FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Woodfield Mall Lord & Taylor
DOCKET NO.: 05-26416.001-C-3
PARCEL NO.: 07-13-200-034-0000

The parties of record before the Property Tax Appeal Board are Woodfield Mall Lord & Taylor, the appellant, by attorneys Gregory J. Lafakis and Ellen Berkshire, of Verros, Lafakis & Berkshire, P.C. in Chicago; the Cook County Board of Review by Assistant State's Attorney Ben Bilton with the Cook County State's Attorney's Office in Chicago; as well as the intervenors, Palatine Township H.S.D. #211, and Schaumburg Community Consolidated S.D. #54, both by attorneys Michael J. Hernandez and Scott Metcalf of Franczek Radelet P.C. in Chicago.

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

LAND:	$ 1,336,863
IMPR.:	$ 1,399,137
TOTAL:	$ 2,736,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of 281,445 square feet of land improved with an 11-year old, two-story, single-tenant, anchor department store of masonry construction located in a super-regional shopping mall, specifically Woodfield Mall, located in Schaumburg. The retail store contains 130,872 square feet of building area and is owner-occupied.

At the commencement of this hearing, the Board finds that the 2005 and 2006 appeals involve common issues of law and fact and a consolidation of these appeals for hearing purposes would not prejudice the rights of the parties. Therefore, pursuant to Section 1910.78 of the *rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78),* the Board consolidated the above appeals solely for hearing purposes, while noting that distinct decisions would be rendered in each appeal year.

At hearing, there were several procedural matters. First it was noted that prior to these 2005 and 2006 hearings, the appellant argued that this subject property had a prior hearing before the Board under docket #04-25467-C-3. Therefore, the appellant's attorney Moved for the Board to Decide the 2005 and 2006 Appeals Without Further Hearing. In support of this motion, the appellant submitted a copy of the Board's decision in docket #04-25467-C-3 as well as portions of the 2004 hearing transcript relating to two witnesses' testimony. The board of review and intervenor's attorneys objected to the motion at that time. After due consideration of the parties' arguments while noting that there had been a previous conference call on this issue wherein the parties verbalized their positions, the Board had rendered an Order denying appellant's Motion as of May 10, 2011 which was forwarded to all parties. The Order stated that the Board denied a request to forego a hearing in the 2005 and 2006 matters solely based on the 2004 hearing transcript and decision; however, said Order did grant appellant's request that the Board take judicial notice of the 2004 Board decision as well as accept portions of the 2004 hearing transcript applicable to the two witnesses which would be presented at the 2005 and 2006 hearings.

Moreover, at hearing, the intervenors and the board of review renewed their objection to the inclusion of any portions of the 2004 hearing transcript in the 2005 and 2006 proceedings citing hearsay rules. In response, the appellant's attorney asserted that both witnesses would be present to testify during these 2005 and 2006 proceedings; therefore, there would be no hearsay violation. Therefore, the Board overruled the objections.

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

As to the overvaluation argument, the appellant's pleadings included a copy of a summary report of a complete appraisal undertaken by appraiser, Joseph Ryan. The Ryan appraisal addressed two of the three traditional approaches to value, while opining an estimated market value of $7,200,000 as of the effective date of January 1, 2004. This appraisal was identified for the record as Appellant's/Taxpayer's Exhibit #1.

The Board found that in the 2004 proceedings that the parties had jointly agreed to stipulate to the qualifications of the appellant's and intervenors' appraisers as experts in the field of real estate appraisal. Nevertheless, the parties were permitted additional voir dire of each witness. Ryan testified that he has been an appraiser for over 25 years after beginning his work career with the county assessor's office 31 years ago. Further, Ryan stated that as of the date of this appraisal of the subject property he had completed approximately 25 appraisals of anchor department stores associated with regional malls, while completing from 25 to 30 additional such appraisals thereafter.

Ryan was offered as an expert in real estate valuation of anchor department stores and in the valuation of the subject property without objections from the remaining parties; therefore, the Board accepted him as such at this hearing.

Ryan was showed Appellant's Exhibit #2, which was a copy of portions of the 2004 hearing transcript relating Ryan's testimony. He stated that he had reviewed the document reflecting pages #10 through #84 and indicated that his testimony in the current tax years would not substantially differ from that reflected in this Exhibit from the 2004 hearing.

In addition, Ryan testified that he continues to review the subject and opine a market value for the subject in subsequent appraisals with effective dates in 2007, 2009 and 2010. He stated that there have been neither significant physical changes to the subject nor changes to the subject's market for similar properties from January 1, 2004 to January 1, 2006. Moreover, he testified that there have been no significant differences in the subject's market value from January 1, 2004 to January 1, 2006. Further, he stated that based upon his personal knowledge a property's assessment remains constant throughout a triennial reassessment period. Furthermore, Ryan explained that this subject property's market area is really the retail market on a national or regional basis due to the fact that this property is an anchor department store.

Ryan also stated that he undertook an interior and exterior inspection of the subject along with an associate, on May 24, 2004. The appraisal stated that the majority of the building is utilized as open retail sales area. The subject's site was described as containing 281,445 square feet with a land-to-building ratio of 2.15:1 and overall effective age of 10 years. The subject property is improved with a two-story, masonry, commercial, retail building with 130,872 square feet. The structure is an owner-occupied, single-tenant, anchor department store attached to a super-regional shopping mall. The purpose of this appraisal is to estimate the market value of the fee simple estate of the subject property and that the subject is an anchor tenant in a desirable shopping center.

The Ryan appraisal addressed two of the three traditional approaches to value in developing the subject's market value estimate. The income approach reflected a value of $7,275,000, rounded, and the sales comparison approach indicated a value of $7,200,000, rounded. In reconciling these approaches to value, Ryan placed primary reliance on the sales comparison approach to reflect his final value of $7,200,000 for the subject.

Ryan's appraisal stated that the cost approach was inapplicable because his research did not uncover any sales of anchor mall pad sites in the subject's local area.

He previously stated that there is a special relationship between anchor department stores and the developers of malls while stating that the retail industry thinks that an anchor department store generates traffic with developers requiring traffic to enhance the value of their inline stores.

Second, he stated that he had observed a decline in sales per square foot at the anchor department stores from 1999 through 2003, which he undertook to mean that the market was changing. Specifically, he indicated that anchor department stores and regional malls in general are not being constructed anymore with the market moving toward development of freestanding big box stores and power centers with big box stores. Moreover, his appraisal stated that market participants in the retail industry do not rely on the cost approach in making investment decisions.

As to the highest and best use analysis, Ryan testified that the property's highest and best use as if vacant was for development of a similar commercial, retail structure, while its highest and best use as improved was its current use as an anchor-type, commercial retail building.

As to the subject's area and market, Ryan previously testified that due to the effects of new trends in retailing, the Chicago retail market has undergone significant changes in the past years and that from a real estate standpoint, the increased competition from large superstores, power centers, and free-standing, big box stores will most likely cause an unstable period for closely held specialty stores which are experiencing a decline in sales volume. He explained that power centers contain non-traditional anchor store tenants, while category killers are retailers that sell only one product line.

As to the subject's mall, he stated that there were four other anchor department stores located in the subject's mall.

Under the income approach, Ryan analyzed nine comparables located in Illinois, Indiana, and Michigan. Ryan testified the comparables range in size from 79,247 to 297,000 square feet. The commencement dates on the leases ranged from 1997 to 2003 with lease terms from five to 40 years. The rents ranged from $3.25 to $7.25 per square foot, triple net, or rent based on 1% or 2.5% of sales. Ryan testified that after consideration of the data and adjustments for age, condition, utility and location, he estimated rent for the subject of $6.50 net per square foot.

In addition, Ryan reviewed *Dollars & Cents of Shopping Centers, 2004* to estimate a lease for the subject based upon gross median sales for department stores and national chain department stores in super-regional malls of $153.15 per square foot and a 2% median rate of percentage for super-regional stores resulting in an estimated percentage rent of 3.0% for a high-end department store, such as the subject.

Ryan's appraisal indicated that he also reviewed the actual sales of the subject and stabilized the sales at $230.00 per square foot. Actual sales for the subject ranged from $228.25 per square foot in 2003 to a high of $269.68 in 2000.

The appraisal estimated the potential gross income (PGI) at $850,668. Ryan estimated vacancy and collection loss (V&C) of 7.0%. Deducting V&C resulted in an effective gross income (EGI) of $791,121 for the subject. He noted actual expenses at 21% of PGI, even though industry standards reflected 5% of PGI. He stabilized operating expenses at $0.30 per square foot which were deducted from the EGI resulting in a net operating income (NOI) of $751,859 for the subject.

To estimate the capitalization rate, Ryan reviewed *Korpacz Investor Survey, First Quarter, 2003* for malls which had an estimate of 7.25% to 10.0%. He opined that the subject would be at the high end of the range due to the fact that anchor stores by themselves have more risks than regional malls due to their size and limited number of potential users. The appraisal also indicated the band of investment technique was also reviewed. Ryan estimated a capitalization rate of 9.78%, rounded to 10%. The appraiser calculated an effective tax rate of 0.49%, which was added to establish a total capitalization rate of 10.51%. Dividing the NOI by the appraiser's total capitalization rate resulted in an indicated value for the subject of $7,275,000, rounded.

Under the sales comparison approach, Ryan testified he analyzed eight sales and one listing of similar properties located in the Midwest. The properties are anchor department stores located in Illinois, Michigan and Ohio. The properties consist of anchor department store buildings in regional malls. Ryan testified that he used sales within the Midwest because, after discussions with representatives in the department store field, there are three markets for department stores: the East Coast, the West Coast, and between the Appalachians and the Rocky Mountains. He opined it was easier to make adjustments between anchor department stores because they have similar characteristics than different types of stores in closer proximity to the subject.

Ryan's first grid analysis of anchor department stores located within a Midwest market area reflected comparables that ranged in building size from 94,341 to 254,720 square feet of building area and in land size from 62,920 to 755,330 square feet. They ranged in land-to-building ratios from 0.50:1 to 3.65:1 and in improvement age from 5 to 30 years. The comparables sold from January, 2000, to September, 2003, for prices ranging from $2,750,000 to $10,215,000, or from $25.45 to $50.07 per square foot of building area, including land. This data does not include the listing's data for one property.

Ryan described each sale in detail. He testified that, although sales #3 and #4 were bankruptcy sales, he spoke to the parties involved with the sale and determined them to be at market. In addition, he stated that sales #6 and #7 sold as a package.

Furthermore, Ryan included a second improved sales grid analysis based upon a nationwide search and comprising three anchor store sales, one of which was located in Illinois. These properties sold from January, 2004, to December, 2004, for prices that ranged from $3,500,000 to $7,000,000, or from $33.52 to $34.82 per square foot. They ranged: in age from eight to 15 years; in improvement size from 104,414 to 201,000 square feet of building area; and in land size from 247,856 to 478,289 square feet of land.

Ryan testified that this second grid of sales basically confirmed the sales data reflected from the Midwest area sales. He also stated that he verified the terms and conditions of each of the sales by speaking to a party involved in each transaction. Moreover, he indicated that his comparable sales were anchor department stores associated with a regional or a super-regional mall. He opined that only another anchor department store is comparable to the subject due to the characteristics of size, age, condition and usage.

Ryan testified, after adjustments, he reconciled the subject at $55.00 per square foot of building area, including land which reflects an estimated market value for the subject of $7,200,000, rounded.

In reconciling the two approaches to value, Ryan testified he accorded primary weight to the sales comparison approach to value as the subject is an owner occupied, single-tenant anchor department store with no rental history. The appraiser testified he gave some weight to the income capitalization approach to value. Therefore, he concluded a final estimate of value for the subject of $7,200,000.

Further, Ryan previously testified that there was no significant change in value for the subject between January 1, 2004 and January 1, 2006.

Under cross examination by the intervenor, Ryan previously testified he had inspected all the sales comparables on multiple occasions and that he verified the sales transactions with representatives of the buyer or seller of these properties.

As to his improved sale adjustments, Ryan testified that he tempered his locational adjustments due to the fact that the subject property had severely declining sales per square foot, which were demonstrated with calculations undertaken at hearing using data in his appraisal.

As to Ryan's improved sales, he previously testified that sale #1 was a leased fee sale of a building slightly older than the subject. As to sales #3 and #4, Ryan stated that he was aware that these sales were part of a bankruptcy transaction. He also previously stated that in relation to a bankruptcy sale, one has to determine whether there was proper exposure to the market and if the sale met the criteria for an arm's length transaction, which he believes was the case in these sales. He testified that a details relating to these transactions were included in his appraisal. As to sale #5, Ryan testified that this sale involved the mall owner's purchase of the property in order to obtain another anchor tenant. As to sales #6 and #7, Ryan was questioned as to his personal knowledge of the sales history. Furthermore, Ryan was questioned at length about his adjustments to these sale comparables where he was able to substantiate all of his findings.

As to the rental comparables, Ryan previously testified that he verified the information with a representative of the lease or leasor and that he inspected all the properties. At hearing, he responded with candor to examination regarding the rental comparables employed in his income approach.

On re-direct, Ryan previously stated that his opinion that the assessment period at issue was also a recessionary period for retail is supported by the decreasing retail sales of the subject with the data reflected in his appraisal. He also testified that even though he conducted appraisals of other anchor department stores utilizing the same improved sale comparables of regional anchor stores, his opinion of value for each subject property would vary according to the subject and the appropriate adjustments to each respective comparable anchor sales. However, he stated that all of the referred to subject properties as well as these sale comparables comprise the same market, which is why he used them in each of his appraisal assignments. Moreover, he testified that he has personally viewed each of the improved sale comparables.

Further, he testified that he was unaware that some improved sales may have undergone reconfiguration after the sale date. He firmly stated that this information, if accurate in some instances, would confirm his opinion that only anchor department stores are comparable to other anchor department stores because they share locational characteristics of being in a regional mall as well as design and floor plan similarities, which are unique to such stores. Therefore, he stated that based upon these unique characteristics as well as his personal knowledge of the department store industry, he has concluded that only anchor department stores are comparable to each other. Thereby, he can easily make appropriate adjustments for size, age, and location to adjust for design and functional utility of a department store, which are not the case when attempting to make a comparison to a one-level, single-tenant, big box-type store.

As to the subject's immediate environment and market, Ryan previously stated that neighborhood demographics and family income are only two factors related to the success of a mall, the others would be: area population, sales generated by the mall and competition within the mall or area. Ryan also provided detailed testimony regarding competition between malls located within the Chicago-land area due to the number of regional malls within this area. Ryan testified at length regarding industry terminology including: regional malls, super-regional malls, in-line stores, anchor stores, departments stores, as well as expounding on trends in retailing such as power centers, category killers, free-standing stores, and big box stores and the differentiation between these retailers. He expounded on market trends from 2004 through 2006 wherein the retail market was experiencing a decline in traditional anchor stores.

At hearing, the state's attorney Moved For a Directed Verdict asserting that the appellant had not met its burden. Upon due consideration of the parties' positions, the administrative law judge denied the motion.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $3,978,508 was disclosed. This assessment reflects a fair market value of $10,469,758 when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A commercial property is applied. In support of this market value, the notes included a market analysis undertaken by Jeffrey Hortsch, identified as a Certified General Real Estate Appraiser. The analysis contained an effective date of January 1, 2004 with a market value estimate of $10,900,000. At hearing, the board of review did not call any witness and rested its case upon its written evidence submissions. As a result of its analysis, the board requested confirmation of the subject's assessment.

At hearing, the appellant's attorney Moved To Strike the board of review's evidence for failure to call a witness to testify to the written submission. Upon due consideration of the parties' positions, the administrative law judge denied the motion while stating that the Board would accord the appropriate weight to the evidence submissions at issue.

In support of the intervenor's position, the intervenor submitted a complete, summary appraisal of the subject prepared by Lorraine Apiecionek with an effective date of January 1, 2004 and an estimated market value of $9,900,000, which was marked as Intervenor's Exhibit #3. Apiecionek stated that she holds the designation of Member of the Appraisal Institute (hereinafter MAI) for approximately 15 years, that she is a general real estate appraiser in Illinois and Wisconsin, and that her work history included employment at a commercial real estate mortgage firm for approximately 10 years. She testified that she has undertaken approximately 25 appraisals for ad valorem tax purposes, of which only two have been anchor stores. The second anchor appraisal related to the Marshall Field's store, which is also located in Woodfield Mall, as is this subject property. She stated that the remaining 25 additional appraisals she has undertaken were for financing and purchase purposes. The intervenor offered Apiecionek as an expert in real estate appraisal without objections from the remaining parties; therefore, the Board accepted her as such an expert witness.

Apiecionek's appraisal developed the three traditional approaches to value. The cost approach estimated a value of $10,850,000. The income approach estimated a value of $10,780,000, while the sales comparison approach estimated a value of $9,900,000.

As to the subject, Apiecionek stated that the subject is a two-story, anchor department store with 130,872 square feet of building area sited within a 2.2 million square foot regional mall. She stated that she conducted on inspection of May 30, 2006. She also described the subject's surrounding area because, as she stated, the subject's mall is a draw to this area.

As to the highest and best use analysis, she testified that the property's highest and best use, as if vacant, was for large-scale commercial development, while its highest and best use, as improved, was its current use as an anchor-type, commercial retail building.

Under the cost approach, Apiecionek developed a land value for the subject using five land sales, all of which were located in Cook County. They ranged in size from 210,133 to 806,731 square feet and in an unadjusted value from $9.32 to $17.25 per square foot. She testified that the sales were all larger properties than the subject, but were all developed commercially. She concluded a land value for the subject of $15.00 per square foot or $4,220,000, rounded.

Next, she estimated the subject's replacement cost new at $9,040,000 while using the Marshall & Swift Cost Manual. She also included site improvements valued at $225,000 and indirect costs estimated at $450,000, less entrepreneurial profit of $490,000 resulting in a cost new of $10,205,000. Deducting depreciation of 35% resulted in a cost new of $6,633,250. Adding the land value resulted in a value estimate under this approach of $10,850,000, rounded.

Under the sales comparison approach, Apiecionek utilized five sale comparables located in Illinois. At hearing, she testified that she used other similar-type department stores for comparison that were not anchor stores. Specifically, her appraisal indicated that sale #1 was a Homemaker's Furniture stores, sales #2 and #4 were Kohl's stores, sale #3 was a former Montgomery Ward store, and that sale #5 was a Carson Pirie Scott store.

The suggested comparables sold from August, 1998, to April, 2004 for prices ranging from $4,500,000 to $14,905,675 or from $29.03 to $104.85 per square foot of building area, including land. They ranged: in land-to-building ratio from 1.80:1 to 7.94:1; in age from four to 24 years; and in building size from 77,721 to 188,000 square feet of building area. Pages within the appraisal provided relevant details of each sale.

Apiecionek testified as to each improved sale, as follows: sale #1 was an owner-occupied Homemakers Furniture store; sale #2 was a former Kohl's department store; sale #3 was a former Montgomery

Wards store which sold two years after Montgomery Wards had declared bankruptcy; sale #4 was the sale of Kohl's store located outside of Cook County; and sale #5 was of a Carson Pirie Scott, an anchor department store located in Orland Park which was part of a bulk sale. After making adjustments for various factors of comparison, Apiecionek testified she determined a value for the subject of $90.00 per square foot of building area which yields an estimate of value for the subject of $11,780,000, rounded.

Further, she reviewed the gross income of sales #4 and #5 to develop a gross income multiplier(GIM) from 11.6:1 to 13.5:1. At hearing, she testified that the GIM relates to income producing potential of each property. She estimated a GIM for the subject of 11.00 reflecting a market value of $10,780,000. She also stated that this was a viable tool for properties similar to the subject are purchased based upon their income-producing potential. Her appraisal stated that she finds the value estimate per square foot supports the GIM value estimate; therefore, the final market value under this approach for the subject was $10,780,000.

As to improved sale properties, Apiecionek testified that in her opinion that not only anchor department stores need to be considered as comparables to an anchor department stores. She stated that other similar-type sales of department stores located in a mall or on an out lot parcel could be relevant in comparison to this subject property.

Under the income approach, Apiecionek utilized eight rental properties identified as anchor tenant lease transactions which ranged in area from 84,000 to 177,971 square feet and in rents from $6.50 to $10.01 per square foot on a triple net basis. She estimated the subject's NOI at $7.49 per square foot or $980,284. A vacancy rate for the subject of 3% was applied resulting in an EGI of $950,875. She estimated operating expenses, mall expenses, management fees, and replacement reserves at $84,723. Deducting expenses resulted in a NOI of $866,152.

In determining the appropriate capitalization rate (CAP rate), she testified that she used the direct capitalization method. She reviewed *RERC Investor Survey, Winter, 2003*, which had a range from 8.3% to 9.1% for the Chicago Market and Midwest Region, respectively, for First Tier regional malls, while *PriceWaterhouse Cooper Investor Survey, First Quarter*, 2004, reflected overall rates from 6.80% to 10.25% for national net leased markets. As a result, she opined that a CAP rate near the mid-range of national net leases was considered reasonable. She testified she concluded a CAP rate of 8.75%. NOI was then capitalized by this rate to reflect a market value estimate under the income approach of $9,900,000, rounded, for the subject.

In reconciling the various approaches, she stated that the cost approach was viewed as a check on the income approach due to the difficulty in accurately estimating depreciation estimates. She also testified that she used the value estimates in the sales comparison approach based upon a per square foot and GIM bases as a further check on her value derived in the income approach. She indicated that the sales were accorded less weight because they're were purchased either in bulk including a transfer of business entity or that many sales are bankruptcy sales. As to her income approach, she gave this approach most weight in her appraisal due to the income-producing nature of the subject. Therefore, she estimated a value for the subject property as of January 1, 2004 at $9,900,000. Further, she testified that her opinion of value would be basically the same as of January 1, 2005 and January 1, 2006.

Under cross-examination by the appellant, Apiecionek acknowledged that she previously testified that the intended use of her appraisal was to establish an equitable basis for a real estate tax assessment or to provide for a fair market value based on the fee simple interest of the subject. She stated that use of her rent comparables, sale comparables, land comparables and area demographics would lead to that conclusion. In addition, she indicated that an assessment based upon her market value opinion compared to the subject's actual 2004 assessment would reflect a reduction in assessment reflecting an excessive assessment accorded by the county assessor.

As to area demographics, she testified that a decreasing unemployment rate would suggest that employed people would go shopping and that the data from Dollars & Cents of Shopping Centers may have included data from the subject's shopping center, but that she was unaware of which properties were included in that survey data. She indicated that to her personal knowledge this survey data is gleaned from the entire United States. Moreover, she testified that her appraisal indicated that due to increased competition in the retail industry some malls were struggling in 2004 while also stating that some traditional malls face competition from lifestyle and power centers. As to her land comparables, she evasively testified that none of those properties were developed with an anchor department store in a regional or super-regional mall.

As to her appraisal, she reiterated that she accorded most emphasis on the income approach to value even though the subject property is an owner-occupied location; and in addition, she stated that none of the anchor department stores located within the subject's mall are leased. Moreover, she indicated that her rental comparables #5A & #5B were benchmark properties located in the subject's suburb, but which were brand-new properties which were rented and not anchor department stores in a regional mall. Further, she indicated that only rental #8 was an anchor department store, while none of the rentals were located in a regional mall.

As to her sales comparables, she testified that sale #1 was a leased, free-standing building on an out lot of a mall at the time of sale and that the purchaser downsized after the sale and then filed bankruptcy; sale #2 was a sale leaseback transaction to accommodate an eventual location move to another portion of that mall while the sale was also part of a 1031 Exchange; sale #3 related to a sale of an anchor department store in a declining, regional mall which sold two years after the retailer declared bankruptcy; sale #4 was a sale of a freestanding Kohl's store in Lake Zurich which was fully leased at the time of sale; and lastly, sale #5 was a sale of an unattached anchor department store which was part of a bulk sale transaction involving six properties, all of which were leased at the time of sale. Further, she testified that her sales comparable approach was a check of her other approaches to value, while indicating that she would have accorded more weight to that approach if she could locate and use comparable fee simple sales of anchor department stores.

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

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm’s length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

In determining the fair market value of the subject property for tax year 2005, the Board examined the parties' two appraisal reports and supporting testimony as well as the board of review's written evidence submission.

The Board finds the board of review's witness was not present or called to testify about their qualifications, identify their work, testify about the contents of the evidence, the conclusions or be cross-examined by the parties and the Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Board gives the evidence from the board of review no weight.

Moreover, the Board finds that the appraisal evidence submitted by the remaining two parties, both opine a decrease in the subject's market value for the tax year at issue. The appraisal evidence for both of these parties reflect an effective date of January 1, 2004; however, these appraisal experts both testified that there would be no substantial difference in market value for the subsequent years of the subject's triennial assessment period, or tax years 2005 and 2006. Further, the Board also finds that both appraisal experts agreed that the cost approach was less than applicable to an aged, anchor department store, such as the subject property.

The Board finds that the best evidence of the subject's market value was the appellant's appraisal and supporting testimony. Ryan convincingly testified to various aspects of his appraisal. Moreover, the Board finds that he: has extensive experience appraising anchor department stores similar to the subject property; had personally inspected the subject's premises; utilized appropriate rental and improved sale comparables in the two approaches to value that he undertook; correctly applied adjustments to these comparables as necessary which were supported in his appraisal or within his testimony; and accorded primary weight to the sales comparison approach to value while indicating that the income approach is speculative in application to an owner-occupied, single-tenant, anchor department store located in a regional mall.

Moreover, the Board finds credible Ryan's explanation for the absence of considering the cost approach to value based upon industry standards that buyers and sellers of properties such as the subject would not look to this approach. Further, the Board finds persuasive Ryan's testimony that buyers and sellers of large anchor department stores in regional and super-regional malls deal on a national market; thereby, Ryan choose comparables sited both in Illinois and in other states while obtaining comparables with similar highest and best uses. Clarity was also added to this testimony by Ryan's detailed explanations of retail industry trends as well as defining various components of that retail industry. Overall, Ryan's answers to questioning reflected reasonable and credible responses, while substantiating his findings.

In contrast, the Board accords minimal weight to the Apiecionek appraisal and testimony. Overall, the Board finds unpersuasive her: inexperience in appraising owner-occupied, anchor department stores for ad valorem purposes; continued usage of inappropriate rental and improved sale comparables in contrast to a highest and best use analysis for the subject; her inappropriate reliance on the income approach to value arguing that investors would look to its income-producing capacity while the subject property is admittedly an owner-occupied, anchor department store sited in a regional mall with other owner-occupied, anchor department stores; as well as contradictory or evasive testimony at hearing.

Specifically, the intervenor's appraisal identifies her assignment as appraising the fee simple property rights of the subject; however, she employed in her analysis leased fee rental and improved sale properties as comparables without adjustments for this variation in property rights. As to her rental and improved sale properties, Apiecionek's appraisal identifies the properties as anchor stores, while in contrast her testimony on cross examination revealed that the properties were: either discount department stores or freestanding stores located on mall out lots which runs afoul of the stated highest and best use of the subject; rental properties not associated with a regional mall with only one property as an anchor department store; improved sale properties with conflicting property rights and/or related to a bankruptcy or a bulk sale transaction. Nevertheless, she estimated an initial market value under the sales comparison approach using these sales properties of $11,780,000. However, she then developed a GIM for the subject while utilizing income data on only two of her five sales. After developing this GIM, she diminishes her initial opinion of market value under this approach by $1,000,000. The Board finds this methodology flawed and lacking in credibility.

Therefore, the Board finds the best evidence of market value was submitted by the appellant. Based on this analysis, the Board finds that the market value for the subject property as of the assessment date of January 1, 2005 was $7,200,000. The Board further finds that application of the Cook County Real Property Classification Ordinance level of assessment of 38% for class 5A, commercial property, such as the subject. This application reflects a total assessment of $2,736,000, while the subject's assessment is $3,978,508. Thereby, a reduction is warranted.

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

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 22, 2013

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.