in improvement size from 84,747 to 428,036 square feet of building area; and in land-to-building ratio from 1.55:1 to 3.57:1.

Kelly testified that sale #1 comprised two stores which he considered inferior to the subject due to their lower retail sales per square foot of $150.00 compared to the subject's $245.00 per square foot. As to sale #2, he stated that this property was the same age as the subject, but was much smaller in size with lower retail sales of $160.00 per square foot. Kelly testified that sale #2 was located on a pad parcel with a reciprocal easement on the associated parcels to permit customer parking. As to sale #3, he stated that this property was sold at auction via bankruptcy. However, he explained that the property's chain had gone bankrupt and that the court appointed a brokerage firm to sell the property at auction. The brokerage firm invited all of the major retailers to the auction with the property sold to the highest bidder. However, Kelly explained that the bankruptcy court permitted any bidder after the auction was completed to submit another bid directly to the court to trump the earlier bid accepted at the auction. Kelly stated that no subsequent bids were made to the court. Moreover, Kelly explained his methodology in using the sales price of $50.00 per square foot and typical retail sales of $240.00 per square foot of another anchor in this mall to determine a typical retail sales multiplier of .21 which he indicated was in the range of similarly sold stores. Therefore, Kelly believed sale #3 to be a market price for the property.

As to sale #4, Kelly testified that the original owner, an anchor department store, had undergone bankruptcy wherein a real estate management company purchased the property and obtained a long-term tenant. Thereafter, the property was sold to an investor for $39.00 per square foot. He stated that he considered this sale inferior to the subject because this property's retail sales were $180.00 per square foot. As to sale #5, Kelly stated that the original anchor department store had closed and then leased the building to another anchor department store chain. Then, he stated that the mall owner purchased the property from the initial anchor chain but later sold it to the leasing anchor chain for approximately $26.00 per square foot with retail sales of $155.00 per square foot. As to sale #6, he stated that this sale was from one anchor department store chain to another such chain selling for $33.00 per square foot.

Kelly indicated that the retail sales per square foot of the subject and sale properties were also considered although such sales can be affected by the strengths and weaknesses of the business operation conducted within the real estate; it is still an indicator of the overall desirability and value of a particular location. In addition, because of the scarcity of large department store property sales in Illinois, the appraisal indicated that sales from other large malls in metropolitan areas across the country were analyzed. The appraisal stated that this analysis of retail sales at the sale properties relative to the subject indicated that the subject's performance was average with stabilized retail sales per square foot at $245.00. Moreover, the appraisal indicated that this common element of retail sales per square foot between the subject and sale properties allows for a valid comparison as improved properties even though there are significant differences in the land values per square foot.

Kelly stated that he derived a sales multiplier from each sale property reflecting a range from .17 to .24 times stabilized retail sales. Therefore, he opined that the subject's multiplier would be at the high end of the range due to its location. Thereby, the retail sales multiplier for the subject of .24 was multiplied by the stabilized retail sales per square foot of $245.00 resulting in a value for the subject. Kelly's appraisal stated that weight was placed on the retail sales multiplier method because this method takes into account the actual stabilized retail sales for the subject property. Moreover, he stated that all of the sale comparables' retail sales data was confirmed with either the seller or the buyer of the property.

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. Further, he testified that he had not considered sales of freestanding discount stores because they have a different market. After making adjustments, Kelly considered a unit value of $55.00 per square foot to be appropriate for the subject resulting in a market value of $23,650,000, rounded.

In reconciling the three approaches to value, Kelly testified that he accorded moderate consideration to the cost approach due to the subject's age asserting that this approach to value is most effective on newer buildings which does not entail the calculation of large amounts of obsolescence. In contrast, He stated that substantial weight was accorded the income and sale comparison approaches to value. Therefore, he testified that his market value estimate for the subject was $24,700,000.

Under cross-examination by the State's Attorney, Kelly testified that he was aware that eight months after his appraisal valuation date that the subject's chain was sold with an allocated price for the subject property at $26,700,000. However, he also reiterated that minimal weight would be accorded to the allocated price, which he stated are typically driven more by federal tax considerations than what a property might sell for on its own. In addition, he stated that after the completion of the subject's appraisal and after the sale, he spoke with the buyer's representative, who confirmed that the subject's price was allocated. Moreover, Kelly stated that he found the buyer's representative to be truthful in his responses to Kelly's questions. Kelly also testified that an appraiser should not rely on an allocated price relating to a 60 store chain sale which includes many types of assets besides the real estate. Furthermore, Kelly testified regarding his methodology in developing a capitalization rate for the subject as well as his adjustments for the land and improved sales comparables.

On redirect examination, Kelly reiterated that his rental sales may have contained old lease dates, but that they were used in his appraisal because they were leased from single-tenant, anchor department stores located in a mall. In addition, he stated that these sales were analyzed to determine the relationship between base rent and store sales, which corresponded with the data obtained from the Dollars & Cents of Shopping Centers publication.

The board of review timely submitted "Board of Review Notes on Appeal" wherein the subject's final assessment of $10,619,735 was disclosed indicating a market value of $27,946,671 or $65.00 per square foot applying the ordinance level of assessment at 38% for class 5a, commercial property as designated by Cook County Real Property Assessment Classification Ordinance.

For tax year 2004, 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 $50.26 to $104.85 per square foot. The printouts state that the information reflected thereon was obtained from sources deemed reliable, but not guaranteed.

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 best evidence of valuation in the record was submitted by the appellant and demonstrates that a reduction in the assessment is warranted for the assessment year at issue. The PTAB accords little weight to the board of review's Hortsch evidence submission, due to the failure of the board of review to present the preparer for testimony and cross-examination concerning his/her qualifications, the methodology regarding data used therein, and his/her conclusions.

In looking to the three traditional approaches to value, Kelly opined that the cost approach was less than applicable to a large and aged anchor department store in a regional mall with increased calculations of depreciation and obsolescence. Substantial emphasis was accorded to the income and sales comparison approaches to value wherein the PTAB finds that Kelly used land and improved sales from the market while undertaking appropriate adjustments. Furthermore, Kelly's exhaustive testimony was credible and convincing regarding industry standards and retailing trends, various market data and sources used in the three approaches to value, verification of sale data, development of retail sales per square foot for the improved sales, as well as the adjustments made to his comparables.

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.

The PTAB finds that Kelly's improved sale comparables' data to be most relevant and similar to this large and aged, anchor department store sited in a regional mall, which is the subject property of this appeal. These six comparables consisted of multi-story, single-tenant, anchor department stores that are also attached to malls. Further, he stated that all of the properties were national regional anchor department store chains, which he had personally inspected. The six properties sold from February, 1996, through March, 2003, for prices that ranged from $26.67 to $50.00 per square foot of gross building area including land prior to adjustments. The improvements ranged: in age from 10 to 26 years; in improvement size from 84,747 to 428,036 square feet of building area; and in land-to-building ratio from 1.55:1 to 3.57:1.

The PTAB finds that the sale comparables' data submitted in the Kelly appraisal reflect an unadjusted range of values from $26.67 to $50.00 per square foot of building area. After making adjustments to these comparables with additional reliance upon the development of a retail sales multiplier employing stabilized retail sales per square foot, Kelly estimated the subject's market value was $23,650,000 or $55.00 per square foot under this approach. In reconciling the income and sales comparison approaches to value, Kelly estimated the subject's market value as of the assessment date at issue to be $24,700,000.

On the basis of this analysis, the Property Tax Appeal Board finds that the subject's fair market value for tax year 2004 is $24,700,000 and that a reduction is warranted to the subject property's assessment.

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: July 22, 2011

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.