

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Merisant Company
DOCKET NO.: 05-00808.001-I-3
PARCEL NO.: 03-02-23-100-014

The parties of record before the Property Tax Appeal Board are Merisant Company, the appellant, by attorneys Gregory J. Lafakis and Ellen G. Berkshire of Verros, Lafakis & Berkshire, P.C. in Chicago, the Kankakee County Board of Review by Assistant State's Attorney Teresa Kubalanza, and Manteno Community Unit School Dist. No. 5, the intervenor, by attorneys Scott E. Longstreet and Frederic S. Lane of Robbins Schwartz Nicholas Lifton & Taylor, Ltd. in Chicago.

The subject property consists of a 17.30-acre site that has been improved with a one-story industrial building that contains ±110,998 square feet of building area with clear ceiling heights ranging from 16' to 20'.¹ Exterior walls in the manufacturing area are insulated steel sandwich panels and painted concrete block and brick in the office area. There is a land-to-building ratio of 6.79:1. The improvements were built in stages from 1989 to 1999 with a weighted actual age of 13 years old. The building is utilized for the manufacturing of sweetener products. There are 94,350 square feet of manufacturing/warehouse area and 16,650 square feet of office/employee areas. There are also twelve 10' x 12' overhead dock doors and two 10' x 12' overhead doors at grade. Additional features include an asphalt parking lot, concrete paved area for trailer parking, exterior lighting and some landscaping. The property is located in Manteno, Kankakee County, Illinois.

The appellant appeared before the Property Tax Appeal Board arguing the market value of the subject was not accurately reflected in its assessed valuation for 2005. In support of this argument, the appellant submitted an appraisal estimating the subject property had a market value of \$2,400,000 as of January 1, 2004. (Appellant's Ex. 1)

¹ The description of the subject has been drawn from this record only. As such, it does not comport completely with prior Property Tax Appeal Board decisions on the subject property.

(Continued on Next Page)

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 Kankakee County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$ 265,240
IMPR.: \$ 1,401,260
TOTAL: \$ 1,666,500

Subject only to the State multiplier as applicable.

Appellant's witness, appraiser J. Edward Salisbury, who is president of Salisbury & Associates, Inc. of Taylorville, Illinois, has been an appraiser for about 33 years. His firm does real estate appraisal and consulting work. In the past 16 years, Salisbury has done hundreds of industrial property appraisals, the majority of which were over 100,000 square feet in size; in 2007 alone, he did 20 to 25 industrial appraisals. Salisbury has an Illinois Certified General Real Estate Appraiser license and has designations from the Illinois Property Assessment Institute as a Certified Illinois Assessing Officer (CIAO), from the International Association of Assessing Officers as a Certified Assessment Evaluator (CAE), and is working toward designation as a Member of the Appraisal Institute (MAI). Salisbury testified to experience teaching courses for both the Illinois Property Assessment Institute and for the International Association of Assessing Officers. After *voir dire* and without objection, the witness was accepted as an expert in the valuation of industrial property and the valuation of the subject property.

The appraiser prepared a summary report with the purpose of determining the market value of the subject property for tax purposes as of January 1, 2004. (Appellant's Ex. 1) Salisbury inspected the interior and exterior of the subject property on January 26, 2006; he was accompanied by the plant manager who indicated that no major changes had occurred in the plant between the date of valuation and the date of inspection. According to this manager also, the building additions were constructed to meet the needs of the appellant for production purposes.

The subject property is located in an industrial park with some vacant land in the area. As Salisbury observed, the plant was in good condition. Salisbury opined an average weighted age of 12 years for the improvements as of January 1, 2004 which he used in the appraisal.

According to Salisbury, the highest and best use of the site as vacant would be an industrial use. He concluded the highest and best use as improved was as continued industrial use.

Salisbury noted that industrial market demands extend nationally, but there has also been less demand for manufacturing space since 2000 due to a movement of manufacturing out of the United States. Salisbury gathers industrial sales information and consults with market participants on a regular basis. He asserted the size of a property impacts the number of potential buyers; Salisbury testified there is a larger pool of buyers for properties ranging from 25,000 to 30,000 square feet of building area. He noted industrial properties generally fall into those of 50,000 square feet or less, those from 50,000 to 100,000 square feet, those from 100,000 to 200,000 square feet, those from 200,000 to 400,000, and those above 400,000 square feet of building area with fewer potential buyers with each increase in size. As size increases, Salisbury opined the sale price tends to reduce on a per square foot basis. (TR. 23-25) Salisbury opined a marketing period for the subject property, due to its size and thus

limitation upon the number of potential purchasers, of nine to eighteen months. (Appellant's Ex. 1, p. 29)

As required by guidelines of the Uniform Standards of Professional Appraisal Practice (USPAP), Salisbury researched the sales history of the subject property and discovered only one sale in 2000, but no sale price data was available. Representatives of the appellant advised him the transfer was a stock purchase or buy-out.

In estimating the market value of the subject property, Salisbury developed the three traditional approaches to value. Salisbury testified that he gave the cost approach to value the least amount of weight of the three because of the difficulty in calculating depreciation. He noted there is a high rate of depreciation in the early years of an industrial building followed by a slowing of depreciation in the later years of the property's economic life. Additionally, Salisbury contended market participants in an industrial setting do not look at the cost approach as a very valid way to base their decision of the correct purchase price of a given property. (TR. 27-28)

In estimating the market value of the subject using the cost approach, Salisbury first estimated the market value of the land as if vacant. He outlined nine land sales and five listings which the appraiser deemed to be comparable to the subject, had been inspected, and the validity of the sales had been confirmed. In a summary chart, Salisbury listed all nine land sales and only four of the noted listings. Salisbury noted that listings give the appraiser an upper limit of value. He also testified that typically industrial listing prices are considerably higher than what the land ultimately sells for. (TR. 31)

The nine comparable sales were located in Bourbonnais and Manteno; the five listings were located in Bourbonnais, Kankakee and Momence. These thirteen suggested comparables ranged in size from 4.62 to 160.00 acres. The nine sales occurred from January 1999 to October 2002 and sold for prices ranging from \$167,000 to \$1,188,000 or from \$15,305 to \$43,956 per acre. The five listings set forth in the appraisal ranged in offering price from \$182,800 to \$4,400,000 or from \$25,000 to \$40,000 per acre. Using these sales and finding that the majority sold for \$15,000 to \$30,000 per acre, Salisbury testified that he found a very tight, comfortable price range of properties in close proximity to the subject. Salisbury noted he has found very little difference since about 2000 in the market for industrial land as there is very little demand. (TR. 32) The appraiser considered adjustments to the sales and listing prices for market conditions (upward adjustment for appreciation), location (minimal), and size. Based on the data gathered and after adjustments, Salisbury estimated a unit value for the subject of \$30,000 per acre or \$520,000, rounded.

In estimating the value of the improvements under the cost approach, Salisbury estimated replacement cost new using the

Marshall Valuation Service under the category of a light manufacturing facility, Class C, with average quality. Salisbury estimated the improvements (including site improvements of \$463,000) had a total replacement cost new of \$5,429,807.

Salisbury next estimated depreciation using the market extraction method. Salisbury noted rates of depreciation vary based on the age of the facility with newer properties depreciating more rapidly than older properties; his data indicates depreciation ranging from 4% to 10% per year in the early stages of the facility's life.

Based on four of the nine comparable sales set out in his sales comparison approach to value, Salisbury found two eight year old properties had yearly depreciation rates of 7.8% and 8.23% whereas 31-year-old and 22-year-old properties had yearly depreciation rates of 2.25% and 3.3%, respectively. (Appellant's Ex. 1, p. 41) The four sales comparables presented a range of total depreciation ranging from 62.5% to 72.6%. Salisbury opined from the data an annual depreciation rate for the subject of 5.5%; utilizing an effective age of 12 years for the subject, Salisbury calculated depreciation of 66% for the subject or \$3,583,672 as a deduction from the replacement cost new of the improvements. Using the foregoing data under the cost approach, Salisbury estimated the depreciated value of all the improvements to be \$1,846,135 to which he added the land value of \$520,000 to arrive at an indicated value of \$2,366,135 or \$2,400,000, rounded.

Salisbury indicated his income approach was given weight, but his primary consideration was the sales comparison approach. In this regard, he noted that industrial properties typically are not built as income producing properties; they are typically built by owner-users. Over time, as a property may be vacated, it may be rented out and thus produce an income stream. As a result of these factors, Salisbury opined the income approach was less reliable for an industrial property. (TR. 35)

In order to estimate market value using the income approach, Salisbury researched to find industrial property leases and considered as one significant factor the size of the building, preferably with a single tenant. In testimony, Salisbury noted that often buildings of 100,000 or more square feet will be incubated (separated) into smaller rental units. (TR. 36-37) Regarding the size of an industrial property, Salisbury testified the market for leases of buildings ranging from 20,000 to 30,000 square feet differ greatly from the market for buildings of 100,000 square feet or more. In fact, he opined adjustments to these smaller rental comparables would be more difficult than to larger rental comparables of 200,000 square feet. (TR. 40-41)

Salisbury testified he was unable to find many leased comparables in Kankakee County. (TR. 37-38) For this report, the appraiser analyzed four rentals and five rental listings. Of the rentals, one was in Freeport and three were in Danville for properties

ranging in size from 84,000 to 211,200 square feet of building area with rental amounts ranging from \$1.56 to \$2.55 per square foot. The buildings were constructed from 1981 to 1995 and had clear ceiling heights ranging from 18' to 32' and office space ranging from .05% to 24% of manufacturing area. Leases commenced as early as 1989. The five rental listings were located in Kankakee, Bradley, Loves Park, Machesney Park, and Rockford, Illinois. These listings ranged in size from 67,520 to 175,500 square feet of building area and were offered for rent at prices ranging from \$2.50 to \$3.00 per square foot of building area. These buildings offered for lease were constructed from 1978 to 1995 with clear ceiling heights ranging from 10' to 30' and office space ranging from .74% to 50% of manufacturing area. Salisbury asserted that the subject's market area was better than that of either Freeport or Danville, but the Rockford (Winnebago County) market was similar to the subject. Based on the gathered data and after adjustments including location, age, size, percentage of office space, and lease terms, the witness determined the subject's estimated market rental to be \$3.00 per square foot multiplied by the subject's rentable area of 112,626 square feet, the appraiser arrived at a potential gross income of \$337,878.

The witness used a 10% allowance factor for vacancy and credit loss, reducing the figure to an income of \$304,090. Salisbury opined exterior maintenance and repair, insurance, management fee, and reserves for replacements to be 10% of effective gross income or \$30,409 based on the age and condition of the subject property. (Appellant's Ex. 1, p. 49) This resulted in a net income of \$273,681 or \$2.43 per square foot.

Salisbury next utilized a market abstracted capitalization rate from his data bank of sold and leased/available for lease properties at time of sale and then applied direct capitalization. The appraiser presented eleven capitalization rate comparables with capitalization rates ranging from 9.8% to 21.6%. The comparables were located in Danville, Freeport, Rockford, Machesney Park, and Loves Park and out of Illinois in Washington, Missouri; Superior, Wisconsin; and Davenport, Iowa. The buildings were constructed between 1943 and 1995 and ranged in size from 64,656 to 431,956 with clear ceiling heights from 14' to 30.9'. The appraisal report notes the range of capitalization rates found is confirmed with other industrial appraisal assignments where investors were receiving 11% to 15% return on their investments. In light of the foregoing and the age and location of the subject property, Salisbury applied an overall capitalization rate of 11% for the subject. Thus, Salisbury opined an estimate of value for the subject of \$2,500,000, rounded, via the income approach.

Salisbury testified that he gave most weight, considerable weight, to the sales comparison approach as this is the most probative indication of value for a current industrial property. (TR. 45) There are four main criteria in selecting comparable sales for an industrial property appraisal report: (1) location

including interstate access and size of the local community; (2) building size; (3) age since properties of 35 to 40 years old are sold solely for incubation purposes; and (4) ceiling height. (TR. 48-49) He testified further his search for comparable sales ideally will include sales within the subject's county, but the difficulty is finding truly comparable properties; the search expands out from the subject with consideration of any sales within Illinois. Salisbury further testified that he maintains a data bank of his appraisal work from every county in Illinois, except Cook where he does not perform appraisals, along with sales in Missouri, Wisconsin, Indiana, and Michigan.

In estimating the market value of the subject property using the sales comparison approach, Salisbury considered nine sales to be comparable to the subject. The comparable sales occurred from November 1999 to April 2005 and were located in Kankakee, Bourbonnais, Manteno, Machesney Park, Loves Park, and Rockford. The comparables ranged in size from 91,355 to 273,336 square feet of building area. Their actual or weighted ages ranged from 8 to 32 years old. The comparables had clear ceiling heights ranging from 10' to 42'; office space ranged from nonexistent to 50% of total building area; and land-to-building ratios ranged from 2.24:1 to 7.90:1. Four of the comparables were said to be 100% sprinkled. The sales prices ranged from \$1,200,000 to \$3,600,000 or from \$7.95 to \$23.12 per square foot of building area.²

In testimony, the appraiser acknowledged that Sale #1 was not an arm's-length transaction and merely a company buy-out where he could not confirm the price through documentation, but did confirm it with a company representative. However, as one of the few properties in Manteno that was very comparable in size, age, and amenities with additional freezer space (refrigeration equipment), Salisbury felt it was an appropriate property to consider.

As to Sale #3, the witness testified with regard to two sales occurring prior to the one referenced in the appraisal report. Upon investigation, the appraiser learned after the property had been listed for sale in mid-1996 a sealed bid auction resulted in a sale price of \$1.1 million, but the sale fell through and the property was then purchased in June 1999 for \$900,000 and immediately put back on the market resulting in the sale price of \$1,640,000 in October 1999 as reflected as Sale #3. Salisbury testified that these facts of the sale history did not impact the reliability of the reported sale price because the property had consistently and continuously been on the market since 1996. Moreover, the USPAP guidelines did not mandate disclosure of this sales history. (TR. 54-56)

The appraiser testified and the report reflects that Sale #5 was on the market for about eight months prior to sale making it an arm's-length sale even though the seller was in bankruptcy at the

² Sale #4 was a 50% interest sale for which the appraiser doubled the sale price per square foot for purposes of this appraisal report.

time the property was listed. (TR. 57-58; Appellant's Ex. 1, p. 66)

Sales #6 and #7 located in Machesney Park and Loves Park, respectively, were deemed by the appraiser to be better markets than the subject market as the Rockford area is a strong industrial market. (TR. 58-59)

In testimony, Salisbury noted that the bank/seller acquired the property which was the subject of Sale #8 through foreclosure and listed the property through the largest commercial brokerage firm in Rockford for twelve months before it sold. Since this property was exposed to the open market for the stated length of time, Salisbury would not consider it to be a distress sale and instead viewed it as an arm's-length transaction. (TR. 60)

In terms of the location of his sales comparables, Salisbury testified that very few counties have a sufficient number of industrial sales of similar size properties to allow analysis of only industrial sales within the subject county; thus, it is typical to have industrial sales from outside of the subject county for an appraisal of this nature. (TR. 59) Salisbury further testified that he would eliminate from consideration sales of industrial properties in his databank that were not on or near an interstate and properties that were very small or very large along with the other parts of the four criteria previously mentioned in testimony. (TR. 61)

Salisbury noted that the climate control (air conditioning) of the subject property is not a big deal, most industries do not want air conditioning due to the cost, unless they are making a particular product that requires it; furthermore, there are not that many users that require air conditioning throughout the entire plant. (TR. 53-54)

Salisbury testified and outlined in his report adjustments for date of sale, location, size, land-to-building ratio, age, and condition. (Appellant's Ex. 1, p. 76) Notably location was considered comparable for all of the sales. Based upon the adjusted data, Salisbury estimated the market value of the subject as \$21.00 per square foot of building area or \$2,365,146 or \$2,400,000 rounded.

Salisbury opined that adjustments of 75% to 90% in a sales comparison approach initially draws into question the reliability of the data or of the sale itself. However, there is not a problem with such substantial adjustments if there are no other sales available and the adjustments are properly explained with reasonableness in the adjustment. (TR. 50-51)

After reconciling the three approaches to value, Salisbury opined a market value for the subject of \$2,400,000 as of January 1, 2004. Salisbury testified that he was aware of no changes to the subject facility that would affect his opinion of value of the subject as of January 1, 2005. Moreover, the general industrial

market has been declining since 2003 and thus if there could be any change in industrial properties from 2003 onward it would be a downward trend, not an upward trend according to Salisbury. (TR. 67) Salisbury stated his opinion of value was formed in conformity with USPAP, that he has no personal interest in the subject property, and that his fee was not in any way contingent on deriving a certain value for the property. (TR. 68)

Based on the evidence, the appellant felt that a fair a market value of \$2,400,000 was supported for the subject property in 2005.

On cross-examination by intervenor's counsel, Salisbury acknowledged that he did not determine an effective age for the subject property. (TR. 71-72) The appraiser contended for purposes of his cost approach the most recent land sale comparable he could locate was from March of 2002. (TR. 72) Furthermore, in calculating replacement cost new, Salisbury did not value the office area separately from the manufacturing and warehouse portions of the facility. (TR. 72)

Salisbury acknowledged on cross-examination that to calculate depreciation using the market extraction method, he had to calculate estimates of the land values and replacement cost new for each of the sales comparables utilized and any error in either calculation would impact his depreciation analysis. (TR. 73-74) The appraiser further acknowledged that for each of the comparables he calculated the replacement cost new by combining all of the office, manufacturing and warehouse space. (TR. 74) Despite that Salisbury did not set forth any unusual physical depreciation and/or functional or economic obsolescence in the subject property, his depreciation analysis resulted in 66% depreciation for what he termed to be a 12-year-old building. (TR. 74-75)

As to the income approach analysis, on cross-examination Salisbury admitted that Rental #2 also had 20,000 square feet of office space being rented for \$2.75 per square foot. (TR. 78-79) Rental Listing #4 was the same property as Sale #6; Salisbury made no age adjustment in the income analysis, but made an age adjustment for this property as a sale comparable. (TR. 82; Appellant's Ex. 1, pp. 45 & 76) Rental Listing #5 was the same property as Sale #8; the appraiser made no overall adjustment in the income analysis, but made an overall positive adjustment for this property as a sale comparable. (TR. 83; Appellant's Ex. 1, pp. 47 & 76)

Based on the theory that asking rental rates may be higher than actual rental rates, Salisbury acknowledged that his overall capitalization rate which was drawn from those rental listings may be higher than actually achieved. (TR. 87-88) On further cross-examination, Salisbury testified his confirmation of the capitalization rates with his databank information would have included published sources. (TR. 90)

As to his Sale #5, Salisbury acknowledged on cross-examination that the building had been vacant and it was a sale in lieu of foreclosure, but that fact was not disclosed in the appraisal. (TR. 94-95) When asked if Sale #9 was not advertised on the open market prior to sale, Salisbury testified he based his belief of this being an arm's-length sale due to its use as a qualified sale by the Rockford Township Assessor's Office. (TR. 97-98) The witness then identified the transfer declaration from Sale #9 which indicated the property was not advertised for sale or sold using a real estate agent. (TR. 98-99; Intervenor's Rebuttal Ex. J)

Regarding Salisbury's testimony on direct that for industrial properties there is a regression where as the size of the industrial property increases, the unit price per square foot decreases, the witness acknowledged on cross that there is no empirical data in his appraisal report to support that theory. (TR. 99)

On behalf of the board of review, the Assistant State's Attorney next cross-examined the witness as to whether he had reviewed other appraisals done on the subject property; the witness did not recall specifically as to the subject property, but it would not be unusual for him to see other such reports. (TR. 106)

The Hearing Officer asked the witness how he ascertained the square footage of the subject improvement to which he testified the calculation was a combination of measuring and taking the information off a set of plans the appellant had provided to him. (TR. 106)

On re-direct examination, Salisbury asserted that the size regression theory with regard to industrial properties was a well accepted theory of appraisal practice. (TR. 107)

At the close of appellant's case-in-chief, intervenor moved for a directed verdict with regard to the appeal contending that appellant presented no value evidence for the subject property as of January 1, 2005. Appellant responded that the burden of going forward had been met with the submission of the Salisbury appraisal as of January 1, 2004 in order to challenge the correctness of the 2005 assessment further noting that appellate court precedent supports appellant's position referencing the Sears decision. In reply, intervenor contended that there must be some type of testimonial evidence as to the lien date at issue and some relationship between the lien date and the appraisal at issue. The motion was taken under advisement.

The Board denies intervenor's motion for a directed verdict. Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Official Rules of the Property Tax Appeal Board*, 86 Ill. Admin. Code Sec. 1910.65(c). The Salisbury appraisal with a valuation date of January 1, 2004 was filed to challenge the assessment

date of January 1, 2005 in this matter. In Cook County Board of Review v. Property Tax Appeal Board, 334 Ill. App. 3d 56, 777 N.E.2d 622 (1st Dist. 2002), the court stated "[t]here is no requirement that a taxpayer must submit a particular type of proof in support of an appeal. The rule instead sets out the types of proof that may be submitted. . . . Whether a two-year old appraisal is 'substantive, documentary evidence' of a property's value goes to the weight of the evidence, not its admissibility. [citing Department of Transportation v. Zabel, 47 Ill. App. 3d 1049, 1052, 362 N.E.2d 687 (1977) (whether a six-month-old appraisal is sufficient to establish value is for the trier of fact to consider in weighing the evidence)]."

The board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$1,666,500 was disclosed. The current assessment translates into an estimated market value of \$4,939,241 or \$44.50 per square foot of building area including land using the 2005 three-year median level of assessments for Kankakee County of 33.74%. Prior to board of review action, the assessment of the subject property had been \$1,799,820 for an estimated market value of approximately \$5,334,381 or \$48.06 per square foot of building area including land. The board of review indicates the reduction for 2005 was made due to an appraisal performed by Andrew Brorsen with a valuation date of January 1, 2003.

In accordance with Section 1910.99 of the Official Rules of the Property Tax Appeal Board (86 Ill. Admin. Code Sec. 1910.99), the board of review adopted the evidence submitted by the intervenor in this matter.³ While the board of review submitted some additional evidence, pursuant to Section 1910.99(b), the board of review is precluded from filing evidence where it adopted the intervenor's evidence. (86 Ill. Admin. Code Sec. 1910.99(b)). Initially the board of review requested confirmation of the subject's assessment (Board of Review's Answer), but in closing argument the board of review requested an increase in the subject's assessment reflective of the appraisal it adopted in this proceeding (TR. 220).

Next, the Manteno Community Unit School District No. 5 (School District) presented its witness, Andrew Brorsen, who prepared an appraisal report for the subject property with a valuation date of January 1, 2005. Using the three traditional approaches to value, the appraiser arrived at an opinion of fair market value of \$5,500,000 (Intervenor's Ex. A-1). Based upon its evidence, the intervenor sought an increase in the subject's 2005 assessed value.

The appraiser has been co-owner of the Brorsen Appraisal Service, P.C. in Kankakee since 1978. His previous work experience was for a local savings and loan performing primarily residential

³ The "Answer" filed by the board of review referenced adoption of the appraisals prepared by Brorsen Appraisal Service with valuation dates of January 1, 2003, 2004 and 2005.

appraisals, then for another firm he appraised primarily agricultural properties. Since being self-employed, his appraisal work has been a mixture of agricultural, commercial, and industrial properties. (TR. 113) Brorsen has MAI and SRA designations from the Appraisal Institute and an Accredited Rural Appraiser (ARA) designation from the American Society of Professional Farm Managers and Rural Appraisers along with having been active in each of those organizations. The witness has both developed and taught courses in the appraisal field. He estimated having done 1,500 appraisals of industrial properties in his career for purposes of mortgage financing to asset evaluation and lease analysis. Specifically, as to light industrial properties which he defined as being from small businesses to large businesses, Brorsen has appraisal experience throughout the county averaging "a few" appraisals per year for ad valorem tax purposes. (TR. 114-16) Without objection the witness was accepted as an expert appraisal witness.

Besides this 2005 appraisal (Intervenor's Ex. A-1), Brorsen had also previously prepared sequential appraisals of the subject property as of January 1, 2004 and January 1, 2003 (Intervenor's Exs. A-2 & A-3, respectively). The January 1, 2003 appraisal was developed as a summary narrative report with the latter two reports for 2004 and 2005 being in restricted use format without reiterating all of the data, reasoning, and analyses set forth in the 2003 appraisal; Brorsen noted the 2005 report can only be fully understood with reference to the 2003 appraisal report. (TR. 117-18)

For this assignment, the witness re-inspected the exterior only of subject property on December 14, 2006. Brorsen previously inspected the property on June 8, 2005 for the 2003 and 2004 appraisals and for this assignment assumed the interior to be in the same condition. (Intervenor's Ex. A-1, p. 7)

The purpose of the instant appraisal was to provide a market value opinion as of January 1, 2005 and thus assist counsel for the Manteno C.U.S.D. No. 5 and the Manteno Township Assessor in a real estate tax assessment appeal on the subject property. Other than transfers without value amounts indicated, Brorsen reported from county records no other transfers of the subject's property rights within the most recent three years prior to the effective date of the 2005 appraisal.

Based upon data gathered by one of two industrial brokers in the area, Brorsen set forth the total amount of industrial space and the amount of such space being offered by brokers on the market in Kankakee County from 2001 through 2005. (Intervenor's Ex. A-1, p. 12; TR. 120-22) Brorsen noted that he keeps informed on the industrial property market in Kankakee County through conversations with two main industrial brokers in the area and review of information on listings and his area appraisal work. The appraiser opined the Manteno area has good transportation facilities for industrial property through fairly close access to an interstate highway and rail. (TR. 123)

The subject property is located in an industrial park known as the Illinois Diversatech Campus, Third Addition. (TR. 124) When a former mental health center was added to the industrial park, Brorsen had personal experience in assisting the assessing officials in data collection for assessment purposes and he had personal experience in appraising about twenty-five of the former dormitory buildings for financing purposes related to redevelopment. (TR. 125-27) The appraiser further testified that he had previously appraised the subject property in 1994 for its then owners, a group of investors who had developed the Diversatech Campus Third Addition; the purpose of that appraisal was an asset evaluation of all their properties. (TR. 119; 03/04 TR. 172)⁴ This industrial park also includes properties such as a million square foot plus Sears facility and trucking firms, among others, many of whom are national companies. (TR. 127-29)

Brorsen characterized the subject's presence in the industrial park as an advantage on its market value in that frequently industrial parks have incentive programs like enterprise zones and even some tax increment financing districts. He further opined that the industrial market in Illinois and the Midwest for properties like the subject, a modern industrial facility, was a pretty stable market, lacking changes one way or the other; he further acknowledged that the local market lacks much activity and lacks any large number of available properties. Most of the local activity is in older facilities. (TR. 130-31)

In his 2003 report, known herein as Intervenor's Ex. A-3, Brorsen noted the 17.3 acre parcel has been improved with a one-story steel frame/metal clad industrial building of ±110,998 square feet. In that report, Brorsen also described the improvement as consisting of ±93,470 square feet of industrial area (±84%) and ±17,528 square feet of office area (±16%) making for a land-to-building ratio of 6.79:1. He further described the original construction as dating back to 1989 with additions in 1990, 1995, 1996, 1998 and 1999 making for an age range of 4 to 14 years. He reported clear ceiling heights ranging from 16' to 20' and twelve 10' x 12' overhead dock doors with levelers and two 10' x 12' overhead doors at grade level. For the instant report, he concluded a weighted actual age of 13 years. (Intervenor's Ex. A-1, p. 17) Brorsen testified that he personally measured the property. (TR. 131)

For purposes of the appraisal, Brorsen described the subject improvement as having ±111,000 square feet of building area. The appraiser estimated about two-thirds of the subject manufacturing facility is finished for food processing purposes with year-round climate control (air conditioning and heat), drop panel ceilings, paneled walls, sealed floors, and ventilation system. The

⁴ At the start of cross-examination of Brorsen, the parties stipulated to consider the testimony of Brorsen given the day prior in Docket Numbers 03-00160.001-I-3 and 04-00464.001-I-3. As such, where testimony is cited from the consolidated 2003/2004 transcript, it will be referenced "03/04 TR."

warehouse area includes a dust collection area and the remainder involves maintenance shop areas and office/employee use areas with other finishes. (TR. 132-33)

Because it is a food processing facility, Brorsen observed the interior to have been finished to Food and Drug Administration (FDA) requirements with special walls, wall covers and drop ceilings to control the airflow in the facility and provide for a climate controlled production area⁵ making the industrial section of the facility somewhat unique, but not special purpose. (Intervenor's Ex. A, p. 20; TR. 184) Part of the warehouse is also climate controlled and has a dust collecting area; Brorsen was not shown any refrigerated space at the facility. (TR. 184)

Brorsen opined this climate control/special finish feature enhances the subject's market value. (TR. 185) The appraiser opined the climate control aspects of the property place the subject in a class of industrial properties that certain users would be seeking; the climate control and finish would allow for different clean manufacturing processes. Moreover, the plant manager advised Brorsen that the facility meets Food and Drug Administration requirements for a food processing business. (TR. 133-34) Based upon the foregoing features and other data he is familiar with for food service properties which are willing to pay more for such features, Brorsen opined the subject's value would be increased due to these extra features. (TR. 134)

The size of the subject property is a common industrial size based on what Brorsen has seen in the market and would have no impact on its market value. (TR. 135) Marketability of the subject property was considered to be at least average to good given that the improvements were very functional, in good condition, and that there appears to be a demand for industrial space in the market; marketing time was estimated to be six months to one year for a modern industrial facility in this market. (Intervenor's Ex. A-1, p. 13)

As adopted from the 2003 report, the appraiser opined the highest and best use of the parcel as vacant would be for some type of industrial development compatible with surrounding uses. Brorsen concluded as long as the value of the whole property exceeds the value of the site as if vacant, the present use would continue to be the highest and best use of the property as improved. Brorsen further noted the present improvements contribute substantially to the value of the property and were therefore judged to be the highest and best use of the property as improved. (Intervenor's Exs. A-1, p. 13 & A-3, p. 23-24)

Using the cost approach to estimate the market value of the subject, Brorsen first estimated the market value of the land as if vacant by analyzing nine vacant land sales in Manteno that

⁵ The appraiser distinguished climate control as merely air conditioned and heated industrial space as opposed to "refrigerated space" of a facility. Ordinarily only heat is provided in industrial plants. (TR. 185)

ranged in size from 3.94 to 117.61 acres. The sales occurred from July 1996 to March 2003. The land comparables sold for prices ranging from \$125,000 to \$1,800,000 or from \$15,305 to \$49,396 per acre. These were the same vacant land sale comparables set forth in the 2004 appraisal. (Intervenor's Ex. A-2, p. 15) The appraiser adjusted the prices of Land Sales #3 through #8 upward by 5% per year for time of sale. Based on location, the appraiser made an upward adjustment to Land Sales #1 and #2. An upward adjustment for size was applied only to Land Sale #3. After adjustments, Brorsen found adjusted land sale prices to be between \pm \$42,000 and \pm \$50,000 per acre and thus, the appraiser selected the mid-range of \$46,000 per acre or an estimated land value for the subject of \$795,800.

To estimate the value of the improvements under the cost approach, Brorsen utilized replacement cost new using primarily the Marshall Valuation Service for both industrial and office space along with consideration of the original 1989 construction costs of the subject. (TR. 136-37) Brorsen had original cost data from his prior appraisal work on the subject performed for the developers which was said to be \$6,020,000 or \$98.08 per square foot, including land, for a 61,376 square foot building. In actuality, the developer did not purchase the land as it was part of a donation to the redevelopment group. The developer allocated \$865,000 as the cost of the land as part of a buy-out option for the tenant. (TR. 138) Brorsen's 2003 report further noted the 1990 building permit issued for the subject property for \$4.2 million. (See Intervenor's Ex. A-3, p. 28-29)

In calculating the replacement cost new, Brorsen relied upon data derived from Marshall under the categories of "light manufacturing industrial" and general "office building" with refinements for various features like air conditioning, the appraisal effective date, locally for the Kankakee area, and he made an addition of 5% for entrepreneurial profit (which had been accounted for in the original construction cost data by the developer). The appraiser testified the developers of the subject had included a nominal amount for entrepreneurial profit.⁶ Brorsen qualified that in appraisal work for industrial properties he would add an amount for entrepreneurial profit when it is a complex property, but not for a simple property. In this case, it was complex in being a built-to-suit for the user with interior finish for the food processing space with heating and air conditioning. Brorsen understood the developer was working with the appellant's parent company to bring them to the market along with enterprise zone and tax abatement programs. (TR. 139-40)

In the 2005 report, Brorsen estimated a replacement cost of \$6,258,392 for the building including 5% for entrepreneurial profit plus site improvement costs of \$751,676 for paved parking

⁶ The 2003 report on page 29 notes "the difference in the building permit issued at the time of construction and residual building cost indicates a \pm 19% entrepreneurial profit may have been charged." (Intervenor's Ex. A-3)

lot, driveways, trailer parking, loading dock and entryways along with fencing and landscaping/security.

Although he tested the extraction method of depreciation based upon the sales presented in his sales comparison approach, Brorsen ultimately utilized the age/life method to estimate depreciation. (TR. 141-42; Intervenor's Ex. A-1, p. 16-19) For his age/life analysis, he determined the effective age to be the same as the weighted actual age of the subject at 13 years old and from physical observation, found no major identifiable deferred maintenance, no unusual wear and tear, and the building to have been in overall good condition at the time of inspection. (TR. 142-43)

He found no functional or economic obsolescence as to the subject property. (TR. 143-45) Brorsen did not find any obsolescence in the marketability of the subject property in that it is a modern facility designed for food processing with all of the features required such as adequate truck docks, security, and land area for growth. (03/04 TR. 182-83) He also did not find the ratio of office space to industrial space to be excessive and/or contributing to obsolescence. Moreover, the clean surface walls in the manufacturing area were just partition walls, not load bearing walls, and thus could be removed or moved for a different user. (03/04 TR. 189-90) Thus, the only form of depreciation apparent was physical due to the natural aging of the property.

For his age/life method, Brorsen reported industrial buildings have a useful life expectancy ranging from 35 to 45 years and chose an expected life of 40 years for the subject. (TR. 146-47; Intervenor's Ex. A-3, p. 31-32) Based on the foregoing, Brorsen estimated physical depreciation to be 32.5%.

Brorsen also performed the extraction method of determining depreciation wherein he examined his three sales and deducted overall depreciation to try to determine a useful life range. He testified that he did not have a high degree of familiarity with the sale properties and thus did not rely on this method; he utilized public sources for the data shown on page 18 of his report. (TR. 147-49) Via the extraction method, Brorsen found a median life expectancy of 30 years. (Intervenor's Ex. A-1, p. 18) Total depreciation from all causes for all improvements was \$2,342,566. (Intervenor's Ex. A-1, p. 19)

In conclusion, Brorsen was of the opinion the subject improvements had a depreciated value of \$4,224,414. In light of a 25 year life expectancy for asphalt site improvements and a 40 year life expectancy on all other site improvements, Brorsen opined the age/life method of depreciation for the site improvements resulted in depreciation of 52% for asphalt parking areas and 33% for other site improvements. As such, Brorsen opined the depreciated value of all the site improvements combined to be \$443,100. To this data, Brorsen added the land value of \$795,800 to arrive at an indicated value under the cost approach of the subject of \$5,460,000, rounded.

Regarding his income approach, the appraiser first examined the actual lease history of the subject property which was developed as a "build-to-suit" and "lease with option-to-buy." Having worked on a prior appraisal project for the developer, Brorsen had information on the initial ten-year lease of the subject which began March 1, 1990. Monthly rental for the first 60 months was \$75,275 or \$903,300 annually; for the second 60-month period, monthly rent decreased to \$72,750 or \$873,000 annually. The developers indicated the decrease occurred because by that time a \$300,000 demand note which the developers had taken out to cover the improvements would have been paid off. The lease further included three five-year renewal options with varying monthly rental rates ranging from \$76,383 to \$84,200 or from \$916,600 to \$1,010,400 annually. Furthermore, the tenant had the option to purchase during the term of the lease for the unamortized balance of the project cost which had been financed over 15 years at 10.8% plus the unamortized balance of the leasehold improvements (value of \$265,000) over five years at 11% plus a developer's profit of \$275,000. In 1997 the tenant exercised the purchase option reportedly for \$4,756,080; additionally, there were at least three building permits issued for additions prior to 1997 which may have changed the square footage and thus the rental rate paid. (Intervenor's Ex. A-3, p. 34-35)

The appraiser next examined comparable leased properties in the subject market area. Brorsen testified that he utilized four of the rental comparables set out in the 2004 appraisal report plus three additional properties discovered since the 2004 appraisal. (TR. 150) A close examination of the record reveals the seven rental comparables are all among the eight properties listed in the 2003 appraisal report; the only difference appears to be that a larger area has been leased in what for the 2005 report is identified as Rental Comparable #1. (Intervenor's Exs. A-3, p. 35 & A-1 addendum pages with map and Rental Comparables #1 - #7)

The properties are located in Manteno, Peotone, and Kankakee within no more than 10 miles from the subject and reflected actual lease rates rather than asking or listing lease rates. One comparable was located in the subject's industrial park. In testimony, Brorsen acknowledged that the lease regarding Rental Comparable #3 had expired in July 2003 and likewise the lease on Rental Comparable #4 had expired in November 2003. One property was involved in industrial service/warehousing, but the remainder had some amount of industrial light manufacturing; one comparable also had heavy industrial use. The comparables ranged in size from 19,380 to 99,358 square feet of building area with lease terms ranging from 3 to 10 years. The buildings were constructed from 1956 to 2001. The rental rates ranged from \$2.85 to \$5.52 per square foot of building area. Brorsen had appraised all seven rental comparables and thus inspected and was able to verify the descriptive and rental data considered.

The appraiser made a utility adjustment for the comparables if they were not "clean use" like the subject. (TR. 154-56) Although the building is adaptable to other uses, for the subject with a design meeting FDA requirements for food processing, Brorsen opined the subject commands an annual rental rate near the upper range of the comparables due to its present design and utility. (Intervenor's Ex. A-3, p. 36) The 2005 appraisal report concludes a gross income estimate the same as the 2004 report, and the 2004 report concludes a gross income estimate the same as the 2003 report. In conclusion, Brorsen estimated a market rental of \$5.50 per square foot for the subject property or \$610,500 gross annual income.

Assuming six to twelve months exposure for lease and a five-year lease term, Brorsen opined a 10% to 20% vacancy rate could be expected whereas with a ten-year lease term, he estimated a 5% to 10% vacancy rate. (Intervenor's Ex. A-3, p. 37) After subtracting his conclusion of vacancy losses of 10%, Brorsen arrived at effective gross income of \$549,450. Ownership expenses include real estate taxes, property insurance and management. For professional management in the subject market, expenses range from 3% to 7%; Brorsen opined a management expense of 4% for the subject. Assuming only a minor allowance for miscellaneous expenses not covered in the lease, Brorsen estimated 1% for miscellaneous expenses. Brorsen also deducted 5% of estimated gross income for reserves for replacements. After the foregoing deductions, net operating income (NOI) was estimated at \$494,504 or \$4.45 per square foot of building area.

A capitalization rate drawn from the mortgage/equity technique with support from national survey data and the extraction technique similar to the previous appraisals was applied to the NOI figure to reach a value conclusion. Brorsen reported mortgage rates ranging from 6% to 8% using 25 to 30 year amortization schedules and a variety of terms ranging from 5 year balloons to full fixed terms based on asking local lenders and other information gathered in the course of appraisal work. (TR. 157; Intervenor's Ex. A-1, p. 21) He further reported investment fund yield rates for 5 to 30 year treasury bonds ranged from 3.60% to 4.88%, corporate bonds ranged from 5.47% to 6.15%, and the monthly prime rate increased from 4% in December 2003 to 5.14% by December 2004. (Id., p. 22) From published sources, Brorsen reported overall industrial property capitalization rates ranged from 6.25% to 10% with a quarterly average of 8.12% showing a slight downward trend. (Id.) There was insufficient data to reliably consider the extraction method. Brorsen gave most emphasis to the mortgage-equity analysis using the band of investment technique. (TR. 157-60)

The witness selected a capitalization rate for the subject of 9.4%. Under the direct capitalization process with a net operating income of \$494,505, Brorsen concluded a value as of January 1, 2005 of \$5,260,000, rounded, under the income approach for the subject.

Using the sales comparison approach, the appraiser identified three properties suggested as similar to the subject. The sales occurred between April 2005 and August 2005 with buildings that ranged in size from 24,375 to 144,000 square feet and were constructed from 1981 to 1987. Two of the properties were located in the subject business park in Manteno and one was close to the interstate in Kankakee. The comparables presented land-to-building ratios ranging from 4.27:1 to 18.12:1. Two properties were described as having light manufacturing, one with a warehouse, and the other property was described as warehouse/office space. The properties had from 5.8% to 19.0% office space. No ceiling height data was supplied by the appraiser for these properties. In testimony, Brorsen indicated only one property was a climate controlled facility. (TR. 167) The sales prices of three properties ranged from \$600,000 to \$4,950,000 or from \$17.12 to \$50.22 per square foot of building area, including land.

The appraiser made adjustments to each property for differences from the subject. Differences considered included property rights transferred, financing involved, any special conditions, personal property included, market conditions, and date of sale. He also adjusted for location, land-to-building ratio, age, condition of the property, utility (features), office space and the relationship of office space to manufacturing space all as compared to the subject. (TR. 168-72) Brorsen testified that no size adjustment was made because the unit of comparison in the analysis was based on size; he opined there was only a limited method by which a size adjustment could be made involving sequential analysis of all the salient features. (TR. 172-73) Brorsen further testified in appraisal courses, appraisers are taught they may not make a size adjustment if the unit of comparison is based on size. (TR. 174)

The witness indicated that despite having tested for regression reflecting a relationship between the size of an industrial property and its unit sale price, he has not been able to find any consistency due to the differences in properties; size is not the only feature affecting the unit price, other features such as office space, climate control, interior finish, and refrigeration would be examples of features a market participant would recognize. (TR. 174-75)

None of the sales considered were in lieu of foreclosure. Brorsen opined such a sale would not meet the definition of market value due to duress, even despite any period of time the property may have been advertised for sale. Brorsen acknowledged that a sale by a bank after foreclosure may be an arm's-length transaction. (TR. 177-78)

Brorsen described his Sale #3 in Kankakee for \$2,465,000 as two 50% interest sales to a local contractor on the same day in sequential documents. The data sheet on Sale #3 in the addendum of the appraisal only references one warranty deed with a sale date of April 2005 and a price of \$2,465,000 with a comment

"transfer of less than 100% interest." This property was also reported by Salisbury as his Sale #4. (TR. 183-84; Appellant's Ex. 1, p. 63-64)

Brorsen concluded this data set had no clearly apparent unit price. He determined the least adjusted property was his Sale #1 which is within view of the subject property. Sale #1 was supported with Sale #2 also in the subject's industrial park; Sale #3 in Kankakee was well below the subject industrial park data "which may indicate some unknown factors may have been involved with No. 3 sale resulting in a discounted price." (Intervenor's Ex. A-1, p. 26) Brorsen estimated a unit value for the subject of \$50.00 per square foot or \$5,550,000, rounded. (Id.)

Brorsen further testified to his knowledge regarding sales of Sale #3 considered by appellant's appraiser; one sale of this property occurred in June 1999 for \$900,000 after the property had been listed for about eighteen months when the property was only in fair condition. The new owner cleaned and incubated the property and sold it to an investment group in October 1999 as identified by appellant's appraiser for \$1,640,800. (TR. 178-81)

Brorsen also testified to his familiarity through appraisal work with appellant's Sale #5 in the Salisbury appraisal. He described the property as a shell building which was abandoned after the owner passed away; the property then went into foreclosure. The property was then marketed, but it did not have any heating system and no office space; it only had lighting and a partial floor. (TR.182)

In reconciling the three approaches to value utilized in his appraisal, Brorsen opined a market value of \$5,500,000 for the subject. This calculates to \$49.55 per square foot of building area, including land. Brorsen testified in reconciliation he gave most emphasis to his sales comparison approach with support from the income approach. The witness found Sale #1 at \$50.22 per square foot of building area with partial climate control to be the most similar property to the subject due to location, size and many of the same features in that it was designed for food service. (TR. 184-85)

Based on the foregoing evidence, the intervenor requested the assessment of the subject property be increased to reflect the estimated fair market value as determined by Brorsen in his appraisal.

Upon the commencement of cross-examination, the parties stipulated to incorporate Brorsen's testimony from the previous day conducted in Docket Numbers 03-00160.001-I-3 and 04-00464.001-I-3 on the subject property and concerning Brorsen's 2003 and 2004 appraisals in this matter. Without objection, this stipulation of the parties was accepted. (TR. 186-88; see previous footnote 4)

Cross-examination of Brorsen by appellant's counsel followed. The 2005 appraisal report is a restricted report, intended for use only by the identified clients, Manteno Community School District No. 5 and Manteno Township. As required by USPAP, Brorsen discussed those limitations with his client and ensured the client understood the restricted utility of the report. Furthermore, Brorsen understood it was implied that his reports on the subject property were to be used in property tax appeals. (TR. 188-90) Brorsen acknowledged that at page six of each of his 2003 and 2004 reports, he wrote "[t]his report may not be distributed to, or relied upon by other persons, or entities without our written permission." (03/04 TR. 242-44)

Brorsen acknowledged he received the assignment to prepare a 2005 appraisal on November 3, 2006, that he inspected the property on December 14, 2006, and that he began to write the instant report on January 4, 2007 which report was then transmitted to the clients on January 15, 2007. (TR. 190) There was no physical change to the property since January 1, 2004 and no major changes in the physical area influencing the property or in the physical neighborhood influencing the property since January 1, 2004. (TR. 190-91) There had been some change in the prime interest rate that had occurred which may have affected some of the mortgage interest rates, but in terms of availability of money for financing, Brorsen agreed there had not been a change since 2003. (TR. 191-92)

The climate control feature of the subject property was not typical for facilities of the subject's size. (TR. 192-93) Food process users would seek out a property like the subject, but depending upon the process and use, heavy manufacturing and/or light manufacturing users may or may not be interested in the subject property. (TR. 193) The transfer information Brorsen found regarding the subject was irrelevant to the value and was merely reported as history of the property. (03/04 TR. 250-51)

Brorsen acknowledged that in the 2005 report he did not provide a descriptive detail of the features for each comparable he considered relevant in making adjustments to the sales prices. (TR. 193-94) Sale #1 was vacant at the time of sale, but Brorsen also understood there was a lease that the previous tenant was obligated to pay; shortly after the sale, a new tenant occupied the space. (TR. 194-95) The witness admitted all three sales used in his sales comparison approach in the 2005 appraisal sold after the valuation date at issue and Sale #2 was about one-quarter the size of the subject property. (TR. 195-96)

In his cross-examination in the 2003/2004 appeal, Brorsen acknowledged that in January 2003, a "fairly new" facility of approximately 25,600 square feet of building area and 10.14 acres of land was being offered for sale for \$1,050,000 or about \$41.00 per square foot of building area. (03/04 TR. 252-53) Despite this fact, in his replacement cost new estimate, Brorsen concluded an estimate of about \$50.00 per square foot for the subject improvement only and he also described the subject as

"fairly new" like the facility for sale at \$41.00 per square foot, including land. (03/04 TR. 261-62)

Brorsen acknowledged the original build-to-suit character and lease arrangement for the subject was a financing tool. (03/04 TR. 262)

In discussing the adjustments made to the sales comparables, Brorsen also testified that when the unit of comparison is size, the appraiser cannot make a size adjustment, but instead may make utility, age, condition, and/or function adjustments. (03/04 TR. 282)

On redirect examination, as to the sales comparison approach Brorsen described the utility adjustment as a direct comparison between the subject property and the individual comparables resulting in a qualitative adjustment. The primary adjustment considered the subject's modern design and climate controlled space in both the industrial and office space with a finish for food processing as compared to the sales comparables. (03/04 TR. 303-04) While the subject may compete in the regional market, Brorsen felt he could better support adjustments for local comparables. (03/04 TR. 304-05) Brorsen noted that both smaller size and larger size industrial properties seem to sell for comparable unit prices with similar marketing methods. (03/04 TR. 306)

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Board is the determination of the subject's estimated fair market value as of January 1, 2005 for *ad valorem* tax purposes. The Board finds the evidence in the record supports the subject's assessment for 2005.

The appellant contends the assessment of the subject property is excessive and not reflective of its market value while the intervenor contends the assessment of the subject is too low. 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). Having considered the evidence and testimony presented, the Board finds the best evidence in the record establishes that the subject's market value as determined by the board of review was correct and thus a change in the 2005 assessment of the subject property is not warranted.

In determining the correct assessment of the subject property, the Property Tax Appeal Board examined the appraisals submitted by the appellant and the intervenor supporting their respective positions of a decrease and an increase in the subject's 2005 assessed valuation. The board of review had adopted the evidence submitted by the intervenor, but despite an estimated fair market value opinion of \$5.5 million by intervenor's appraiser, the

board of review initially simply requested confirmation of the subject's assessed value and did not seek an increase in assessed valuation until closing argument. The subject's 2005 assessed value translates into an estimated market value of \$4,939,241 or \$44.50 per square foot of building area including land using the 2005 three-year median level of assessments for Kankakee County of 33.74%.

The appraisers, Salisbury for the appellant and Brorsen for the intervenor, whose respective reports were considered, utilized the three traditional approaches to value in estimating their respective fair market values for the subject property. As to appraiser Brorsen, both the appellant and the intervenor chose to adopt the testimony of this witness from the consolidated hearing in Docket Numbers 03-00160.001-I-3 and 04-00464.001-I-3 in addition to his testimony presented during the hearing in this matter. Moreover, the evidence is clear that Brorsen's 2005 restricted use appraisal in this matter could only be understood with reference and referral to both his 2003 appraisal estimating a value for the subject of \$5,000,000 and his 2004 appraisal estimating a value for the subject of \$5,100,000.

As noted previously in this decision in response to the intervenor's motion for a directed verdict, standing alone the mere fact that appellant's appraiser had a valuation date of January 1, 2004 is not a reason to discount the appraisal entirely. As will be discussed below, various concerns about the data selection and methodology will be outlined which result in a finding by the Property Tax Appeal Board that the appellant's appraisal was not the best evidence of value in the record.

In determining the correct assessment of the subject property, the Property Tax Appeal Board also examined the intervenor's 2005 appraisal not only in light of the testimony in this matter, but as requested, in light of the testimony and his appraisals in the 2003 and 2004 consolidated appeal. Brorsen opined a fair market value of the subject property as of January 1, 2003 of \$5 million and as of January 1, 2004 of \$5.1 million. As will be discussed further below, absent a legitimate reason for a nearly 8% increase in estimated fair market value from 2004 to 2005, the Property Tax Appeal Board finds that the intervenor's 2005 appraisal was not the best evidence of value in the record.

With slight variations, the appraisers were in agreement with respect to the description of the subject property. The primary difference was the size of the subject building. Brorsen testified that he measured the subject improvement and his contention of 111,000 square feet appears to merely be a rounding up of his determination of 110,834 square feet of building area. In contrast, Salisbury reported the building to have 112,626 square feet of building area, but had no clear explanation where that figure came from having testified that it was a combination of measuring and taking the information off a set of plans the appellant had provided.

Another difference between these appraisers was whether the climate control and food processing capabilities of the subject property were valuable and/or accounted for in determining the property's value. Salisbury testified that climate control was "not a big deal" in that most industries do not want it. The Board finds both appraisers agreed this feature was essentially user specific, either it was desirable for the processing of the product or it would be unnecessary for the user.

In reviewing the appraisers' cost approaches to value, appellant's appraiser began his land value determination using nine dated sales located nearby, but occurring between January 1999 and October 2002 plus consideration of five listings with no indication of when the properties were listed for the prices stated. On the other hand, intervenor's appraiser similarly utilized dated sales located in Manteno from July 1996 to March 2003; only one of which was a recent sale in March 2003. These two appraisers then concluded drastically divergent land values of \$30,000 per acre by Salisbury and \$46,000 per acre by Brorsen.

Both appraisers utilized the Marshall Valuation Service to calculate the subject's replacement cost new. Salisbury in essence ignored 15.5% of the improvement which was office space and calculated the entire replacement cost new under the category of light manufacturing facility, Class C, with average quality. Given Salisbury's square foot area, ceiling height, and weighted age of 12 years, he estimated a replacement cost new of approximately \$5.4 million including site improvements of \$463,000. Brorsen on behalf of intervenor calculated replacement cost new using two categories: light industrial manufacturing for 93,470 square feet and general office for 17,528 square feet, each with a weighted age of 13 years plus local cost factors and 5% for entrepreneurial profit. From these calculations, Brorsen concluded a replacement cost new of approximately \$7 million including site improvements of \$751,676.

Besides these drastic differences in replacement cost new, ultimately the depreciation calculations considered by each appraiser were the most significant factors in the value conclusions derived under their respective cost approaches. Using a weighted age of 12 years, appellant's appraiser Salisbury deducted 66% for depreciation using the market extraction method. As pointed out in the hearing, the market extraction method which examines sales requires calculations to estimate the land value of the sold properties and to estimate a replacement cost new of the buildings of the sold properties. As Salisbury acknowledged at hearing, any error in either calculation would impact his depreciation calculation. Moreover, on cross-examination Salisbury acknowledged that he had combined office and the manufacturing/industrial space for his comparables in order to estimate the replacement cost new just like he did for the subject in his cost approach. The Board finds this methodology of calculating replacement cost new lacks justification where the appraiser knows in fact that there are specific different types or categories of areas in a facility that may be considered in

the Marshall Valuation Service data. Additionally, the primary check Salisbury utilized on his extraction method of calculating depreciation as stated on page 41 of his report was his own "studies" which indicate manufacturing/warehouse plants depreciate 4-10% per year during the early stages of the facility's life. No specific data support was given by Salisbury beyond this summary contention. In the end, the Board finds the appellant's appraiser failed to adequately explain the rationale for the significant amounts of depreciation taken under the cost approach for a weighted average age 12 year old building. In contrast, the intervenor's appraiser considered a secondary method of calculating depreciation to cross-check his age/life calculation. He found the building to have 32.5% depreciation and the asphalt improvements to have 52% depreciation and the other site improvements to have 33% depreciation, respectively.

In reviewing the income approach to value, the appellant's appraiser chose four actual rentals and five listings as his data array. Two properties were in Kankakee County and the remaining properties were in Stephenson, Winnebago and Vermilion Counties. In testimony, Salisbury indicated the primary consideration in his selection of rental comparables was the size of the building since he opined the rental market of 20,000 to 30,000 square foot building areas differs greatly from the rental market of 100,000 or more square feet. Brorsen found seven nearby rental comparables, but only one was similar in size at 99,358 square feet. Despite this similarly-sized property having a rental rate of \$3.87 per square foot, after adjustments Brorsen concluded an estimated rental rate of \$5.50 per square foot for the subject. In summary, the selected rental comparables in appellant's appraisal displayed rental rates ranging from \$1.56 to \$3.00 per square foot of building area as compared to the rental rates ranging from \$2.85 to \$5.52 per square foot of building area found by intervenor's appraiser.

The percentage expense calculations of the appraisers in the income approach were identical at a total of 20%. The capitalization rates chosen by the appraisers were relatively similar at 9.4% and 11%. Yet, because Salisbury estimated a rental rate of \$3.00 per square foot for the subject and Brorsen estimated a rental rate of \$5.50 per square foot, the final value conclusions of the appraisers under the income approach varied just as drastically as their estimated rental rates.

The Board finds that each of the appraisers employed primarily the sales comparison approaches in arriving at their respective conclusions of value. The Board finds the primary difference between the appraisals was due to the sales selected by each appraiser for consideration. The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill. App. 3d 207 (2nd Dist. 1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9 (5th Dist. 1989).

In reviewing the sales comparison approach, which each appraiser placed most weight upon, the appellant's appraiser utilized nearly half of his nine sales located far from the subject property. The data selected by appellant's appraiser set forth sales prices ranging from \$7.95 to \$23.12 per square foot of building area including land. Examination of the sales by region, however, does not reflect Salisbury's assertion that the Rockford area (Winnebago County) market was stronger than the subject's local market area. Intervenor's counsel argued the comparable sales contained in the appraisal offered by the appellant were located in varying communities far distant from the subject and therefore had little relevance to industrial real estate values in the Manteno, Illinois/Kankakee County area. The Board finds this claim may have some merit, but there was no empirical data to support the intervenor's assertion. More critical to the consideration of comparable sales, however, are the dates of sale and similarities/details of the comparable properties.

The sales considered by Salisbury will be examined first. Sale #3 is given less weight in the Board's analysis due to its date of sale in November 1999 when the valuation date herein is January 1, 2005. The Board finds this Sale #3 is simply too distant in time to be given much weight and the building is also substantially older at 32 years than the subject building at 13 years.

Salisbury's Sales #2 and #9 have also been given less weight by the Board due to their substantially larger size than the subject where both of these comparables are more than double the size of the subject building. Additionally, Sale #2 represents a building that was 31 years old as compared to the subject building of 13 years old.

Sale #5 considered by Salisbury has been given less weight by the Board in its consideration of the sales comparables due to its significantly taller ceiling heights ranging from 35' to 42'. Such a design differs significantly from the subject's ceiling heights ranging from 16' to 20'. Sale #5 also lacked office space while the subject had 15.5% office space which again makes this property less similar to the subject. Furthermore, Brorsen testified this facility had no heating system.

Salisbury's Sale #4 deserves special mention in several ways. It was a common sale between Salisbury and Brorsen located in Kankakee, however, this sale had some unique aspects which both appraisers acknowledged. First, the sale did not transfer the entire interest in the property. Using the available data, both appraisers arrived at similar sales prices per square foot of \$17.11 and \$17.12. Second, the biggest difference between the appraisers regarding this property concerns the percentage of office space. Salisbury set forth in his grid and detailed addendum on Sale #4 that the property had 50% office space which would be much greater than the subject's office space. Brorsen in his grid regarding Sale #3, this same property, wrote the

building had 11% office space, but examination of his detail on the property in the addendum of his appraisal report provides no square footage figure for office space. Thus, the Board finds there is no way to check Brorsen's office space calculation, whereas Salisbury provided the office space square footage figure in his addendum. The Board finds Salisbury's statement of 50% office space for his Sale #4 to be more credible than Brorsen's statement of 11% office space of the same property as his Sale #3. The Board further finds that Salisbury's Sale #4 and Brorsen's Sale #3 must be given less weight in the sale comparable analysis due to its 50% office space compared to the subject's 15.5% office space.

As to Salisbury's sales comparables, in summary the Board finds the remaining sales, #1, #6, #7 and #8, are most similar to the subject property in age, size, ceiling height, and office space. These four sales comparables from Salisbury present a range of sales from September 2002 through November 2004 for sale prices ranging from \$18.06 to \$23.12 per square foot of building area including land.

The sales considered by the intervenor's appraiser Brorsen in his 2005 report set forth sales prices ranging from \$17.12 to \$50.22 per square foot of building area including land. While there were only three sales presented, all three occurred in close proximity to the valuation date at issue and near to the subject property. The size differences in the properties, however, deserve further consideration on this record along with their drastically different unit prices.

Brorsen's Sale #1, a partially climate controlled facility according to his testimony and located in Manteno consists of 98,560 square feet of which 5.8% was office space; this property sold for \$50.22 per square foot of building area including land. The Board finds despite his previously stated lack of familiarity with the sales comparables, when it came to his sales comparison approach, Brorsen asserted Sale #1 was "partially" climate controlled, near to the subject and the most similar comparable with the same features as the subject in the record upon which he primarily relied in arriving at his final opinion of value for the subject in this approach. Nowhere in the addendum as to Sale #1 was this climate controlled feature noted nor was the square footage of climate controlled area stated. Moreover, the Board finds this sale price per square foot is more than two times higher than any other sale presented in this record. The Board finds this property featured some amount of climate control like the subject and therefore justifies a higher value than the other sales presented by both appraisers.

Brorsen's Sale #2 consisting of only 24,375 square feet of building area with 19% office space also located in Manteno sold for \$24.62 per square foot of building area including land. The Board finds the substantially smaller size of this property detracts from its similarity to the subject and therefore should be given less weight in a sales comparison analysis.

Additionally, this property presents a land-to-building ratio of 18.12:1 as compared to the subject's land-to-building ratio of 6.79:1.

Brorsen's Sale #3 was discussed previously. While it is similar in size to the subject, the Board has found that Brorsen's contention of the amount of office space lacks credibility in light of the more complete information provided by Salisbury about this property. While this property sold for \$17.12 per square foot of building area including land, this sale comparable simply has a substantially different design with 50% office space as contrasted with the subject's 15.5% office space and therefore has been given less weight by the Board in its analysis of the sales evidence.

In testimony Brorsen himself noted that his three sales comparables provided no clearly apparent unit price, yet from this widely disparate data array, the intervenor's appraiser Brorsen adjusted the sales prices which ranged from \$17.12 to \$50.22 and concluded an estimate of value for the subject of \$50.00 per square foot. The Board finds that Brorsen's adjustments are difficult to follow. Brorsen's estimate of fair market value under the sales comparison approach also contrasts starkly with the conclusion drawn by appellant's appraiser in the sales comparison approach of \$21.00 per square foot of building area.

Furthermore, while for the 2005 appraisal, Brorsen found the subject's estimated market value under the sales comparison approach had increased to \$50.00 per square foot of building area from the 2004 finding of \$46.00 per square foot of building area, curiously in the cost approach his estimated land value did not change at all from 2004 to 2005. Moreover under the cost approach, the change in replacement cost new made by Brorsen was said to have been updated by the Marshall Valuation Service and local adjustments plus entrepreneurial profit only. Brorsen further clearly testified that the industrial market was stable, lacking changes one way or the other. He also testified that he did not have a high degree of familiarity with his three sales comparables in the 2005 report and thus could not rely upon the extraction method of calculating depreciation. Furthermore, in his 2005 income approach to value, Brorsen estimated the exact same per square foot rental rate of \$5.50 for the subject as he had calculated in his 2004 report. The Board finds Brorsen's final opinion of value had a nearly 8% increase from 2004 to 2005. The Board also finds based upon the foregoing discussion of the evidence and testimony that Brorsen did not provide an adequate explanation for this significant increase in value from 2004 to 2005. The Board finds the increase in value from 2004 to 2005 is made even more suspicious when considered in light of Brorsen's value opinions of 2003 and 2004 which only increased \$100,000 from one year to the next. The Board finds there is no adequate explanation on this record for the increase in value of the subject property from 2004 to 2005 of \$400,000 in light of the appraiser's report and testimony as described above. Thus,

based on these foregoing contradictions the Board finds that Brorsen's 2005 appraisal report is not the best evidence of value in this record.

Both appraisers placed most reliance in reconciling the three approaches to value upon their respective sales comparison approaches which reflects the activity of market participants. In reviewing the sales data, the Board has given less weight to Salisbury's comparables #2, #3, #4, #5 and #9 and likewise given less weight to Brorsen's comparables #2 and #3 for the reasons previously set forth. The Property Tax Appeal Board shall look to the data from the remaining sales comparables submitted by both appraisers in this matter in order to determine the subject's market value. In light of the court's ruling in Willow Hill Grain, Inc., *supra*, the Board finds that the best evidence of value is the market data submitted by the appraisers under the sales comparison approach to value.

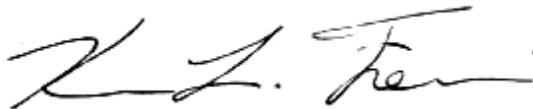
The Board finds the remaining sales comparables which were most similar to the subject property from both appraisers' appraisals had sale prices ranging from \$18.06 to \$50.00 per square foot of building area including land. The Board finds that these common comparables were most similar to the subject in use as industrial facilities and should be given most weight. More specifically, Salisbury's most similar comparables had sale prices that ranged from \$18.06 to \$23.12 per square foot of building area and Brorsen's only similar sale comparables sold for \$50.22 per square foot of building area. The Board finds, other than Brorsen's Sale #1, the subject property is generally superior in its climate control and food processing capabilities than the majority of these comparable sale properties. Therefore, the Board finds that the subject is entitled to a market value greater than those remaining sales comparables presented by Salisbury, the highest sale price of which was \$23.12 per square foot based on a sale that occurred in September 2002. After considering all the evidence including the experts' testimony and submitted documentation as well as the adjustments and differences for sale date, location, building size, building age, and amenities, the Board finds that the subject's assessment of \$44.50 per square foot of building area is supported by the properties contained in this record.

As a result of this analysis, the Board finds that the evidence and testimony has demonstrated that the subject property was not overvalued in 2005 and that a reduction in the subject's assessment is not warranted.

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



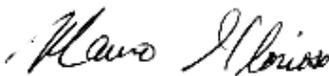
Chairman



Member



Member



Member



Member

DISSENTING: _____

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

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

Date: March 20, 2009



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

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

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

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

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