FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Marshall Field's - State Street[1]
DOCKET NO.: 03-27558-C-3, 04-27177-C-3 & 05-25650-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Marshall Field's, the appellant, by attorneys Gregory Lakfakis, Ellen Berkshire and Peter Verros of Verros, Lafakis & Berkshire, PC, Chicago; the Cook County Board of Review by Cook County Assistant State's Attorney Randy Kemmer; the Chicago Board of Education, intervenor, by attorney Ryan Ponton of Pugh, Jones, Johnson & Quandt, P.C., Chicago; and the City of Chicago, intervernor, by attorneys Richard Danaher and Bernard J. Murphy, Jr.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***no change*** 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
03-27558.001-C-3	17-10-308-001-0000	2,669,652	2,093,355	$4,763,007
03-27558.002-C-3	17-10-308-002-0000	1,686,744	1,162,975	$2,849,719
03-27558.003-C-3	17-10-308-003-0000	3,123,372	2,442,248	$5,565,620
03-27558.004-C-3	17-10-308-004-0000	2,298,354	1,744,462	$4,042,816
03-27558.005-C-3	17-10-308-005-0000	3,077,544	2,442,248	$5,519,792
03-27558.006-C-3	17-10-308-006-0000	2,114,586	1,744,462	$3,859,048

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
04-27177.001-C-3	17-10-308-001-0000	2,669,652	2,093,355	$4,763,007
04-27177.002-C-3	17-10-308-002-0000	1,686,744	1,162,975	$2,849,719
04-27177.003-C-3	17-10-308-003-0000	3,123,372	2,442,248	$5,565,620
04-27177.004-C-3	17-10-308-004-0000	2,298,354	1,744,462	$4,042,816
04-27177.005-C-3	17-10-308-005-0000	3,077,544	2,442,248	$5,519,792
04-27177.006-C-3	17-10-308-006-0000	2,114,586	1,744,462	$3,859,048

(Continued on Page 2)

[1] The 2003 appeal was filed in the name of Target Corporation. The 2004 appeal was filed in the name of May Department Store Company. The 2005 appeal was filed in the name of Marshall Field's - State St. For ease of understanding the appellant will be designated as Marshall Field's due to the fact the property is commonly known as the Marshall Field's Store located on State Street in Chicago, Illinois.

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
05-25650.001-C-3	17-10-308-001-0000	2,669,652	2,093,355	$4,763,007
05-25650.002-C-3	17-10-308-002-0000	1,686,744	1,162,975	$2,849,719
05-25650.003-C-3	17-10-308-003-0000	3,123,372	2,442,248	$5,565,620
05-25650.004-C-3	17-10-308-004-0000	2,298,354	1,744,462	$4,042,816
05-25650.005-C-3	17-10-308-005-0000	3,077,544	2,442,248	$5,519,792
05-25650.006-C-3	17-10-308-006-0000	2,114,586	1,744,462	$3,859,048

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a multi-story, single-tenant department store building containing a gross building area of 1,943,009 square feet. The building is a consolidation of five separate buildings constructed in stages from 1893 to 1914. The above grade area is part nine story, part thirteen-story and part fourteen-story that encompasses a city block. The building is of steel frame encased in concrete construction. The subject has a full basement and partial second and third basements. The basement area extends out under the adjoining sidewalks on all three of the sub-grades and a portion of which is referred to as "vault" area although fully finished. The entire building is heated and has central air conditioning throughout with the exception of the 14th floor. The subject also has 33 elevators, four pairs of escalators, one single escalator and a sprinkler system that covers 100% of the building. The subject has six property index numbers (PINs) comprising a single site with 131,295 square feet of land area resulting in a land to building ratio of .07:1. The property is located at 111 North State Street, Chicago, South Chicago Township, Cook County. The property is classified as a class 5-97 special commercial structure under the Cook County Real Property Assessment Classification Ordinance and is to be assessed at 38% of market value.

A consolidated hearing was conducted for the 2003, 2004 and 2005 tax years. Based on the submission of the "Board of Review Notes on Appeal" and copies of the final decisions issued by the board of review, for each of the years under appeal the subject property had a total assessment of $26,600,002. The subject's total assessment reflects a market value of $70,000,005 when applying the 38% level of assessment for class 5-97 commercial property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted an appraisal estimating the subject property had a market value of $39,000,000 as of January 1, 2002 and January 1, 2003.[2]

Testimony of Michael Kelly

Michael Kelly, real estate appraiser with Real Estate Analysis Corporation (REAC), was called as the appellant's first witness. Kelly has appraised in excess of 100 department stores and appraised the subject property six or seven times. The witness was accepted as an expert real estate appraiser in the valuation of department store properties.

Kelly identified Taxpayer Exhibit #1 as the appraisal of the subject property he prepared, which contained an estimate of value for the subject property as of January 1, 2002 and January 1, 2003. (Taxpayer Exhibit #1 was submitted as evidence for each of the years under appeal.) The purpose of the appraisal was to estimate the market value of the unencumbered fee simple interest of the subject property as of January 1, 2002 and January 1, 2003. The witness had inspected the subject property several times including 2003 and several times before that dating back to the '90s.

The witness described the land area as being 131,295 square feet and also described the subject building as having a gross building area of approximately 1,943,000 square feet. He explained that the subject was built over time and has an actual age of 96 years. However, the subject has been renovated a couple of times with the most recent renovation occurring in approximaely 1990. Kelly concluded the subject building was in good condition and had an effective age of about 36 years. The witness further testified the subject was designed and has been used as a major department store.

The appellant's appraiser testified that the subject building had approximately 300,000 square feet of vacant space on the upper floors. Some of this area housed storage space and was secondary space. Kelly also testified the subject had approximately 800,000 square feet of retail selling area.

The witness testified the property is subject to regulations from the Chicago Commission on Landmarks because it is designated as a landmark and is also identified on the National Historic Trust as a significant building.

Kelly was of the opinion the economic life used for a typical single-tenant department store is 50 years. (See also Taxpayer Exhibit #1, page 59.) The witness estimated the subject had an

[2] The subject property was the subject matter of appeals before the Property Tax Appeal Board for 2000, 2001 and 2002 under Docket Nos. 00-24805-C-3, 01-25823-C-3 and 02-26690-C-3. On April 1, 2008, the Property Tax Appeal Board issued a decision wherein the Board found the subject had a market value of $39,000,000 as of January 1, 2000, January 1, 2001 and January 1, 2002. (86 Ill.Admin.Code §1910.90(i)).

effective age of 36 years resulting in a remaining economic life of 14 years. Kelly explained that page 45 of the appraisal provided a construction history of the subject indicating approximately 170,000 square feet was built 110 years ago, 480,000 square feet was built 101 years ago; 400,000 square feet was built 97 years ago; 376,000 square feet was built 96 years ago; 500,000 square feet was built 89 years ago; and 13,000 square feet was built 13 years ago resulting in a total weighted age of approximately 96 years. He also testified the subject was renovated in 1990. (The appraisal stated the renovation occurred in 1992. See Taxpayer Exhibit #1, pages 7, 44 & 58).

Kelly testified the subject real estate was involved in a sales-leaseback transaction on December 18, 2002 for a price of $39,000,000 or $20.07 per square foot of building area. He further testified two other transactions were recorded after his date of valuation. The witness testified that he was personally involved with the sale-leaseback. He explained that his company had prepared an appraisal for Dayton Hudson prior to it entering into the sale-leaseback agreement. The witness explained that his company had identified the fee simple value of the property which was used as part of the sale-leaseback transaction. Once the transaction was finalized he received a copy of the sales contract, deed and transfer declaration.

Kelly explained that beginning on page 26 of Taxpayer Exhibit #1 there is a discussion of the ownership history of the subject. He testified that more recently, in the 1980's, the Marshall Field's chain was purchased by the Batus Company. There was another sale of the entire company to Dayton Hudson in approximately 1990. In 2002 Dayton Hudson entered the sale-leaseback transaction with Wachovia. In 2008 the subject was operated as a Macy's and is now owned by Federated Department Stores Company.

Kelly testified that to his knowledge the subject has never been used for anything other than a department store. He has not been made aware of any plans to change the use of the building from a department store.

In discussing the make-up of the retail market in the State Street area, on page 23 of Taxpayer Exhibit #1 Kelly provided a list of former department stores on State Street that had closed. He testified that shopping patterns changed for the last 20 to 30 years where consumers do their shopping in suburban area malls using cars. He further explained that there have been some newer smaller stores constructed ranging from 5,000 to 50,000 square feet with Sears opening a 240,000 square foot store in 2001. However, no one has constructed anything near the size of the subject of 2 million square feet.

Kelly testified the sales of the subject property have been stagnant at about $110 per square foot for the last 12 years. He explained that even though there has been some smaller first floor retail space open on State Street, the major department store sales have remained stagnant.

Kelly also testified a problem with the subject is the enormous size of the building with approximately 2 million square feet, which would be a problem whether the subject is located on State Street or in the suburbs. He testified most of the flagship stores of this size around the country have closed primarily because they can't make that kind of size work. He further testified that the primary location for retail space in Chicago is North Michigan Avenue, which is superior to State Street.

Kelly testified the subject's floor plate size of 125,000 square feet, which is the footprint of the building, makes it extremely difficult and not economically feasible to convert the area to an office building that would be desirable by the general market. He testified office buildings in the Loop have normal floor plates anywhere from 10,000 to 40,000 square feet. He stated that even though an office building is going to have retail on the first floor doesn't make it comparable to a 2 million square foot building that has floor plates of approximately 125,000 square feet. He explained that with the subject the ratio of exterior window space to interior space is severely diminished compared with a normal office building with 20,000 to 30,000 square foot floor plates.

The witness explained that the subject's floor plate size is relevant when you start to consider possible alternative uses. Kelly testified the problem is you have a very large floor plate size and you have to have elevators that make that work. The current elevator service is for the existing retail use. He explained that one would have to cut elevators in the floor and demolish certain parts of the building to have some type of light corridors.

Kelly determined the highest and best use of the subject as vacant to be a mixed use development with retail and residential. The witness determined the highest and best use as improved was the existing use. He asserted in the appraisal that the value of the property as improved, as estimated in the report, is greater than the land value indicating the improvements make a positive contribution to the overall value. He also stated in the report that alternative uses such as retail, hotel or office are extremely unlikely considering the extremely large floor plates unless portions of the building are demolished to allow for windows. Kelly stated in the report the costs of converting the subject improvements to residential, office or hotel use would exceed the residual value after conversion.

Kelly developed the three traditional approaches to value in estimating the market value of the subject property. The first approach developed by the appellant's appraiser was the cost approach with the initial step to estimate the value of the land as if vacant. The appraiser identified nine land sales located in Chicago. The comparables ranged in size from 23,098 to 64,030 square feet of land area. The sales occurred from January 1997 to November 2000 for prices ranging from $3,800,000 to $55,900,000. After making adjustments to land sale comparables #5 and #6 the appraiser indicated the comparables had unit prices ranging from $164.52 to $786.22 per square foot of land area or from $10.82 to $49.14 per square foot of floor area (FAR) and $10.21 to $25.36 per square foot of adjusted FAR. Kelly was of the opinion most of the land sales were better locations than the subject site with the exception of land sale #9. He further testified an adjustment was made because of the subject's large size. The appraiser further stated that an analysis of value based on FAR was practically meaningless due to the market for office space coming to a standstill following 9/11. Kelly also estimated the site value based on applying 1.0% to the subject's stabilized retail sales of $204,015,945 indicating a ground rent of $2,040,159. Applying a capitalization rate of 9.0% to the ground rent resulted in an estimated land value of $22,668,433, which equates to $172.65 per square foot of land. After considering the land sales and the contributory value of the land as an anchor store site, Kelly estimated the subject had a land value of $185.00 per square foot of land or $24,290,000, rounded.

Kelly utilized replacement cost new to estimate the cost new of the improvements of $255,293,000. Using the age life method Kelly estimated the subject suffered from 72% physical depreciation. To estimate depreciation from all causes the appraiser utilized the sales contained in the sales comparison approach to value by extracting the land value for each comparable based on multiplying the stabilized retail sales by 1% and capitalizing the result by 9% to arrive at the contributory land value. The land value was then deducted from the sales price to arrive at a residual improvement value which was then deducted from the replacement cost new to arrive at total depreciation. The total accrued depreciation was then divided by the cost new to arrive at the total percentage depreciation, which was then divided by age to arrive at an annual rate of depreciation. The comparable sales had average annual rates of depreciation ranging from .9% to 6.8%. The appraiser was of the opinion that comparable sales #1 through #7 had total depreciation ranging from 64.1% to 86.1% and physical depreciation, based on the age-life method, ranging from 25% to 65%. Using this analysis the appraiser estimated the comparables suffered from functional and economic obsolescence ranging from 8.8% to 42.8%. Kelly estimated the subject suffered from 20% functional and economic obsolescence to which he added 72% for physical depreciation to arrive at total depreciation of 92%. Kelly also abstracted total depreciation using the subject's ability to generate net income. Using this approach he estimated the subject suffered from 95% depreciation. Considering these two methods Kelly estimated total depreciation of 93% or $237,422,490. Deducting depreciation from the replacement cost new and adding the land value resulted in an estimated value of

$42,160,000 under the cost approach. Kelly testified he gave the cost approach minimum weight.

The next approach to value was the income approach. The first step under this approach was to estimate the subject's market rent by reviewing leases of department stores. On pages 110 through 112 of the appraisal Kelly listed 28 comparables with 8 being located in the Chicago area and the remainder being located in the Midwest. The comparables were smaller than the subject ranging in size from 62,692 to 271,000 square feet of building area. These comparables had net rentals ranging from $2.74 to $9.99 per square foot. Kelly testified that on average these comparables had rentals of approximately 2.5% of retail sales. His comparable rental #27 had a percentage lease of 3.0% of retail sales and rental #28 had a percentage lease of 2.75% of retail sales that declines to 1.0% in the 15th year of the lease. Kelly further examined *The Dollars & Cents of Shopping Centers 2002* indicating U.S. Regional Shopping Centers had median rents equivalent to 1.9% of retail sales and U.S. Super Regional Shopping Centers had median rents equivalent to 2.2% of retail sales. Kelly concluded the subject would have a market rent of about 2.5% to 3.0% of retail sales.

On page 117 of the appraisal Kelly listed the sales history of the subject from 1988 through 2002, which ranged from $101.10 to $116.48 per square foot of gross building area. Kelly also made reference in the report to retail sales for Carson Pirie Scott, an 869,255 square foot store on State Street one block south of the subject, being $83.50 per square foot in 1999. Based on this data Kelly stabilized the subject's retail sales at $105.00 per square foot of gross building area. Using 2.5% and 3.0% as the rent based on a percentage of retail sales equates to a rent of $2.63 to $3.15 per square foot of gross building area. Based on this analysis Kelly estimated the subject would have a market rent if vacant and available for lease of $2.90 per square foot of gross building area resulting in a total rent of $5,634,726.

Kelly consulted *CB Richard Ellis-Chicago Market Index Brief-Retail Market 1st Quarter 2003* which indicated total vacancy rates of Shopping Centers in the Chicago market area was 10.2% in the first quarter of 2002 and 10.2% in the first quarter of 2003. He further stated the vacancy rate on State Street was 13.9% in 2002 for specialty stores smaller than the subject. Kelly indicated in the report that if the subject were to become vacant and available for lease, due to its size, the vacancy rate would increase to approximately 70%. Based on this analysis Kelly estimated the subject would have a 20% allowance for management fee and vacancy and collection loss resulting in an effective net rent of $4,507,781.

The final step under the income approach was to estimate the capitalization rate to be applied to the subject's net income. Abstracting an overall rate from the sales contained in the sales comparison approach resulted in estimated overall capitalization rates ranging from 9.6% to 41.3%. Kelly was of the opinion that the subject's overall capitalization rate would be below the rate established by comparable sale #8 of 41.3% and at the high end of the range established by sales #1 through #7, which was from 9.6% to 15.2%. Using the band of investment method resulted in a capitalization rate of 9.7%. Kelly also consulted *Korpacz Real Estate Investor Survey, First Quarter 2003* which indicated the overall rate for institutional-grade national power centers was 8.5% to 10%, with an average of 9.35%. The overall rate for institutional-grade national strip centers was 8.0% to 12%, with an average of 9.58%. Based on this data the appraiser estimated the subject would have an overall rate of 12.0%. Capitalizing the subject's estimated net income of $4,507,782 by 12% resulted in an estimated value under the income approach of $37,565,000. Kelly gave the income approach moderate consideration.

The final approach to value developed by Kelly was the sales comparison approach. The appraiser testified he looked at the Midwest market because of the fact properties of this type will compete on a larger geographic market than just the immediate area. Kelly utilized eight sales composed of retail department stores located in Columbus, Ohio; Dearborn, Michigan; Ann Arbor, Michigan; Livonia, Michigan; Normal, Illinois; Peoria, Illinois; Aurora, Illinois; and Milwaukee, Wisconsin. Comparable sale #1 was composed of two Marshall Field's anchor department stores that had 201,036 and 227,000 square feet of building area, respectively. The remaining comparables ranged in size from 84,747 to 592,648 square feet of building area. Comparable sales #1 through #7 were one or two-story design that ranged in age from 10 (the weighted age of comparable #1) to 26 years old. Comparable #8 was an eight story department store located in Milwaukee that was 110 years old with 592,648 square feet and an adjacent parking structure with 151,000 square feet. This comparable had been occupied by Marshall Field's for the last 20 years. The comparables had land to building ratios ranging from .19:1 to 3.57:1. Kelly also indicated the comparables had stabilized retail sales ranging from $80.00 to $240.00 per square foot. The sales occurred from February 1996 to March 2003 for prices ranging from $2,750,000 to $15,400,000 or from $5.06 to $50.00 per square foot of building area.

Kelly testified sales #3 and #4 were owned by Jacobson Stores which went bankrupt. The sales were the result of a court supervised auction under a federal bankruptcy judge. The stores were purchased by Von Maur, Inc., which was going to operate the property with a Von Maur department store.

Kelly testified the primary function of the sales was to look at the retail sales multiplier for each of the sales and apply that to the subject's stabilized sales. Kelly indicated that based on the way the data is used there is a minimal time adjustment to the sales. The appraiser indicated all sales with the exception of sale #8 are considered superior in land to building ratio. Kelly also indicated in the appraisal all sales were superior to the subject in building size. With the exception of sale #8, Kelly considered the comparables superior to the subject in terms of age. The appraiser considered all sales inferior to the subject in location. The witness also considered each of the sales superior to the subject with off-street parking.

Kelly testified that the retail sales multiplier is essentially a gross income multiplier. A retail sales multiplier was derived from each sale by dividing the sales price per square foot by the stabilized retail sales per square foot. Kelly estimated the comparables had stabilized retail sales ranging from $80 to $240 per square foot. Kelly calculated the retail sales as ranging from .06 to .24 with seven of the eight ranging from .17 to .24. Due to the subject's older age and large size Kelly was of the opinion the subject would have a retail sales multiplier at the low end of the range. The appraiser estimated the subject had a retail sales multiplier of .18. Multiplying the retail sales multiplier by the subject's stabilized retail sales of $105.00 per square foot resulted in a value per square foot of $18.90 per square foot of building area for the subject.

In the appraisal Kelly also considered the comparables in terms of two categories. (Taxpayer Exhibit #1, page 159) Sales #2 through #7 are described as anchor department stores located in suburban shopping malls ranging in age from 13 to 26 years old. These were considered superior to the subject and sold for prices ranging from $26.67 to $50.00 per square foot of building area. Sales #1 and #8 are considered downtown flagship department stores that sold for $5.06 and $35.98 per square foot of building area. Sale #1 was composed of two stores that had higher retail sales and was considered superior to the subject. Comparable #8 was considered inferior to the subject being described as having a disadvantage in location and retails sales. Kelly indicated a positive adjustment would be required to sale #8 that sold for $5.06 per square foot. He also indicated negative adjustments would be required for sales #1 through #7 that sold for prices ranging from $26.67 to $50.00 per square foot of building area. Kelly also stated the subject sold in a sales-leaseback transaction for $39,000,000 or $20.07 per square foot of building area.

Kelly ultimately estimated the subject property had an estimated value under the sales comparison approach of $20.00 per square foot of building area, including land, resulting in a total estimated value of $38,860,000.

After considering the three approaches to value, Kelly placed most weight on the sales comparison approach and estimated the subject property had a market value of $39,000,000 as of January 1, 2003.

Kelly was of the opinion the subject property was very unlikely to be redeveloped for an alternative use due to the highest and best use as improved being as a department store. Additionally, the physical characteristics such as large floor plates, building size and landmark status create a hindrance to redevelop the property.

Kelly was not aware of any significant physical changes to the property as of January 1, 2004 and January 1, 2005. Kelly was also of the opinion there were no significant changes in the market for properties similar to the subject as of January 1, 2004 or January 1, 2005.

Under cross examination Kelly agreed he concluded a land value of $185.00 per square foot of land area for a total land value of approximately $24,290,000. The witness agreed his land sales 1, 2, 3, 4, 5, and 9 occurred in 1997 or 1998. The lowest land sale was comparable #9 located at 224 West Randolph that sold for $164.52 per square foot of land area in August 1998. Kelly agreed that at the time of sale this property was being held for development and as of January 1, 2005 was still being held for development. This land comparable had a 23,098 square foot site and approximately 125 feet of frontage on Randolph Street and 100 feet of frontage on Franklin Street. Kelly agreed the subject had almost 1,500 square feet of street frontage. This comparable was approximately ¼ to ½ mile west of the subject property. Kelly agreed land comparable #1 was also about ¼ mile west of the subject and sold in July 1997 for $255.17 per square foot of land area. Land sale #3 had frontage on State Street and sold for $300.78 per square foot of land area. This property was developed primarily with office with retail on the lower levels. Kelly also agreed he appraised the subject property as of January 1, 2000, and estimated a land value of $190.00 per square foot of land area using the same nine land sales.

Kelly further agreed that at page 115 of his appraisal he stated that if Marshall Field's were to vacate the subject property, the possibility that another national department store chain would take their place, for the entire space, is remote. He asserted in the appraisal that a more likely event would be that the subject property would be sold to a developer for eventual mixed/retail office use.

Kelly agreed the subject property has approximately 800,000 square feet of retail space with another 1.1 million square feet devoted to mechanical and support space. He also agreed that floors 10 through 14, comprising approximately 304,000 square feet, are essentially vacant. Kelly was of the opinion that more modern suburban department stores would have 20 to 35 percent of their building space devoted to supporting the retail area. Older downtown stores, like the subject, would have a higher percentage of building space devoted to supporting the retail area.

Kelly agreed that pedestrian foot traffic to which a location is exposed is part of a consideration for retailers in determining the viability of a location as a retail store. He testified he considered pedestrian foot traffic in the context of retail sales that the store does.

Kelly also testified there is about 3% of the building area devoted to third-party retail users. Kelly stated their sales are included in his retail sales analysis.

Kelly read an excerpt from The Appraisal of Real Estate, Twelfth Edition, page 435, (Intervenor's Exhibit #2), stating the locational differences for comparables are usually handled with quantitative adjustments. Kelly agreed that he did not make quantitative adjustments with respect to location on the eight improved sales comparables listed on page 152 of his appraisal.

Kelly indicated that in using retail sales per square foot as the unit of comparison, he applied $105 per square foot to the subject's approximately 1.9 million square feet. However, for his comparable #8 he utilized only the actual selling and support areas on the first two floors in calculating stabilized retail sales per square foot. Kelly testified approximately 23,000 square feet of the subject building is devoted to the national corporate operation.

Kelly also explained that in developing the retail sales per square foot, in some cases he would use actual sales. In other cases, where a comparable sale was doing substandard sales, he would use what the average was from the other anchors in the mall where the store was located.

Kelly stated that using $105 per square foot results in approximately $200,000,000 in total retail sales for the subject property. None of his comparables would come close to the total sales volume of the subject because they are smaller. He agreed his improved comparable sale #7 occurred in February 1996 and was located in a regional mall. He also agreed his comparable sale #8 occurred in November 1998, approximately four years prior to January 1, 2003. He also agreed this was a Marshall Field's store that closed in 1997 and was purchased for a different highest and best use being converted into retail, office and hotel use.

Kelly also stated he did not give much weight at all to the subject's sale-leaseback transaction that occurred in December 2002.

Kelly also explained that the comparable sale identified on page 160 of his report was an eight story, 2,401,099 square foot distribution center constructed in 1908 that was purchased for conversion to office and retail space. The property sold in July 1999 for a price of $62,000,000 or $25.82 per square foot of building area, including land. Kelly stated this transaction shows what happens when you consider alternative uses and you have a 2,000,000 square foot building, the unit price is going to drop.

Testimony of Gregory J. Hatfield

The City of Chicago called as its witness real estate appraiser Gregory J. Hatfield of Gregory J. Hatfield & Associates, LLC. Hatfield prepared complete summary appraisals of the subject property with effective dates of January 1, 2003, marked as City Exhibit No. 3, with an estimate of value of $90,500,000; January 1, 2004, marked as City Exhibit No. 4, with an estimate of value of $98,500,000; and January 1, 2005, marked as City Exhibit No. 5, with an estimate of value of $120,000,000.

Hatfield personally inspected the subject property with the assistant store manager on January 23, 2003, which included walking through much of the building. He also obtained descriptive information about the subject from the assessor's records, other public records, news sources and the REAC appraisal.

For each of the years under appeal Hatfield appraised the fee simple interest, free and clear of all encumbrances, special assessments, restrictions or liens. (See City Exhibit No. 3, page 4; City Exhibit No. 4, page 4; and City Exhibit No. 5, page 5.) Hatfield further indicated in his appraisals that in 2003 and 2004 the subject was zoned B6-7, Restricted Central Business District; however, for 2005 the zoning changed to DX-16 Downtown Mixed Use District. The appraiser indicated both B6-7 and DX-16 have a broad commercial zoning that permits department stores and a variety of retail uses, offices, hotels and motels, banks and restaurants, storage, warehousing and wholesale establishments. (See City Exhibit No. 3, page 13; City Exhibit No. 4 page, 15; and City Exhibit No. 5 page, 18.) In each appraisal Hatfield concluded the subject's highest and best use as vacant would be for commercial development consistent with the respective zoning parameters. In each appraisal Hatfield also concluded the highest and best use as improved is for the existing department store and associated office use (See City Exhibit No. 3, page 26; City Exhibit No. 4 page, 28; and City Exhibit No. 5, page 31.), which he explained meant the property's current use.

Hatfield testified the subject's land size is approximately 131,295 square feet and takes up all of Block 38, which is bounded by Washington, Randolph, Wabash and State Streets. He described the building improvements as being a 13 and part 9-story commercial building built in stages between 1893 and 1915. He testified the subject is a "flagship-type" department store. He testified the subject has three basement levels with the first one built out as retail while the two lower ones are mechanicals and employee welfare space and stock room space.

Hatfield testified the subject has an excellent location with the resurgence of the Loop in terms of residential migration. He testified that Randolph has emerged over the last seven to ten years as the theater district. He also testified there is a college trend in the East Loop. He testified the trend is for more pedestrian traffic, which is significant to a retail operation. Hatfield further testified the subject has exceptional access to public transportation and agreed the property is connected to the pedway that runs underneath city buildings in the area.

In valuing the subject property Hatfield used 1,642,629 square feet of building area. (See City Exhibit No. 3, page 20; City Exhibit No. 4, page 22; and City Exhibit No. 5, page 25.) He explained the subject has a gross building area of 1,943,009 square feet. He then deducted areas that typically would not be included in an income and sales comparison approach such as mezzanine space and the lower level space that is not finished as retail. Therefore, he excluded areas identified as subbasement levels B-2 and B-3. Hatfield also excluded the area under the four perimeter streets totaling approximately 77,000 square feet because that is outside the fee simple perimeter. Hatfield also excluded any space above the 13th floor since it is unfinished mechanical and storage penthouse space. (See City Exhibit No. 3, page 21; City Exhibit No. 4 page, 23; and City Exhibit No. 5, page 26.)

Hatfield testified he considered the cost, income and sales comparison approaches to value but used only the income and sales comparison approaches. He explained that given the advanced age of the subject the cost approach would be less meaningful than the other two approaches.

Even though a cost approach was not developed, Hatfield did estimate the value of the land in each appraisal. In each appraisal Hatfield used three comparable land sales. The land comparables for the 2003 and 2004 appraisals were the same. For the 2005 appraisal Hatfield used a different comparable as land sale #3. All of the land comparables were located within the City of Chicago. For the 2003 and 2004 appraisals the land comparables ranged in size from 42,432 to 128,957 square feet of land area. These comparables sold from October 2000 to September 2003 for prices ranging from $20,086,741 to $44,000,000 or from $244.41 to $473.39 per square foot of land area. Each of these was purchased for the construction of an office building or combination office and condominium. Based on these sales Hatfield estimated the subject had an estimated land value of $325 per square foot or $42,670,000 as of January 1, 2003 and January 1, 2004.

With respect to the 2005 appraisal, the new comparable #3 was a 119,388 square foot site located along the north bank of the Chicago River that sold in October 2004 for a price of $611.45 per square foot of land area. At the time of purchase this property was improved with a seven-story building that was demolished in order to construct Trump International Hotel & Tower - Chicago, a 90-story, 2.6 million square foot mixed-use building. In the 2005 appraisal the comparable land sales ranged in price from $341.20 to $611.45 per square foot of land area. Using these sales the appraiser estimated the subject had a land value of $375 per square foot or $49,000,000.

Hatfield was next questioned about the sales comparison approach he developed. In the 2003 appraisal he used four comparable sales all located in downtown Chicago. Sale #1 was a 19-story office building constructed in 1914 with 245,000 square feet of building area. This comparable sold in May 2000 for a price of $11,500,000 or $46.94 per square foot of building area, including land. Sale #2 was a 19-story office and retail building constructed in 1912 with approximately 211,458 square feet of building area. This property had a recorded sales price of $14,100,000; however, the buyer reported a brokerage commission of $493,500 resulting in a total price of $14,593,000 or $69.01 per square foot of building area, including land. Comparable sale #3 was a December 2002 portfolio sale of three office buildings constructed in 1917, 1930 and 1923, respectively. These buildings ranged in height from 17 to 47 stories and in size from 238,921 to 876,000 square feet of rentable area for a total rentable area of 1,604,844 square feet. The first of these buildings was described as having Sears as an anchor store with 237,281 square feet on Floors LL through 4. The appraisal reported these three buildings as having prices of $65,089,286 or $74.30 per square foot of rentable area, $32,978,571 or $67.31 per square foot of rentable area and $23,432,143 or $98.07 per square foot of rentable area, respectively. The total price was $121,500,000 or $75.71 per square foot of rentable area, including land. Sale #4 was a 22-story office building with ground floor retail constructed in 1913. This property had approximately 610,578 square feet of building area. The sale occurred in July 2001 for a price of $51,000,000 or $83.53 per square foot of building area, including land. In summary the appraiser reported these comparables had prices ranging from $46.94 to $83.53 per square foot of building area, including land. Using these sales the appraiser estimated the subject had an indicated value under the sales comparison approach of $55.00 per square foot, including land, or $90,340,000 as of January 1, 2003.[3]

In the 2004 appraisal, Hatfield used the same sales as in the 2003 appraisal except for comparable sale #1. New comparable #1, also located in downtown Chicago, was described as a 21-story office building with ground floor retail that was constructed in 1914. This building has 218,012 square feet of building area and the sale was completed in March 2004 for a price of $16,435,000 or $75.39 per square foot of building area, including land. The appraisal also indicated that comparable sale #2 resold in May 2004 for a price of $10,350,000 or $48.95 per square foot of building area, including land. The report indicated that at the time of sale the building had been vacated and gutted out to the

[3] As explained, Hatfield used 1,642,629 square feet as the size of the subject building improvements.

shell. This building was sold to two purchasers with plans to build out floors 1 & 2 as commercial space and 169 residential condominiums for floors 3 through 19. In summary the appraiser reported these comparables had prices ranging from $48.95 to $83.53 per square foot of building area, including land. Using these sales the appraiser estimated the subject had an indicated value under the sales comparison approach of $60.00 per square foot, including land, or $98,560,000 as of January 1, 2004.

In the 2005 appraisal, Hatfield used six sales, which included sales #2 and #3 from the 2003 and 2004 appraisals which were renumbered as sales #5 and #6. The four new sales were all located in downtown Chicago. Sale #1 consisted of the 151,861 square feet of building area located in the basement, first, second and third floors of a 15-story building constructed in 1907. The sale occurred in March 2004 for a price of $51,400,000 or $338.47 per square foot of building area, including land. This comparable had retail space on the first and second floors with storage space on the third floor. The upper floors are office condos that were not included in the transaction. Sale #2 was described as an 8-story vertical mall constructed in 1989 with 45 to 50 tenants. The building had approximately 311,000 square feet of building area. The transaction occurred in November 2004 for a price of $39,000,000 or $125.40 per square foot of building area, including land. Sale #3 is a 22-story office building with ground floor retail constructed in 1913. The building has approximately 579,778 square feet of rentable building area which includes 20,000 square feet of retail space on the ground floor. The property sold in March 2005 for a recorded price of $65,910,000 or $113.68 per square foot of building area, including land. Sale #4 was described as a 21-story class C office building with ground floor retail space that was constructed in 1914. The building has approximately 218,012 square feet of building area. The property sold in March 2004 for a price of $17,300,000 or $79.35 per square foot of building area, including land. In summary the appraiser reported these comparables had prices ranging from $48.95 to $338.47 per square foot of building area, including land. Using these sales the appraiser estimated the subject had an indicated value under the sales comparison approach of $75.00 per square foot, including land, or $123,000,000 as of January 1, 2005.

Hatfield testified the comparables were selected because they represented similar aged, larger Loop properties that reflect the same downtown market dynamics as the subject. The witness explained it was difficult to locate comparables given the subject's size and there were adjustments necessary for size given the magnitude of the property. In selecting comparables Hatfield focused on the Loop location, age and mix of use.

In developing the income approach in the 2003 appraisal Hatfield selected six comparable rentals located in the Chicago metropolitan area with four being located in downtown Chicago. The comparables ranged in size from 113,057 to 250,363 square feet of rental area. The leases were reported to have commenced or renewed from October 1975 to January 2003 for rentals ranging from $4.41 to $9.36 per square foot. Hatfield stated in the report that consideration was given to the fact that approximately 28% of the 1,642,629 square feet utilized in the valuation was non-retail space such as owner related office, stockroom/storage and vacant un-renovated space. Hatfield also made a deduction at the end of the income approach to reflect an estimated build-out cost to bring the 12th floor to a finish that could support retail sales space. He estimated the subject would have a market rent of $6.50 per square foot on a net basis resulting in a potential gross income of $10,677,089. He next deducted a market vacancy rate of 10% resulting in an effective gross income of $9,609,380. Hatfield next made a deduction for expenses to account for management, administrative and re-leasing fees, and a replacement allowance. Hatfield estimated 4% of effective gross income or $384,375 for management/administrative expenses and $.25 per square foot or $410,657 for replacement. Deducting expenses resulted in a stabilized net operating income of $8,814,348. Hatfield next estimated the subject would have an overall capitalization rate of 9.25% using investor surveys and the band of investment method. Hatfield used *Korpacz RE Investor Survey* and *Integra Realty-Viewpoint 2003*, which indicated average rates of 9.58% and 9.50%, respectively. The band of investment method resulted in a capitalization rate of 9.25%. Capitalizing the net income resulted in an indicated value of $95,290,249. Hatfield then deducted $3,557,435 or $35.00 per square foot for the build-out of the 12th floor to arrive at an estimated value under the income approach of $91,730,000 as of January 1, 2003.

For the 2004 appraisal Hatfield used the same six rental comparables that were in the 2003 report and identified an additional rental comparable located in Morristown, New Jersey, in estimating the market rent for the subject. The new rental comparable had 132,000 square feet and had a lease that commenced in March 2003 for $11.93 per square foot. The rent was $1,547,790, which was 6.3% of the projected first year sales of $25.0 million or $189.39 per square foot. Using this new comparable the rentals ranged from $4.41 to $11.93 per square foot. He estimated the subject would have a market rent of $6.75 per square foot on a net basis resulting in a potential gross income of $11,087,746. He next deducted a market vacancy rate of 10% resulting in an effective gross income of $9,978,971. Hatfield next made a deduction for expenses to account for management, administrative and re-leasing fees, and a replacement allowance. Hatfield estimated 4% of effective gross income or $399,159 for management/administrative expenses and $.25 per square foot or $410,657 for replacement. Deducting expenses resulted in a stabilized net operating income of $9,169,155. Hatfield next estimated the subject would have an overall capitalization rate of 9.00% using investor surveys and the band of investment method. Hatfield used *Korpacz RE Investor Survey*, *Integra Realty-Viewpoint 2004* and *RERC Real Estate Report*, which indicated average rates of 8.76%, 9.0% and 8.1% to 8.4%, respectively. The band of investment method resulted in a capitalization rate of 9.0%. Capitalizing the net income resulted in an indicated value of $101,879,500. Hatfield then deducted $4,065,640 or $40.00 per square foot for the build-out of the 12th floor to arrive at an estimated value under the income approach of $97,810,000 as of January 1, 2004.

For the 2005 appraisal Hatfield used rental comparables 2, 3, 4, 5 and 6 from the 2003 and 2004 appraisals, rental #7 from the 2004, which was the comparable located in Morristown, New Jersey, and a new comparable located in Champaign, Illinois, to estimate market rent. The new rental comparable had 80,532 square feet and had a lease that commenced in April 2004 for $7.73 per square foot. Using this new comparable the rentals ranged from $6.78 to $11.93 per square foot. Using this data the appraiser estimated the subject would have a market rent of $7.50 per square foot on a net basis resulting in a potential gross income of $12,319,718. He next deducted a market vacancy rate of 10% resulting in an effective gross income of $11,087,746. Hatfield next made a deduction for expenses to account for management, administrative and re-leasing fees, and a replacement allowance. Hatfield estimated 4% of effective gross income or $443,510 for management/administrative expenses and $.25 per square foot or $410,657 for replacement. Deducting expenses resulted in a stabilized net operating income of $10,233,579. Hatfield next estimated the subject would have an overall capitalization rate of 8.50% using market extraction, investor surveys and the band of investment method. Using improved sales #1 and #3 Hatfield estimated the market extracted capitalization rates of 8.36% and 8.10%, respectively. Hatfield used *Korpacz RE Investor Survey*, *Integra Realty-Viewpoint 2005* and *RERC Real Estate Report*, which indicated average rates of 7.76%, 8.0% and 8.0% to 8.1%, respectively. The band of investment method resulted in a capitalization rate of 8.50%. Capitalizing the net income resulted in an indicated value of $120,395,047. Hatfield then deducted $4,573,845 or $45.00 per square foot for the build-out of the 12th floor to arrive at an estimated value under the income approach of $116,000,000 as of January 1, 2005.

Hatfield testified that he learned from the assistant store manager on the date of inspection and from an article in Crain's that the subject had boutique tenants operating within it. However, he was unable to obtain copies of the operating agreements, license agreements or subleases for those properties.

Hatfield also explained that in preparing the 2005 appraisal he was able to obtain the store-wide gross sales for the subject for 2002, 2004 and 2005 of $196,440,000, $232,681,000 and $229,106,000[4], respectively. Using 1,175,000 square feet as the retail sales area resulted in gross sales per square foot of

[4] The 2005 gross sales figure was contained in a letter from Ellen G. Berkshire, dated August 29, 2007, a copy of which was in the Addenda of City Exhibit #5.

$167.18 and $198.03 per square foot, for 2002 and 2004, respectively. In the 2005 appraisal Hatfield stated the 2006 Edition of *Dollars & Cents of Shopping Centers* reported sales per square foot for traditional department stores, which included 28 owner-occupied stores in the survey, of $156.03 per square foot as a median and $213.91 per square foot as the top 10% figure. These department stores had a median size of 104,560 square feet and the upper decile was 192,195 square feet. Hatfield explained the subject's gross sales of approximately $198.00 per square foot was near the surveys' top 10% figure, even though it was six times as large as the median department store size.

In each appraisal Hatfield considered both the income approach and the sales comparison approach in arriving at a final estimate of value. In each report he indicated that he gave more emphasis to the sales comparison approach than to the income approach. He ultimately arrived at the following estimates of value; $90,500,000 as of January 1, 2003; $98,500,000 as of January 1, 2004; and $120,000,000 as of January 1, 2005.

Under cross-examination Hatfield stated he had never prepared an appraisal for a major retailer that operates a department store. Hatfield agreed that each of his appraisals were for ad valorem tax purposes. He also agreed the subject property had been used as a department store throughout its 100 year history. The witness agreed the subject has continued to be operated as a flagship department store with ancillary office use. Hatfield also agreed that he was given no indication that there would be a change in use of the subject property.

Hatfield agreed the 12th floor of the subject building has the potential for use as retail space. He also was of the opinion the 13th floor of the subject building would be limited to stock or utility use due to its lower ceiling, the mechanicals running along the ceiling and lower window lines.

Hatfield also agreed the subject has approximately 1.9 million square feet if you include everything. He further agreed the property functions well for long-term department store, associated office and storage use.

With respect to Hatfield's sale identified as comparable #3 in the 2003 and 2004 appraisals and #5 in the 2005, this property had approximately 20% of building area devoted to retail and approximately 80% devoted to mostly office space.

Hatfield stated that a vertical mall means a multi-level mall with a center elevator with multiple tenants. The multiple tenants would include anchor stores and smaller specialty tenants. Hatfield explained his rental comparables #3 and #4 were Marshall Field's and Lord & Taylor in Water Tower Place. He also stated his rental comparable #6 was Bloomingdale's on North Michigan Avenue. Bloomingdales was approximately 20 years old and Water Tower Place was built in approximately 1975. The witness also agreed his rental #7 in the 2004 and 2005 appraisals is a freestanding, single tenant, department store in New Jersey. Hatfield also explained his rental #1 added in the 2005 appraisal, with 80,000 square feet, was part of a regional mall in Champaign, Illinois. Hatfield was questioned whether, based on the addition of a new rental comparable in the 2004 appraisal and the new comparable rental in the 2005 appraisal, he increased the subject's market rent each of those years. He explained there were many factors other than the inclusion of the additional comparable rentals that caused the estimate of market rent to go up.

Hatfield explained that the boutique stores tend to be independent and sell a specific product such as clothing, coffee or sunglasses. Hatfield did not know whether or not the sales generated by the license operations were included in the reported total gross sales of the subject.

Hatfield further indicated he had no support in any of his reports for the build-out costs associated with the 12th floor.

Hatfield agreed that none of his improved comparable sales was of a single user department store. Hatfield testified that it is hard to adjust between the Loop and an outlying area but it could be done. He agreed that neither Morristown, New Jersey nor Champaign, Illinois were located in the Loop.

Hatfield agreed his sale #1 in the 2003 appraisal was approximately 10% the land size of the subject tract and 15% the building size of the subject building. This was a 19-story building, built as an office building with one-story retail on the ground floor. This building had a floor plate of approximately 14,000 square feet. Hatfield agreed his sale #2 in the 2003 and 2004 appraisals and sale #6 in the 2005 appraisal was approximately 10% the land size of the subject tract and 15% the building size of the subject building. Hatfield explained the 2000 sale of this comparable was to a single buyer, the Art Institute, to use as an academic center. In 2004 the Art Institute sold the property to different parties for a lower price after the building had been gutted and was in a total shell condition. This was a 19-story building with the first two floors devoted to selling art supplies and the third floor is available for retail. The other floors have been converted into condominiums. This sale had a floor plate of approximately 11,000 square feet. Hatfield agreed his sale #3 in the 2003 and 2004 appraisals and sale #5 in the 2005 appraisal was a portfolio sale of three buildings. These properties had leases in place at the time of sale. The three buildings in this sale had floor plates of approximately 53,000, 19,000 and 12,000 square feet, respectively. Hatfield's comparable sale #4 in both the 2003 and 2004 appraisals had 22 stories with retail on the first floor. This building was 91% occupied at the time of sale and was a leased fee. Hatfield indicated this sale had a floor plate of approximately 36,000 square feet.

Hatfield's sale #1 in the 2004 appraisal and #4 in the 2005 appraisal has a site of approximately 12% to 13% of the subject's size and a building approximately 15% the size of the subject building. This was a 21 story building with retail on the ground floor described as being the U.S. Bank at the time of sale. This building was 91% occupied at the time of sale and was a leased fee with a floor plate of approximately 10,000 square feet.

Hatfield's improved sale #1 in the 2005 appraisal is improved with a 15 story building but only three levels and a partial of the fourth level were purchased. Hatfield agreed the portion purchased was used for multi-tenant retail space. This property had two large national anchors described as off-priced discounters. Hatfield reported this area was 99% occupied at the time of sale so it was a leased fee. Hatfield agreed his sale #2 in the 2005 appraisal was on leased land and is a vertical subdivision.

Hatfield agreed that none of his sales were of a single tenant, large, major department store and all the sales were multi-tenant buildings. Hatfield also agreed that Michigan Avenue is superior to State Street in terms of location.

Testimony of Susan E. Enright

The Chicago Board of Education called as its witness real estate appraiser Susan E. Enright of Appraisal Associates, Inc, who had prepared a narrative appraisal of the subject property. Enright identified Board of Education Exhibit A as the appraisal of the subject property she had prepared. Using the three traditional approaches to value, Enright estimated the subject property had a market value of $73,350,000 as of January 1, 2004.

For the appraisal assignment Enright inspected the subject property on June 10, 2006. The inspection comprised of walking through the public areas and around the exterior of the building as well as the surrounding areas.

Enright determined the highest and best use of the site as vacant would be for a master-planned mixed-use development, as allowed under the existing zoning ordinance, including a large scale component and a mixture of residential, hotel or office uses to be constructed in stages to ensure the development is not stalled. The appraiser was of the opinion the highest and best use of the subject as improved is for a continuation of its present flagship store retail use with supporting office components. Within the appraisal the appraiser indicated that there is potential that excess office space within the building could be converted for non-owner office use and that with little expense, vacant space could also be leased for storage use. (Board of Education Exhibit A, page 39.)

Enright described the subject property as a part 9-story, part 13-story and part 14-story masonry-constructed, flagship department store building with owner-occupied offices and storage areas on the upper floors. The subject has an above grade building area of approximately 1,544,000 square feet, with a retail area of approximately 800,000 square feet. The witness testified floors 1 through 9 were open to the public. Enright testified she did not inspect floors 10 through 14 but knew that at least one of the floors was being used as the regional offices for the corporate entity. She also testified there was one finished floor below grade that contained 130,000 square feet and there were two unfinished subbasements.

She testified the subject is located in the heart of Chicago's Loop or central business district. She further testified there was an influx of new retail on State Street and the just-completed Millennium Park is drawing millions of tourists to the area and there was revitalization of older buildings. The witness testified the subject is located directly across the street from Block 37, which is vacant, but there are plans to develop the site with retail, office, hotel and residential components.

Under the cost approach to value Enright first estimated the subject's land value using six comparable land sales. In selecting the land comparables she considered proximity to the subject in the central business district, sales that occurred as close as possible to the date of value, similar zoning and similarity to the subject in terms of size. Each of the sales was located in Chicago and ranged in size from 24,086 to 128,957 square feet of land area. She testified the sales were all located within the central business district and land sale #2 was located across the street from the subject. The sales occurred from April 2000 to September 2003 for prices ranging from $10,000,000 to $44,000,000 or from $244.41 to $632.05 per square foot of land area. Based on these sales Enright estimated the subject property had a land value of $350.00 per square foot or $45,950,000, rounded.

Within the report Enright indicated sale 1 was acquired for development of a 40-story office building. The appraiser indicated sale #2 was improved at the time of sale with several older low-rise buildings. The buyer purchased the site for redevelopment with a 57-story condominium building, with 356 residential units and 100,000 square feet of retail space. Sale #3 was an asphalt parking lot at the time of sale and has been improved with an owner-occupied 1.3 million square foot, 31-story office building. Sale #4 was a surface parking lot at the time of sale and is being improved with a high-end hotel. Sale #5 was the sum of a five-site assemblage for construction of a 420,000 square foot, 17-story office building. The buyer also intends to build a 266-unit condo building and a second 500,000 square foot office building on the site. Sale #6 was a surface parking lot and was purchased for development with a 37-story office building with approximately 735,000 square feet of net rentable area. Within her report Enright indicated the sale price of sale #6 was reportedly established in 1998.

In estimating the cost new of the improvements Enright used replacement costs primarily from the Marshall & Swift Valuation Service Cost Manual. In the report she indicated that any prospective buyer would essentially be purchasing the subject for its building "shell" rather than the existing build-out, therefore it was determined to be more appropriate to estimate the replacement cost new of a vanilla box shell. (Board of Education Exhibit A, page 53.) Enright used a base cost for the above grade portion of $44.83 per square foot and $25.66 per square foot for the below grade area. She made adjustments for sprinklers, height and size refinements, applied a current cost multiplier and applied a local cost multiplier. She arrived at a replacement cost new estimate as of January 2004 of $73,628,508. To this the appraiser added 5% for indirect costs and 10% for entrepreneurial profit to arrive at a total cost new of $84,672,784. Physical depreciation was estimated to be 50% using the age-life method. Enright also estimated the subject suffered from 10% functional obsolescence due to the building's large floor plates. She further concluded the subject property suffered from no external obsolescence. Deducting depreciation and adding the land value resulted in an estimated value under the cost approach of $79,800,000.

Enright used five improved comparable sales in the sales comparison approach to value. She explained improved sale #2 was a three-building sale. The witness testified the sales are located in the Central Loop and within three-blocks of the subject property. She testified she was not able to locate any large flagship stores and also looked at anchor department store sales throughout the regional area such as Indiana, Michigan, Chicago and the Chicago suburbs. She ultimately concluded that those sales closest to the Loop, closest to the subject property in terms of location, best reflected the value of the subject property. The sales were improved with 17-story to 47-story buildings that ranged in size from 174,842 to 876,000 square feet of building area. The sales occurred from December 1999 to May 2004 for prices ranging from $10,350,000 to $121,500,000[5] or from $47.29 to $83.53 per square foot of building area, including land.

Within the appraisal Enright explained sale #1 was a 19-story building constructed in 1912 with 218,800 square feet of above grade gross building area and 11,520 square feet of land. It was purchased in June 2000 by The Art Institute of Chicago for a price of $14,593,500. The Art Institute demolished the interior

[5] This was the combined price for comparable sale #2, which included three buildings that sold in one transaction with unit prices ranging from $67.31 to $98.07 per square foot of building area, or for an average price of $75.71 per square foot of building area, including land.

with plans for renovation but abandoned the project. It sold the property in 2004 at a time when the building was a raw shell with no HVAC, no elevators and open floor joists on all levels for $10,350,000 or $47.29 per square foot of building area, including land. The upper floors of this property have been converted to 169 residential condominiums and the lower floors for commercial use. Sale #2 was composed of three properties improved with a 17-story, multi-tenant office building constructed in 1917 with 876,000 square feet of net rentable area and 52,975 square feet of land; a 47-story multi-tenant office building constructed in 1930 with 489,926 square feet of net rentable area and 19,470 square feet of land; and a 21-story multi-tenant office building constructed in 1923 with 238,921 square feet of net rentable area and 12,367 square feet of land. The total cost was $121,500,000 or $75.71 per square foot of net rentable area, including land. Comparable #3 was improved with a 24-story multi-tenant office building constructed in 1927 with 174,842 square feet of building area and 6,720 square feet of land. This property sold in August 2001 for a price of $10,600,000 or $60.63 per square foot of gross building area, including land. Sale #4 was a 22-story multi-tenant office building constructed in 1914 with 579,778 square feet of net rentable area and 36,432 square feet of land. This property sold in July 2001 for a price of $51,000,000 or $87.96 per square foot of net rentable area, including land. Sale #5 was a part 19-story and part 21-story masonry office building constructed in 1895 with approximately 225,000 square feet of above grade building area and 14,294 square feet of land. The sale occurred in December 1999 for a price of $13,000,000 or $57.78 per square foot of gross building area, including land.

Enright testified her sale 2a, located at One North Dearborn Street, Chicago, stood out because it had a Sears department store on the first four floors and then office use on the remaining floors. This building sold for $74.30 per square foot of net rentable area. In the sales comparison approach Enright estimated the subject had an indicated value of $47.50 per square foot of above grade gross building area (1,544,470 square feet) or $73,350,000, rounded, including land.

In the income capitalization section of her appraisal Enright explained that her highest and best use analysis was predicated on the assumption that a market sale of the subject property would result in a potentially massive renovation that would alter the existing use. It was her opinion the income capitalization approach was not applicable to the assignment since a feasibility study to determine which combination of the many uses was beyond the scope of the assignment.

Nevertheless, Enright developed an estimated value under the income approach by first stating in the appraisal that anchor department store leases are often structured based on a percentage of retail sales of at least 3.0%. Using the REAC appraisal statement that the 2002 store sales were $196,440,000 or $245.55 per square foot of retail sales area of 800,000 square feet, she estimated the subject would have a market rent of $5,893,200 or $7.37 per square foot net. She also recognized the subject would require additional support area for stock, office and management. Therefore, she dedicated 991,427 square feet to the retail component, which assumed Floors B1 through 7. She also indicated a prudent owner would renovate the under-utilized space on floors 8-13 for multi-tenant office use. The appraiser calculated this area would have 520,962 square feet of net rentable area that could be rented for $7.50 per square foot or $3,907,215. Combining the retail and office components resulted in an estimated gross potential income of $9,803,215. Enright deducted 12.5% for vacancy and collection loss to arrive at an effective gross income of $8,577,813. She then deducted management expenses and reserves in the amount of $489,005 to arrive at a net operating income of $8,088,808. The appraiser then estimated a capitalization rate of 9%, which she stated in the report was supported by the 1st Quarter 2004 Korpacz report. Capitalizing the net income resulted in an estimated value of $89,875,644. She then deducted renovation costs associated with office use of $16,250,000 and a leasing commission of $390,722 to arrive at an indicated value under the income approach of $73,235,000. Within the appraisal she indicated she did not rely on this analysis in arriving at her final market value conclusion.

In reconciling the three approaches to value Enright was of the opinion the sales comparison approach was the most reflective of the actual value of the subject property and estimated the subject had a market value of $73,350,000 as of January 1, 2004.

Under cross-examination Enright agreed the subject has always been a department store with an office component. She further agreed the subject has immense local and national recognition and is used as a flagship department store. Enright was also aware of the various sale-leaseback transactions regarding the subject property for prices ranging from $39,000,000 to $39,160,000.

With respect to the influx of new retail to the area Enright indicated the new establishments were not major department stores but major national retailers. She further indicated the maximum size of one of these retailers was approximately 30,000 square feet. She also recognized that a Carson Pirie Scott store had closed, which was a major retailer on State Street. The witness agreed the upper floors of Carson's were being converted to office space.

Enright also agreed that the subject property has approximately 800,000 square feet of building area devoted to selling with some of that area being located in the first basement. The appraiser also agreed that she had noted in her appraisal the subject property has been designated as a City of Chicago Landmark, which protects the subject from demolition. She also acknowledged there was renovation to the retail space on floors 1 through 8 at the subject property in 1991 or 1992. After the renovation the subject property continued to be operated as an anchor department store.

Enright agreed that in the income approach she considered converting everything above the 8th floor to multi-tenant use. She did not know what the conversion costs would be, but made an allowance for office conversion costs for typical tenant improvements. Enright further agreed she called the subject property a trophy project for redevelopment.

Enright stated within her appraisal that, "we determined no truly comparable sales could be found in the City of Chicago, the State of Illinois, the entire Midwest, or the nation." (Board of Education Exhibit A, page 77.) She explained that she meant to be truly comparable you would find a million plus square foot flagship department store in the heart of a major metropolitan area. The witness agreed she did not use any sales of department stores in her appraisal. She also agreed it was speculation on her part to assume that if the property were 100 percent vacant there would be redevelopment of the property.

The appraiser also agreed her replacement cost new was based on the cost of a Class C shell office building. She testified that it was a possibility that a prospective buyer would purchase the property for a change in use and that this was a conservative number.

With respect to the improved comparable sales, Enright testified that her highest and best use was for continuation of the subject property as a department store and her sales could be adjusted to reflect the current use. She chose to use office building comparable sales because she felt that proximity to the subject's underlying land value was the overwhelming factor. Additionally, the sales she selected were closer in size to the subject property than the department store sales.

With respect to her comparable sale #1, the witness indicated the land area was approximately 1/10th the size of the subject parcel and the building is approximately 20 percent the size of the subject with floor plates of approximately 11,000 square feet. The witness further indicated the 2004 sale of this property included two buyers, one who purchased the basement, first and second floors and the other buyer purchased the upper floors. Enright also agreed that improved comparable sale #2 was a portfolio sale involving three properties. These were multi-tenant office buildings with a retail component. The appraiser indicated that sale #2b was half occupied but sales #2a and #2c had fairly healthy occupancy levels. Enright testified the floor plates on comparable sale #3 were in the range of 6,700 square feet. This was a multi-tenant office building that was 88% occupied at the time of sale. The appraiser testified her improved comparable sale #4 was about 1/3 the size of the subject building with floor plates of approximately 36,000 square feet. This property was improved with an office building that was 91%

occupied at the time of sale. Enright agreed that sales #2, #3 and #4 were leased fee sales. The appraiser also agreed sale #5 had a significantly smaller lot size and building size than the subject. This property was purchased for gut renovation and multi-family residential development. The floor plates for this property were approximately 14,000 square feet.

The witness testified that floor plate sizes of office buildings are generally in the range of 10,000 to 50,000 or 60,000 square feet while the subject has a floor plate size of approximately 120,000 square feet.

The witness indicated that in the income approach she valued at least 500,000 square feet of the subject as an office building. Additionally, she stated she did not use any department stores in her comparable sales approach although she considered them in her analysis.

Enright further testified that she had previously appraised the subject in 2000 and appraised other properties in the downtown Loop area subsequent to 2000. She did not think that land values have gone down in the Loop area from 2000 to 2004. She also testified the subject has 385 feet of frontage along State Street and Washington Street with 340 feet of frontage on Washington and Randolph Streets. Enright was of the opinion this was very significant frontage for a retail property in that this would allow a lot of exposure.

The witness also testified she considered retail department store sales in Livonia, Michigan; Ann Arbor, Michigan; and Normal, Peoria and Aurora, Illinois. She indicated the sales in Livonia and Ann Arbor were for $47 to $50 per square foot, similar to her value conclusion. She opted to use sales located closer to the subject.

Testimony of Joseph Ryan

Joseph Ryan was called as a rebuttal witness on behalf of the appellant. From 1980 to 1985 Ryan worked in the Cook County Assessor's Office and seven months at the Cook County Board of Review, which was then known as the Cook County Board of Tax Appeals. While with the Assessor's Office Ryan worked in the appeals department, the standards department and was the director of technical review, where he was responsible for overseeing the entire assessment process. While with the Board of Review he was a hearing officer and worked directly with a Commissioner. The witness testified he was familiar with the procedures for property assessment valuation in Cook County.

Ryan has prepared 25 to 50 appraisals of large department stores for such entities as Sears Roebuck and Company, Macy's, L.A. Sayers, Bloomingdale's and Lord & Taylor. The witness testified he was familiar with the market for large department stores in

Chicago, Indiana, Michigan and Wisconsin. The witness was familiar with the Marshall Field's store. Ryan testified that he has prepared an appraisal of the subject property subsequent to 2005.

Ryan also testified he had reviewed the appraisal report prepared by Susan Enright of Appraisal Associates with an effective date of January 1, 2004 and the appraisal reports prepared by Gregory Hatfield of Hatfield & Associates with effective dates of January 1, 2003, 2004 and 2005. Ryan reviewed the appraisals to determine if they used appropriate methodology and if the data employed was appropriate. Ryan testified the intended use of the appraisals was for ad valorem taxation purposes and in Illinois the standard is fee simple as of January 1 of the lien year.

Ryan disagreed with Enright's statement that Sears' return to State Street is an indication of the improving retail market. Ryan testified that as of January 1, 2004, there was only one big freestanding department store left on State Street and that was the subject property. He indicated the major retailers had relocated to North Michigan Avenue, which has become a more desirable location for retailers. Ryan testified that Enright had reported that Toys R Us and Old Navy had located on State Street between 2004 and 2005. He did not consider either to be a major retailer stating that both had less than 75,000 square feet. He further stated Toys R Us closed during the period from 2003 to 2005. The witness also testified about the planned retail development on Block 37 during the period from 2003 to 2004 that did not come to fruition. Ryan testified that Lord & Taylor, a client of his, decided not to become a lead retail anchor tenant at this location because the projected sales per square foot would not justify the rent at that location.

Ryan also disagreed with Enright's conclusion that the subject property would be considered a trophy project for redevelopment. His conclusion was based on the fact that Block 37 was considered a trophy redevelopment site and has sat vacant for over 20 years despite numerous attempts by the City of Chicago to foster development at the site. Ryan testified that the site for Block 37 sold and resold several times prior to 2005. He indicated that the City had subsequently sold the site for $12,300,000 or $101 per square foot of land area.

Ryan also testified he was familiar with the former Carson's store on State Street. He agreed the upper floors were developed and designed originally as office space. Ryan testified that Carson's was located just south of the subject at State and Madison. The developer bought the building and a small portion of the underlying land from Carson's for $6,000,000. He testified the parties had structured a partial sale-leaseback with Carson's retaining the retail operation for a seven or eight year period for $1.77 per square foot and the developer took the upper floors for office. Ryan further explained the City of Chicago wound up acquiring three ground leases underneath a majority of the building for $8,000,000 for the developer to create a fee interest. Adding the $8,000,000 and the $6,000,000 paid for the building resulted in a price of $14,000,000 or about $13.50 per square foot of land and building area.

Ryan agreed with Enright's conclusion not to give her cost approach significant weight and her conclusion that the large size of the subject might be considered a hindrance to its redevelopment. Ryan disagreed with Enright's conclusion that redevelopment could be completed in stages due to the fact that the subject's elevators are located in the core of the building and construction work and materials would have to go through the middle of the store causing problems. He also disagreed with Enright's conclusion the large floor plates would not be a problem in the property's redevelopment. Ryan testified department stores are developed with large floor plates while office buildings and hotels do not have large floor plates. Ryan testified that development seen in the central business district does not have floor plates the size of the subject. He also disagreed with Enright's testimony that redevelopment of the upper floors could be accomplished with no interference of the retail operation on the lower floors.

With respect to the land sales used by Enright, Ryan observed sale #1 was smaller and developed with an office building after a 500,000 square foot tenant was found; sale #2 was an assemblage of sites to develop a residential condominium not similar to the subject; sale #3 was located in the West Loop, which is a much more desirable office market than where the subject is located and that did not close until the City of Chicago provided tax increment financing for development; sale #4 was smaller and developed with a hotel; and sale #5 was another office building site that wasn't purchased until a lead anchor department tenant could be found to secure financing. He testified all the sites had to be rezoned to accommodate the use that was ultimately developed.

Ryan was also of the opinion that Enright's use of leased fee sales was inappropriate because they express the value of the leased fee, not the fee simple value. He also asserted that the properties were leased to multi-tenants and multi-tenant buildings are not applicable or comparable to single tenant buildings.

The witness disagreed with Enright's statement that no truly comparable sale could be found in the City of Chicago, the State of Illinois, the entire Midwest or the nation. Ryan asserted that the only thing comparable to a single tenant department store is a single tenant department store. He asserted that even if department stores are located in a suburban mall they average between 150,000 and 300,000 square feet with floor plates between 75,000 and 150,000 square feet, which are absolutely comparable and the only thing comparable to the subject property. Ryan observed that the improved comparable sales used by Enright were primarily leased fee sales of office buildings that were purchased to continue as office buildings or to be renovated for residential use. None of the sales were single tenant department stores and all had smaller floor plates. Ryan was of the opinion the improved comparable sales were not comparable and offered no relevance to a single tenant department store. He testified their physical characteristics were not comparable to the subject and their use was not comparable.

Ultimately Ryan was of the opinion that Enright's opinion of market value was not a credible report for ad valorem taxation.

With respect to Hatfield's three appraisals Ryan agreed that the exclusion of the cost approach in the report was appropriate. He disagreed with Hatfield's conclusion that market conditions were favorable for retail property in the subject's market. Ryan did agree with Hatfield's conclusion that the highest and best use of the subject property as improved was for the existing department store and associated office use.

With respect to the land sales used by Hatfield, Ryan testified that land sale #1 wasn't purchased until a lead tenant could be found to secure the financing to develop the site. Ryan described land sale #2 as comparable in size but in a more desirable West Loop office location. Land sale #3 was the Trump Tower site developed with hotel and residential condominiums.

With respect to the rental comparables Ryan indicated that the comparables were of single tenant department stores with the exception of the rental located in Morristown, New Jersey, which was a freestanding big box store. He testified the rentals ranged from $4.50 to $12.00 per square foot. Ryan further testified rentals #3 and #4 were located in Water Tower on North Michigan Avenue, a superior location, and were of 140,000 and 175,000 square feet of building area, much smaller than the subject. He was of the opinion that there was something lacking in the adjustment process based on the appraiser's conclusion the subject would have the same rental amount on a unit basis as a much smaller site would rent for on North Michigan Avenue. He also testified that the fact that Carson's had leased 650,000 square feet for $1.77 per square foot also indicates there was something lacking in the adjustment process.

Ryan testified the most common rent for department stores is based on a percentage rent per square foot of department store sales, which is typically between 1½% and 3% of gross sales. Ryan testified the retail sales for the Sears store on State Street from 2003 to 2005 was between $90.00 and $100.00 per square foot. He also testified Carson's had retail sales between 2003 and 2006 of between $105.00 and $125.00 per square foot, and the rent was $1.77 per square foot, which breaks down to approximately 1½% of sales.

Ryan testified he would not equate sales of office buildings with some retail components, such as those used in Enright's and Hatfield's comparable sales analysis, with the subject property. Ryan testified Hatfield used mostly sales of leased fee office buildings as comparable sales. Ryan was of the opinion it would be more proper to use sales of department stores as comparable sales to value the subject property even if located in suburban areas. Ryan testified that retailers look at sales per square foot for their location adjustments for department stores. Ryan testified that a comparison of sales per square foot gives an indication of location, size and market condition adjustments. He testified that buyers and sellers in the retail industry use sales per square foot as the criterion in analyzing department store sales.

Ryan was of the opinion that Hatfield's use of leased fee office sales as comparable sales was not consistent with his highest and best use conclusion of the property as improved. The witness concluded Hatfield's appraisals were not credible estimates of market value for the subject property as presently configured and used.

Under cross-examination Ryan agreed that a competent appraiser can make adjustments for differences in size but not use of the comparables.

Ryan further testified the subject property was unique; he described the subject as a single tenant department store. Ryan was of the opinion that the only way you can value a department store is to compare it with other department stores. Ryan also testified that in valuing a property such as the subject property he uses gross building area as the area used for retail. It was Ryan's opinion the subject had 1.9 million square feet of building area devoted to retail. Ryan agreed that if the subject had sales of approximately $230 million from 2003 to 2005, you would divide that amount by 1.9 million square feet to get the sales per square foot.

With respect to the sale of Block 37, Ryan testified he looked on the Recorder's web site to get the price of $12.3 million. He indicated it would not surprise him if there were a number of restrictions placed on the developer of that sale but he did not know of the restrictions. Ryan was aware of a ComEd substation on the site and the developer would have to build the development around the site. He agreed this restriction would have affected the land value in the Block 37 sale. He also read that there was another restriction that the developer had to incorporate the CTA station below Block 37, which he thought would be a positive attribute. He also agreed that the developer would have to account for the underground railways that went through the site but had no opinion if that negatively affected the sale price.

Ryan was of the opinion that State Street is a dying retail location even though Old Navy and Nordstrom exist across the street from the subject and Sears opened a site on State Street. Ryan agreed that sales at the subject property had remained fairly the same over the years at issue despite the presence of Old Navy and Toys R Us on State Street. He also agreed that an important consideration in the sales of department stores is the retail sales per square foot. Ryan also testified he was familiar with the publication called *Dollars & Cents of Shopping Centers*.

On redirect Ryan testified that if the value conclusion reached under the sales comparison approach, the income approach, or both is greater than the value of the underlying land, the highest and best use as improved is for continued use of that property. He further stated that if the determination of the highest and best use is for continued use as a single tenant department store, then comparables used in the sales comparison approach and income approach should be single tenant department stores.

Ryan also testified that he would use the gross building area to calculate the sales for the subject department store, which he calculated to be approximately $115.00 per square foot. He testified that from his recollection of *Dollars & Cents of Shopping Centers* he reviewed in 2004, the average retail sales in the Midwest were between $150 and $175 per square foot, placing the subject below average. He testified that Dollars & Cents of Shopping Centers indicates that gross sales are to be divided by gross building area.

Under redirect Ryan further testified the subject property was unique in terms of size but not in terms of merchandise sold.

Testimony of Michael MaRous

Michael MaRous was called as a rebuttal witness on behalf of the City of Chicago. The witness had reviewed the appraisal prepared by REAC. MaRous is a real estate appraiser employed by MaRous & Company that is in the business of real estate appraising and real estate consulting. MaRous has the Illinois State Certified General Real Estate Appraiser license and the MAI designation from the Appraisal Institute. MaRous has sat on over 30 Appraisal Institute committees and has sat as an officer and past president of the Chicago Chapter of the Appraisal Institute. The witness was also on the board of the Appraisal Journal and chairman of the publications committee which oversees all books, textbooks and magazines including the Appraisal of Real Estate. MaRous is also a member of the Counselors of Real Estate, which is an invitation only organization with approximately 1,200 members and is the highest form of real estate consulting.

The witness has appraised properties for a variety of purposes including ad valorem tax purposes. He has appraised properties in approximately 30 states with a primary focus in the Chicago metropolitan area. He has also appraised a variety of retail properties including 30 to 50 anchor retail properties, which he described as larger tenancy of above 50,000 square feet that is the draw for the remainder of small shop space at a center.

The witness also testified that since 2000 he has appraised over ten properties on State Street in the vicinity of the subject. MaRous testified that well located, developable sites in the vicinity of the subject have experienced significant increases in value since January 1, 2000. MaRous also testified during the period from January 1, 2000 through January 1, 2005, he has observed trends of retail development in downtown Chicago and downtown Chicago Loop area in the State Street corridor between Wacker and Congress Parkway.

MaRous testified that he is familiar with the subject property. He described the subject as being in an East Loop location in downtown Chicago, a very dynamic area that has experienced significant redevelopment since 2000. He testified there were many cultural upgrades such as renovation of new theaters, the redevelopment of Millennium Park, significant residential development and the redevelopment of stores on State Street including the former Toys R Us store. He did not agree with Kelly's statement that the State Street retail is a dying market due to the significant upward trends on both the cultural, residential, office and retail markets.

With respect to the improved comparable sales used by Kelly as outlined on page 152 of his appraisal, MaRous testified that none of the comparables are located in the top tier retail markets in the country and do not have the same population density, employment density, pedestrian traffic counts, demand factors, the overall metropolitan size, the overall economic level, and nothing similar to other top tier retail markets for which State Street and Michigan Avenue are synonymous.

MaRous testified he read the REAC appraisal, inspected the property, reviewed information on CoStar Comps and MLS Services, reviewed public information regarding pedestrian traffic counts, reviewed over 20 articles in regard to retail type development, department store use and demand on Michigan Avenue and State Street. He also testified he reviewed the Northern Real Estate State Street Market Study and reviewed public documents in regard to Block 37.

MaRous testified his visit was an inspection of the exterior and the area including a walk-through of the ground floor retail area. He did not make a full, detailed inspection of the almost 2 million square feet of space. The witness was of the opinion the subject had a fabulous location with 1,450 feet of street frontage. He testified the subject was very visible, very attractive and very ornate. He testified the subject has large floor plates and there was obsolescence of the upper floors for retail. MaRous further testified the office area had significant obsolescence and was dated. He also noted third party type tenancy with a bookstore, a sunglasses type shop and a Starbucks.

MaRous identified City Exhibit No. 9 as the review appraisal he prepared. The witness testified that there were changes in market conditions for retail property on State Street subsequent to January 1, 2003. The witness further testified there was not anything in the REAC appraisal to indicate that updated market data and a corresponding review and analysis of that data was considered with regard to dates of value subsequent to January 1, 2003.

With respect to the land sales in the REAC appraisal, MaRous testified the sales are dated with limited relevance for January 1, 2003, as all but two occurred prior to 2000. The witness testified these land sales get more obsolete and dated as of January 1, 2005 with some becoming seven and eight years old; in his opinion these sales are not relevant. MaRous testified he had appraised in excess of 40 properties in the vicinity of the subject from January 1, 2000 through January 1, 2005 and the trend in the market regarding the value of land in Chicago's downtown Loop area during this period was significantly upward. He was of the opinion that the trend in market value of land in the State Street market during 2000 through 2005 was also significantly upward.

With respect to the REAC land sales MaRous made the following observations:

Land sale #1 was dated.
Land sale #2 was dated and would require a significant time adjustment.
Land sale #3 has a similar location as the subject but would require a significant time adjustment.
Land sale #4 was an outstanding office location but inferior retail location and there would be a significant upward adjustment for time.
Land sale #5 would require a significant upward adjustment for time and is a better office location.
Land sale #6 was a resale of a portion of land sale #2 but would still require an upward adjustment for time.
Land sale #7 has an inferior retail location and would require an upward adjustment for time.
Land sale #8 was purchased for a new office building and would require an upward adjustment for time.
Land sale #9 was old, has a bad shape for redevelopment, has 140 feet of street frontage, different zoning and has a lower pedestrian count.

The witness noted the subject site is double the size of the largest land comparable used by REAC and has 1,450 feet of street frontage. He further testified the last published accounts of pedestrian traffic around the subject indicated there were in the vicinity of 50,000 pedestrians a day during the Monday through

Friday 7:30 AM to 5:00 PM time slot. MaRous concluded that the land value estimate in the REAC appraisal was not reliable.

MaRous was also of the opinion that the residual building value under the cost approach of less than $8 per square foot was not reliable. MaRous critiqued REAC's cost approach as it related to the improvements, which were contained on pages 10 through 12 of City Exhibit No. 9. He ultimately concluded the value conclusion by the cost approach indicated a less than reasonable estimate of value.

With respect to the sales comparison approach in the REAC appraisal, MaRous testified that none of the eight improved comparable sales are in a top ten tier downtown urban market, more than half are located in a different state, none have similar pedestrian counts, similar demographics, similar population and most are suburban in nature and not at all comparable. Furthermore, none have similar retail sales as the subject. He testified that sales #1 through #4 were reasonable in terms of date of sale occurring in 2002 and 2003 but the remaining four are dated occurring from 1996 to 1999. MaRous further testified he had not seen a retail sales multiplier in support of the sales comparison analysis. He testified this method is quite speculative, has heavy influence on business value and was not appropriate. MaRous was not aware of any authoritative appraisal source for the use of a retail sales multiplier in the valuation of retail properties. He did indicate that retail sales per square foot of overall retail sales can be considered. The witness was familiar with the use of a gross income multiplier and was of the opinion the only way this could be used is to look at rents, not sales.

In his appraisal review of the improved sales used by REAC MaRous stated:

> Sale #1 was actually two stores located in two different shopping centers in Columbus, Ohio.
> Sales #3 and #4 were sold at auction after foreclosure which can potentially cause stigma.
> Sale #5 sold in October 1999.
> Sale #6 sold in August 1999 and was purchased by the tenant. He stated that the REAC report did not indicate the length of time remaining on the lease or whether consideration was given to the purchaser for investment in the renovation.
> Sale #7 was an older sale, occurring in February 1996, located in Aurora that required upward adjustments for time and location, yet the REAC report gave a negative adjustment, with which he disagreed with.
> Sale #8 was an older sale, occurring in November 1998, included a parking garage and was not purchased for retail use.

During the hearing MaRous testified sale #8 was an older building located in a third tier retail market. He further stated this building was not in as good a shape. MaRous also testified that the appraiser did not use the entire gross building area in calculating the retail sales per square foot but used only the retail portion of the building.

MaRous critiqued REAC's income approach, which was contained on pages 12 through 17 of City Exhibit No. 9. In reviewing the income approach contained in the REAC appraisal, MaRous concluded the report underestimated market rent and did not include rent for the office portion and food production portion of the building. He also opined the vacancy and collection loss allowance as well as the capitalization rate are poorly supported. He also contends the calculation of net operating income is incorrectly computed as well as the calculation of the final value conclusion. MaRous stated in his appraisal review that the overall impact was to understate the value by the income capitalization approach.

In conclusion MaRous was of the opinion the REAC appraisal's opinion of value as of January 1, 2003, January 1, 2004 and January 1, 2005 is not reliable.

Under cross-examination MaRous testified he agreed with Kelly's classification of the subject property as a flagship and signature building. The witness further testified he was aware of decisions of the Illinois courts requiring property to be valued for ad valorem tax purposes in its current use and not some speculative future use.

MaRous further testified that he would not equate a building of 2 million square feet of retail space with 2 million square feet of office space. He further stated, however, the subject is close to 2 million square feet and described it as having approximately 800,000 square feet of retail area and support offices, but there is a significant office component.

MaRous thought it was misleading for the appellant to call its sales space 800,000 square feet but then divide the gross retail sales by the gross building area. MaRous indicated by doing this calculation virtually no value was placed on the upper floor office space.

MaRous also indicated that as a general appraisal principle a sale-leaseback is not a good indicator of market value without a full review of the documents and a full understanding of the motivations and relationships of the matters.

MaRous further testified that the cost approach is an appropriate check that takes into consideration land value and the depreciated nature of the improvements. He further testified, however, the subject is an older building that has significant historical features, has had renovation but also suffers from obsolescence. He agreed that the cost approach should not be given significant weight in the valuation analysis.

The witness also testified that the downtown Chicago premium locations are Michigan Avenue and State Street but, generally, North Michigan Avenue is more desirable than State Street.

MaRous agreed that the chart listing the closing of stores on State Street located on page 15 of the REAC appraisal (Taxpayer Exhibit No. 1) was correct. The witness testified, however, the chart should have included a fourth column to show redevelopment after closure.

Findings and Conclusions[6]

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds, after considering the testimony of the witnesses and reviewing the appraisals submitted by the parties, a change in the subject's assessment is not justified.

The appellant contends overvaluation as the basis of the appeal. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)).[7] Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). After considering the evidence presented by the parties during the oral hearing, the Board finds a change in the subject's assessment is not warranted.

For each of the years under appeal the subject property had a total assessment of $26,600,002. The subject's assessment reflects a market value of $70,000,005 or $36.03 per square foot of building area, including land, when applying the 38% level of

[6] The Cook County Board of Review called no witnesses and presented no case during the oral hearing.
[7] For assessment years 2003 through 2005, the Cook County Real Property Assessment Classification Ordinance provided that class 5a commercial property, such as the subject, was to be assessed at 38% of market value.

assessment for class 5-97 commercial property under the Cook County Real Property Assessment Classification Ordinance. For each of the years under appeal the appellant submitted an appraisal and presented the testimony of real estate appraiser Michael Kelly of REAC estimating the subject property had a market value of $39,000,000 as of January 1, 2003. The City of Chicago submitted three appraisals and presented the testimony of Gregory J. Hatfield of Gregory J. Hatfield & Associates, LLC. Hatfield estimated the subject property had a market value of $90,500,000 as of January 1, 2003; $98,500,000 as of January 1, 2004; and $120,000,000 as of January 1, 2005. The Chicago Board of Education called as its witness real estate appraiser Susan E. Enright of Appraisal Associates, Inc. Enright estimated the subject property had a market value of $73,350,000 as of January 1, 2004.

The appellant and the City of Chicago also presented rebuttal witnesses Joseph Ryan and Michael MaRous, respectively, who both concluded the appraisals submitted by the opposing parties were not credible or reliable indicators of market value.

The Board finds the appraisers were in agreement with respect to the calculation of the land area and had relatively similar descriptions of the building improvements. The appraisers also agreed the subject building was a flagship department store. Each appraiser also had a similar conclusion as to the highest and best use of the subject property as improved as being its current or existing use.

After considering the testimony and reviewing the REAC appraisal, the Board finds Kelly underestimated the value of the subject property and the conclusion of value was not credible as of the assessment dates at issue. As a result the Board finds the appellant's evidence does not support a reduction in the subject's assessment for the assessment years at issue.

With respect to the cost approach the Board finds Kelly significantly underestimated the value of the subject land. The REAC appraisal contained 9 land sales and of these 9, seven occurred from January 1997 to July 1999, which are dated with reference to the 2003, 2004 and 2005 January 1 lien dates at issue. The two most recent land sales occurred in April 2000 and November 2000 for unit prices of $480.36 and $417.47 per square foot of land area, significantly greater than Kelly's estimated land value of $185.00 per square foot of land area. The Board finds Hatfield submitted information on four land sales that occurred from October 2000 to October 2004 for unit prices of $244.41 to $611.45 per square foot of land area. Additionally, Enright provide sales information on six land sales that occurred from April 2000 to September 2003 for prices ranging from $244.41 to $632.05 per square foot of land area. Based on this data, and considering the size and use of the subject property, the Board finds Hatfield's estimates of land value of $325 per square foot for both January 1, 2003 and January 1, 2004 and $375 per square foot as of January 1, 2005 and Enright's estimated land value of $350 per square foot as of January 1, 2004 are more credible. The Board finds that Kelly underestimated the subject's site value by at least $140 per square foot of land area or by approximately $18,400,000, which in turn undermines his value conclusion under the cost approach. Due to the fact the cost approach can be used as a check on the validity of the estimates of value under the sales comparison approach and the income approach to value, Kelly's underestimate of value in the cost approach calls into question the credibility and validity of the ultimate value conclusion contained in the appraisal.

With respect to valuing the improvements under the cost approach the Board finds Kelly's estimated depreciation was not well supported. The Board finds Kelly attempted to estimate depreciation from all causes using the comparable sales from the sales comparison approach. Initially, the Board finds these comparables were not particularly similar to the subject in location and physical attributes. Furthermore, four of the improved sales were dated, occurring from February 1996 to November 1998, not particularly proximate in time to the January 1, 2003; January 1, 2004; and January 1, 2005 assessment dates at issue. Furthermore, Kelly used assumptions in extracting a land value based on stabilized retail sales assigned to each comparable to arrive at a contributory land value which was then deducted from the sales price to arrive at a residual building value. The Board finds these calculations were not well supported and were speculative in nature.

The Board also finds Kelly calculated depreciation based on the required rate of return on the local land value and cost new. The Board finds this calculation is flawed in that Kelly underestimated the land value and overestimated the rate of return as explained below.

For these reasons the Board finds that Kelly's estimate of value under the cost approach understated the value of the subject property.

With respect to the income approach to value, the Board finds Kelly underestimated the market rent attributed to the subject property. The Board finds his list of rentals included comparables #1 through #4 located on Michigan Avenue and State Street in Chicago with net rents ranging from $7.50 to $9.99 per square foot. Additionally, his rental comparables #5, #14, #21 and #22, located in the Chicago metropolitan area, had net rents of $8.75, $6.81, $4.41 and $4.72 per square foot, respectively. Additionally, in the three appraisals prepared by Hatfield, he had comparable rentals located in the Chicago metropolitan area (which included REAC rentals #2, #4 and #21) ranging from $4.41 to $9.36 per square foot, net. Kelly ultimately estimated a net rent for the subject of $2.90 per square foot, which the Board finds is low, based on this data. The Board finds using a below market rent ultimately understates the value of the subject property under the income approach.

Furthermore, Kelly deducted 20% as an allowance for management fee, and vacancy and collection loss. The Board finds there was no support in the record quantifying an amount for the management fee deduction and the only reference with respect to a vacancy rate in the report was a reference to 10.2% for the first quarters of both 2002 and 2003. The Board finds Kelly appears to have overstated the deduction for management fee, and vacancy and collection loss, which in turn would understate the net income attributable to the subject property and ultimately result in understating the value under the income approach.

In estimating the capitalization rate Kelly abstracted a rate using the comparable sales contained in the sales comparison approach. However, four of these sales were dated and none was similar to the subject in location or physical attributes. The Board gives little weight to the capitalization rate conclusion derived from the comparable sales. Kelly also developed a rate from the band of investments of 9.7% and noted in the report that institutional-grade power centers had an average rate of 9.35% and institutional-grade strip centers had an average overall rate of 9.58%. These three rates support the overall rate developed by Hatfield of 9.25% for 2003. Based on this record the Board finds Kelly overestimated the capitalization rate at 12%, which would result in understating the value of the subject under the income approach when capitalizing the net income into an estimate of value.

Kelly developed the sales comparison approach using eight comparable sales of department stores either attached to malls or free standing. The Board finds four of the sales were dated occurring from February 1996 to October 1999 or from approximately 3 to 7 years prior to the January 1, 2003 assessment date at issue and are farther removed in terms of time from the January 1, 2004 and January 1, 2005 assessment dates at issue. The Board finds these sales have little relevance in establishing the subject's market value as of the assessment dates at issue and will not be further considered. The remaining four sales sold from January 2002 to March 2003. The Board finds however, these sales are located in Columbus, Ohio; Dearborn, Michigan; Ann Arbor, Michigan and Livonia, Michigan. The locations of these comparables are not similar to the subject's location in a major metropolitan setting. Furthermore the comparables were not similar to the subject in physical attributes and sales volume. The Board further finds sale #1 was composed of two buildings at separate locations while comparables #3 and #4 sold out of bankruptcy. These buildings were significantly smaller than the subject ranging in size from 94,341 to 227,000 square feet of building area. The prices ranged from $29.15 to $50.00 per square foot of building area, including land. Kelly developed a unit of comparison based on a retail sales multiplier. The Board finds in this record there was conflicting testimony with respect to the validity of this technique. Additionally, instead of using actual retail sales for each comparable, Kelly had to develop a stabilized retail sales per square foot for each sale based on the performance of other stores in the respective malls where these properties were located. The Board finds this further undermines the reliability and credibility of this unit of comparison. Based on this record the Board gives little weight to Kelly's analysis using a retail sales multiplier unit of comparison. The Board does recognize, however, these comparables are improved with single tenant department stores, which are at least somewhat similar to the subject in use. The Board finds the unit prices of these comparables ranging from $29.15 to $50.00 per square foot of building area, including land, are supportive of the subject's total assessment, which reflects a unit value of $36.03 per square foot of gross building area, including land.

The Board finds that both Hatfield and Enright presented 10 sales of multi-story office buildings with some retail space that were similar to the subject in location. Enright's sales #1, #2 and #4 were also used by Hatfield. The comparables were generally superior to the subject in overall size and having smaller floor plates that appeared to be more conducive to office use and residential development. Additionally testimony disclosed that some of these comparables were leased at the time of sale, which may have an impact on the purchase price depending on whether or not the rent is reflective of the market. The comparables had unit prices ranging from $46.94 to $338.47 per square foot with seven of these sales having a narrower range from $46.94 to $83.53 per square foot of building area, including land. Even though these sales differ somewhat from the subject, the Board finds they are relevant in that they demonstrate the subject's assessment reflecting a unit value of $36.03 per square foot of building area, including land, is not excessive.

Based on this record and considering the evidence and testimony presented by the parties to this appeal, the Board finds a change in the subject's assessment is not justified.

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

Acting 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: November 18, 2011

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

Docket No: 03-27558.001-C-3 through 03-27558.006-C-3
Docket No: 04-27177.001-C-3 through 04-27177.006-C-3
Docket No: 05-25650.001-C-3 through 05-25650.006-C-3

"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.