FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: TRG II LLC
DOCKET NO.: 06-00997.001-I-3
PARCEL NO.: 03-02-22-400-009

The parties of record before the Property Tax Appeal Board are TRG II LLC, the appellant, by attorney Clark R. Mills of Mills Law Office in Springfield; the Kankakee County Board of Review; and Manteno Community Unit School District No. 5, intervenor, by attorneys Frederic S. Lane and Scott L. Ginsburg of Robbins Schwartz Nicholas Lifton & Taylor, Ltd., Chicago.

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:	$467,646
IMPR.:	$8,460,453
TOTAL:	$8,928,099

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story distribution warehouse that contains approximately 566,973 square feet of building area.[1] The building was constructed in 1999 and is approximately 7 years old. The building is steel frame construction over poured concrete floors with exterior walls composed of concrete tilt-up panels. The subject has a clear ceiling height of approximately 41 feet and has 84 dock doors at bed level. The interior of the building is divided into sections by metal clad walls. The warehouse area is divided into three sections with Section 1 and Section 2 containing 122,726 square feet and 248,196 square feet, respectively, having a constant temperature of 70 degrees. Section 3 has 187,048 square feet and is maintained at a temperature of 40 degrees. The subject has

[1] Salisbury, the appellant's appraiser, estimated the subject had 570,979 square feet of building area while Brorsen, the board of review and intervenor's appraiser, estimated the subject had 566,973 square feet of building area. The Board finds Brorsen's testimony with respect to establishing the total size of the subject building was more persuasive than the evidence provided by the appellant.

approximately 12,180 square feet of office area. The entire facility is air conditioned and has a wet sprinkler system. Site improvements included asphalt drives, asphalt parking, concrete for trailer parking and loading docks, sidewalks, curbs, exterior lighting and a chain link fence around the perimeter of the property. The subject has a 50.11 acre (2,182,791 square foot) site resulting in a land to building ratio of approximately 3.82:1. The property is located in Manteno, Manteno Township, Kankakee County.

The appellant, through counsel, appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted a narrative appraisal prepared by J. Edward Salisbury of Salisbury & Associates, Inc., Taylorville, Illinois, estimating the subject property had a market value of $17,100,000 as of January 1, 2006. The appraisal was marked as Appellant's Exhibit No. 1. The parties stipulated to Salisbury's qualifications to give opinion testimony.

Salisbury was called as a witness and initially testified that the narrative appraisal contained the following errors:

> Page 13 - the fifth bullet point where the scope states the purpose is to value an asset as part of a trust.
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> Page 31 - second paragraph stating the subject is improved with a manufacturing facility.
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> Page 37 - third line stating rental listing has 100 square feet of refrigerated space, where it should read 100,000 square feet.
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> Page 38 - under Location the last sentence should end by reading "negative adjustment."
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> Page 51 - the office area for comparable sale #3 should read "8.07%" not "12.39%".
>
> Page 68 - the next to last column should reflect an office area for comparable sale #3 of 8.07%.
>
> Page 75 - item number 8 should read that "some" of the interior and exterior of the comparable properties were personally inspected.

Salisbury testified the owner of the subject property is TRG. TRG entered a contract with Mars Chocolate (Mars) to build a distribution center based on Mars' own plan and design. TRG then built the subject building and entered one agreement to lease the land, building and racking systems in the warehouse to Mars. TRG also entered a second agreement with Mars to provide Mars with TRG's own personnel to do the warehousing inside the property.

Salisbury testified he valued the fee simple estate meaning the property is not encumbered with any extraordinary circumstances or leases that would impact the value of the property. In estimating the market value of the subject property the appellant's appraiser did not utilize the cost approach to value because of the inability to find sales of buildings similar to the subject in age with refrigerator or cooler space which would have allowed him to abstract depreciation from the market. He explained the industrial properties depreciate rapidly in the early years of their life. Because he could not properly calculate depreciation he did not develop the cost approach. Salisbury's appraisal further indicated the cost approach was not developed due to few land sales in the area.

The first approach to value developed by Salisbury was the income approach to value. He testified the subject is a combination of cooled and refrigerated warehouse space; therefore, it was important to him to locate properties that were similarly used. As a result Salisbury did a nation-wide search for income comparables and comparable sales of distribution warehouses that either had refrigeration, freezer or cooler space. Salisbury testified he performed an Internet search and contacted other appraisers that he trades information with to identify comparable properties. The rentals he used contained freezer or cooler space.

Salisbury identified one comparable rental and seven rental listings. The comparables were located in Hazelwood, Missouri; Manteno, Illinois; Superior, Wisconsin; East Peoria, Illinois; Madison, Illinois; Charlotte, North Carolina; Beaumont, Texas; and Montoursville, Pennsylvania. The buildings ranged in size from 76,390 to 371,363 square feet of building area and in age from 15 to 40 years old. The appraisal indicated the comparables had refrigerated, cooler or freezer space ranging from 29,225 to approximately 150,000 square feet. Rental #1 had a five year lease that began in March 2002 for $2.72 per square foot, net. The remaining comparables had asking rentals ranging from $1.50 to $4.25 per square foot. The appraisal indicated that Salisbury made qualitative adjustments to the rental comparables for location, age, size, office area and terms. Salisbury estimated the subject would have a market rent of $3.50 per square foot resulting in a potential gross income of $1,998,427.

Salisbury next estimated the subject would experience a 10% vacancy and credit loss resulting in an effective gross income of $1,798,584. The appellant's appraiser also estimated the owner would incur expenses of 10% of the effective gross income to keep the property occupied resulting in a net operating income of $1,618,726.

The witness testified he developed an overall capitalization rate from market abstraction using 11 comparables. The appraisal indicated the comparables had overall rates ranging from 9.8% to 21.9%. Salisbury also testified he has normal national market abstracted rates in his office from the Appraisal Institute, Korpacz, and Realty Rates. The data from these publications were not included within the appraisal. Salisbury estimated the overall capitalization rate to be 10%. Capitalizing the net income by 10% resulted in an estimated value under the income approach of $16,200,000.

The final approach developed by Salisbury was the sales comparison approach wherein he used eleven comparable sales located in Manteno, Illinois; Memphis, Tennessee; East Peoria, Illinois; Urbandale, Iowa; Lincoln, Nebraska; Northfield, Minnesota; New Hampton, Iowa; La Crosse, Wisconsin; Minneapolis, Minnesota; Charlotte, North Carolina; and Superior, Wisconsin. The buildings ranged in size from 155,699 to 1,093,776 square feet of building area and in actual or weighted ages from 14 to 35 years old. The comparables had ceiling heights ranging from 17.5 to 45 feet and office space ranging from 1.31% to 9.00% of building area. The land to building ratios ranged from 1.78:1 to 10.23:1. The comparables had refrigerated/cooler/freezer space ranging in size from approximately 55,516 to 400,555 square feet of building area. The sales occurred from August 2000 to May 2006 for prices ranging from $3,000,000 to $24,500,000 or from $9.19 to $23.12 per square foot of building area. Salisbury testified these sales were used because they had some refrigerator and/or freezer space in them. He further testified there were distribution warehouses in Edwardsville that he could have used but they were strictly distribution warehouses and did not have refrigerated space. Salisbury also testified there are other distribution warehouses located along I-55 at Joliet going into Cook County; he was of the opinion these had a superior location plus he did not know if any had refrigerated space.

Salisbury's report indicated he made qualitative adjustments to the sales to account for sale date, location, size, land to building ratio, age, clear ceiling height and office space. Salisbury estimated the subject had an indicated value under the sales comparison approach of $30.00 per square foot of gross building area or $17,100,000, rounded.

The witness testified that at the time of the report a later sale of the subject property was not available.[2] He testified if the sale was available he would have addressed it in the report. He did not consider the sale of the subject to be arm's length because with the sale went the lease to Mars. He testified that the subject was built to suit and would have had to have a long-term lease, although he didn't have the numbers for the term of the lease.

In reconciling the two approaches Salisbury stated within the report some weight was given the income approach and considerable weight was given the sales comparison approach. Salisbury's final estimate of value was $17,100,000 as of January 1, 2006.

[2] Evidence subsequently presented by the intervenor disclosed the subject sold in August 2008.

Under cross-examination Salisbury testified he was not a designated member of the Appraisal Institute. Salisbury testified Property Tax Services of Illinois, Inc. was his client. He further testified that his fee was not conditioned upon the taxpayer receiving a reduction in their assessment. He testified that when he first does an initial review before he is retained as an appraiser he normally gives the client a broad range of value for the subject property. He explained he provides a potential client with a fee quote, which is a bid letter, stating what the fee would be to do an appraisal and a value range based on the information and the data banks within his office. The witness testified that in the alternative he would send a letter explaining that based on the value range it would be of no use for the client to hire him and, therefore, he could not do the appraisal.[3]

Salisbury was questioned about the definition of market value in the letter of transmittal dated May 21, 2007 that is attributed to the Uniform Standards of Professional Appraisal Practice. He was shown a copy of page 4 from the Uniform Standards of Professional Appraisal Practice and Advisor Opinions 2006 Edition, marked as Intervenor's Exhibit D, and agreed it did not have such a definition of market value. Salisbury did not know whether his citation to the Code of Federal Regulation on page 12 of his report was incorrect.

Salisbury testified that the map on page 7 of his report did not depict the proper location of the subject property. Salisbury also explained that the data on pages 19 through 22 of his appraisal regarding area and city analysis was from a State of Illinois agency. This section of the appraisal contained numerous misstatements about Manteno. Salisbury also agreed page 30, third paragraph, last sentence describing the subject as a manufacturing plant was an error.

Salisbury agreed that his only actual rental was constructed in 1966, is half the size of the subject and was located in Hazelwood, Missouri. Only three rental listings were located in Illinois with two being located approximately 100 and 250 miles from the subject. Salisbury's rental listing #2 was the same property as his comparable sale #11. On page 38 of his report Salisbury determined rental listing #2 had an overall adjustment of equal; however, on page 69 of his report he gave a positive adjustment to sale #11. Salisbury also agreed his statement on page 38 that the rentals were leased fee estates was in error because only one was rented.

With respect to the vacancy rate of 10%, Salisbury testified he did not prepare a study for the subject's area. Salisbury

[3] At the hearing the intervenor submitted Intervenor's Exhibit B, a portion of a transcript from a hearing before the Property Tax Appeal Board from another appeal, to impeach Salisbury's testimony regarding whether his fee is contingent on valuing a property within a particular range. The Board finds the testimony in both matters is consistent.

testified that he developed the capitalization rate using market extraction. He further agreed that the sales used to extract the capitalization rate and the wording in the instant appraisal was the same as used in two other appraisals even though the buildings differed in size, use and the effective dates of the appraisals were not the same. The witness also agreed that in extracting the capitalization rate only five comparables had actual leases and actual sales prices with the remaining properties being rental listings, asking prices or a combination of both. Salisbury also testified that the sales prices and rentals of properties on the I-55 corridor north of Joliet are higher than in the Kankakee area. With respect to Salisbury's capitalization rate comparable #8, testimony disclosed that Alpine Bank obtained a Sheriff's Deed in September 2002 for a price of $1,500,000 and sold the property in November 2003 for a price of $1,650,000.

With respect to the comparable sales approach Salisbury testified he could make adjustments for freezer space, refrigerator space and other types of climate control space but he could not make those adjustments with respect to those facilities located along the I-55 corridor north of Joliet. Salisbury agreed that his comparable sale #1 was located in Manteno and had freezer space. This property sold most per square foot but he did not rely upon the sale. Sale #2 was located in Memphis, Tennessee, with a freezer building that was built in 1966. Salisbury stated in his report the refrigerated space was removed and converted to conventional warehouse space after the sale. Salisbury agreed sale #3 occurred six years before the assessment date. Salisbury agreed sale #4 was located in a suburb of Des Moines, Iowa. Sale number 6 was located in Lincoln, Nebraska, and was reported to have sold in December 2002 for a price of $3,675,000. Salisbury was not aware of any purported sale of this property that allegedly occurred in August 2006 for a price of $5,850,000 as referenced in Intervenor's Exhibit M. Salisbury testified that sale #7 was located approximately 347 miles from the subject property. The witness testified sale #8 was located approximately 327 miles from the subject property. Salisbury agreed sale #9 was significantly older than the subject building. Salisbury testified sale #10 was located approximately 740 miles from the subject property and was in excess of 1,000,000 square feet of building area. Sale #11 was located 512 miles from the subject property. Salisbury agreed that he had not seen most of the sales used in the report.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $8,928,099 was disclosed. The subject's assessment reflects a market value of $26,651,042 using the 2006 three year median level of assessments for Kankakee County of 33.50%. Kankakee County Assistant State's Attorney Teresa Kubalanza stated that the board of review had submitted an appraisal prepared by Andrew Brorsen in support of its contention of the correct assessment. She stated the intervenor submitted the same appraisal and the board of review was deferring to the intervenor to present the appraisal.

Manteno Community Unit School District No. 5, intervenor, submitted a narrative appraisal prepared by Andrew Brorsen of Brorsen Appraisal Service, P.C., Kankakee, Illinois in support of its contention of the correct assessment of the subject property. Brorsen estimated the subject property had a market value of $28,000,000 as of January 1, 2006. Based on the appraised value the school district requested the subject's assessment be increased to $9,332,400 to reflect the appraised value.

The school district called Brorsen as its witness. Brorsen has been an appraiser for 37 years and has the Member of the Appraisal Institute (MAI) designation and is a State of Illinois Certified General Real Estate Appraiser. Brorsen is a certified instructor for the Uniform Standards of Professional Appraisal Practice (USPAP). Brorsen testified he has appraised one or two distribution warehouses in the same market area as the subject property. He further testified he has appraised over 100 industrial properties.

Brorsen testified USPAP did not have a definition of market value on January 1, 2004 and January 1, 2006.

The school district's appraiser identified Intervenor's Exhibit No. 1 as the appraisal report he prepared on the subject property. The witness testified he personally inspected the subject property on April 17, 2008. He was provided a tour of the facility in which measurements were taken and he was shown building or architectural plans. He also obtained information from the Manteno Township Assessor's Office, the Kankakee County Assessor's Office, the Recorder's Office and GIS information on-line.

Brorsen was of the opinion the subject property competes with properties throughout Kankakee County and the adjacent counties of Will and Cook. The witness explained the subject property is located outside the city limits of the Village of Manteno. The witness explained the subject is located adjacent to the Illinois Diversatech Campus (IDC), which is an industrial park. He was of the opinion that this has a positive impact because the subject enjoys all the benefits of being in an industrial park even though it is adjacent to the park.

The witness testified the subject is used as a distribution warehouse for Mars Candies. He was of the opinion the subject had 50.11 acres of land and approximately 567,000 square feet of building area. He calculated the subject had approximately 12,180 square feet of office space, which was adequate for a distribution warehouse. He further testified the subject has locker rooms, a sprinkler system, a security system, perimeter fencing and rail service. The appraiser testified the subject has a ceiling height of 41 feet and about 80 truck dock doors. Brorsen also indicated the subject is climate controlled with two main bays maintained at 70 degrees and one section of cooler space maintained at 40 degrees. Brorsen was of the opinion the climate control features enhance the value of the subject. He further stated the subject was approximately seven years old and was in good condition.

Brorsen testified he appraised the fee simple interest and the highest and best use of the subject as improved was its present use as a distribution warehouse. Brorsen testified he estimated the subject had a market value of $28,000,000 as of January 1, 2006. Subsequent to completion of the appraisal Brorsen became aware the subject sold in August 2008 for a price of $33,450,000. He identified Intervenor's Exhibit No. 2 as the Illinois Real Estate Transfer Declaration (PTAX-203) associated with the sale. The witness stated the transfer declaration did not indicate there was any personal property included in the purchase price.

Brorsen developed the three approaches to value in estimating the market value of the subject property. The first approach to value developed by the appraiser was the cost approach. The witness was of the opinion the subject improvement was relatively new and the cost approach was appropriate. The initial step was to estimate the value of the land using 8 comparable land sales that ranged in size from 3.94 to 27.42 acres. The comparables sold from March 2002 to September 2005 for prices ranging from $125,000 to $1,233,900 or from $17,171 to $45,000 per acre. The report indicated the comparables had adjusted prices ranging from $31,562 to $52,655 per acre. The appraiser estimated the subject land had a market value of $40,000 per acre or $2,004,400.

The appraiser estimated the replacement cost new of the improvements using the Marshall Valuation Service. The witness testified the base cost was selected from Section 14 for a Class C building with average to low quality. He added components for heating and cooling, the sprinkler system, a story height multiplier, a floor area-perimeter multiplier, a current cost multiplier, a local multiplier and an entrepreneurial profit to arrive at a final cost estimate of $56.54 per square foot of building area and a total building cost new of $32,058,326. To this amount the appraiser added $4,833 for lump sums to arrive at a total replacement cost new of $32,063,159. Adding the site improvements resulted in a replacement cost new estimate of $33,909,141. The witness was of the opinion the subject suffered from no functional and no economic obsolescence. He calculated physical depreciation for the building improvements using the age/life method using an age of seven years and a total life of 40 years resulting in 17.5% depreciation or $5,611,053. The appraiser also calculated depreciation for the site improvements of $431,026. After deducting depreciation and adding the land value resulted in an estimated value under the cost approach of $29,872,000, rounded.

The next approach to value developed by the appraiser was the income approach to value. The appraiser estimated the market rent using eight rental comparables located in Romeoville, Bolingbrook and Manteno, Illinois. The report described six comparables as distribution warehouses and two comparables as light manufacturing climate controlled buildings. The comparables were located in buildings with rentable areas ranging from 57,600 to 541,123 square feet. The comparables were from 37.5% to 100% leased with rental rates ranging from $3.40 to $5.52 per square foot of building area. The report indicated that the distribution warehouses located in Will County were not reported to have climate control space and were adjusted upward. The report indicated most emphasis was given to rentals 7 and 8, located in Kankakee, which exhibit similar features to the subject improvement. These two comparables were light manufacturing buildings with 57,600 and 98,560 square feet of building area, respectively. Based on this data the appraiser was of the opinion the subject had a market rent of $4.25 per square foot of building area resulting in a potential gross income of $2,409,635. The report further indicated that using a five year lease and estimating the subject would take six to nine months to lease, the vacancy rate would be 10% to 15%. Using a ten-year lease the subject would have a vacancy rate of 5% to 7.5%. The appraiser chose to use 5% as the subject's vacancy rate. Deducting the loss in rent due to vacancy from the potential gross income resulted in an effective gross income of $2,289,153. In estimating management expenses the school district's appraiser stated in the report that typical management expenses are between 3% and 7% of effective gross income. The appraiser used a management fee of 3%. The appraiser also deducted 1% of effective gross income for operating expenses and 2.5% of effective gross income for reserves. After making these deductions the appraisal report indicated the subject had a net income of $2,392,165, which was in error.

The school district submitted Intervenor's Exhibit 1-A, which included corrected pages 2, 34, 37, 40, 44 and 46 of Brorsen's appraisal. The exhibit also included data for Brorsen's rentals 1 through 6. During testimony the appraiser testified the corrected net income should be $2,140,358 as shown on page 34 of Intervenor's Exhibit 1-A.

The final step under the income approach was to estimate the capitalization rate used to capitalize the subject's net income. Using the mortgage equity technique the appraiser estimated a capitalization rate of 8.74%. The appraiser indicated in the report that market surveys reported overall capitalization rates during the 4th quarter of 2005 ranging from 5.50% to 9.0% with a quarterly average of 7.29%, which was similar to the 3rd quarterly average of 7.57%. Brorsen was of the opinion this supported the mortgage equity analysis. The appraiser did not utilize the market extraction method to estimate the capitalization rate. In the appraisal the school district's witness utilized a capitalization rate of 8.74% to arrive at an estimated value under the income approach of $27,383,000. During the hearing the witness explained this was in error due to the use of the incorrect net income. Using the corrected estimated net income resulted in an estimate of value under the income approach of $24,500,000 as shown on page 37 of Intervenor's Exhibit 1-A.

The witness testified that in most cases he was not able to verify some of the terms of the rental data associated with the first six comparables. During the hearing the appraiser testified that the rental comparable sheets for rentals 1 through 6 were not included in the appraisal report marked as Intervenor's Exhibit No. 1. The appraiser selected rental comparables 7 and 8 because they were two local rentals with climate control space. Rentals 1 through 6 were distribution warehouses like the subject with rentals 1 through 3 being similar in size. The witness testified the income approach provided supportive weight to his conclusion of value.

The final approach to value developed by Brorsen was the sales comparison approach. The witness testified he located four local sales that he did not perform a comparison analysis on because of the differences in size from the subject. The appraiser then expanded his search to include adjacent Will County where he located ten comparable sales located along the I-55 corridor and I-57. The comparables were located in University Park, Joliet and Romeoville, Illinois. The comparables were described as being composed of eight distribution warehouses and two manufacturing buildings with some warehouse area. The comparables ranged in size from 405,844 to 541,123 square feet of building area and in age from one to nine years old. The comparables had sites ranging in size from 18.28 to 37.47 acres with land to building ratios ranging from 1.95:1 to 3.28:1. The comparables had office space ranging from 1.0% to 3.0% of building area and wall heights ranging from 24 to 32 feet. The sales occurred from July 2004 to December 2006 for prices ranging from $13,125,000 to $63,600,000 or from $31.87 to $122.81 per square foot of building area, including land. Excluding comparable #1, the sales prices ranged from $13,125,000 to $24,250,000 or from $31.87 to $57.00 per square foot of building area, land included. Using these sales the appraiser estimated the subject had a market value of $50.00 per square foot of building area, including land.

During the hearing the appraiser testified the table on page 40 of Intervenor's Exhibit No. 1 misstated ages of comparables #6 and #7. The corrected ages were 3 and 2 years, respectively.

The witness further testified his comparable sale #1 was reported to include $16,000,000 in personal property. If this is deducted the price of the building was reduced to $91.00 per square foot of building area, land included. The witness testified comparable sale #1 was climate controlled. Brorsen further testified the seller reported this sale had a capitalization rate of 7½%. Brorsen was not able to verify the net rent or the rental terms but working backwards from the sale price and capitalization rate he calculated a rent of $9.21 per square foot. The witness testified comparable sale #1 was located in University Park, which is the next to anindustrial market north of the subject along I-57, approximately 10 miles from the subject.

The witness testified he viewed all the comparables and the comparables located in Joliet and Romeoville/Bolingbrook are located from approximately 30 to 35 miles from the subject property. The witness further testified he placed most emphasis on sales #5 and #9, which sold in November 2005 and August 2004 for unit prices of $48.48 and $43.15 per square foot of building area, including land.

In reconciling the three approaches to value, Brorsen stated the cost approach sets the upper level of value indications, the income approach was given supportive weight and the sales comparison approach was given most emphasis. Brorsen estimated the subject property had a market value of $28,000,000 as of January 1, 2006.

Under cross-examination Brorsen testified the supply/demand analysis on page 17 of his report was from Chris Curtis, a local industrial broker. His report indicated the vacancy level considers only that space that is being offered by brokers. The witness agreed there may be some space not offered by brokers not accounted for in the survey.

Under the land sales data on page 22 of his appraisal the witness agreed only three were located in Manteno with the last sale occurring in March 2003. Using these three sales Brorsen agreed there was a size-to-price regression.

With respect to the rental data contained in Intervenor's Exhibit 1-A, Brorsen indicated the Lessee was stated to be "confidential" for rental comparables 1 through 6. For each of these rental comparables Brorsen also indicated as "unknown" the commencement, expiration, length of term and options. Brorsen also agreed that only portions of rentals 1, 4 and 5 were leased. Brorsen also agreed that his report stated most emphasis was given rental comparables 7 and 8. The witness agreed that rental comparable 7 was built to suit and the lease expired in 2003. This building contained 57,600 square feet compared to the subject's estimated size of 567,000 square feet. Brorsen's rental comparable 8 has 98,560 square feet. On page 38 of his appraisal, Brorsen listed rental comparables 7 and 8 as sales in Kankakee that he chose not to use because of the amount of adjustments he would have to apply.

With respect to the comparable sales used in the appraisal, Brorsen agreed that nine of the ten comparables were leased at the time of sale. The report indicated that comparable sales 1, 5, 6, 7, 8, 9 and 10 were 100% leased or occupied at the time of sale. The report further indicated that comparable sales 3 and 4 were 43.4% and 50% leased for $2.95 and $3.85 per square foot of building area, respectively; the appraiser had no information on the remaining space in these comparables. Brorsen agreed that a purchaser may be purchasing an income stream on these properties.

Brorsen testified that there was insufficient evidence to support a reliable adjustment between the I-57 and I-55 sub-markets of Will County and Manteno. The witness also testified that sale #2 sold in June 2003 and again in November 2006 indicating an 8.6% annual increase. He testified he did not examine whether there had been changes to the property between the sale dates. The appraiser relied on CoStar Comps for the data used on the comparable sales and he did not personally verify with any of the parties or their agents the terms of the sales.

The appraiser agreed that he valued the subject as fee simple unencumbered. He further agreed that a property is encumbered with a lease at the time of sale if a lease is in place. Brorsen further stated based on the information he was able to confirm leases were in place at the time nine out of ten of his comparable sales sold. He stated the sales were investment type properties. Attributing the rental reported for the portions of comparable sales #3 and #4 that were leased at the time of sale, Brorsen calculated capitalization rates of 9.17% and 11.0%, respectively.

Brorsen assumed the subject was built to suit and that there was a relationship between the company that operates it and Mars Candy Company. With respect to the 2008 sale of the subject reflected on Intervenor's Exhibit #2, Brorsen indicated he had not talked to the buyers or sellers associated with the sale. He further testified that the property was still occupied in the same manner as it was prior to the sale.

With respect to the land sales on page 22 of his report and the adjusted prices quoted on page 23 of the report, Brorsen agreed the report does not contain the adjustment process, the mean, median and mode of the sales.

Brorsen testified he used the age/life method to determine depreciation which is straight line depreciation. He testified his experience was that industrial properties depreciate on a straight line basis. He also stated that if nothing is done to the property its useful life would be done at the end of 40 years.

The witness further indicated he inspected the exterior of his comparable sales. The witness also agreed that the largest rental comparables, with 541,123 and 453,568 square feet, that were 100% leased had rentals of $3.45 and $3.40 per square foot of building area, respectively.

After hearing the testimony and considering the evidence the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports the assessment of the subject property.

The appellant argued overvaluation as the basis of the appeal. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33⅓% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds that the appraisal submitted on behalf of the Kankakee County Board of Review and Manteno Community Unit School District No. 5 is supportive of the market value reflected by the assessment of the subject property and no change is justified.

On this record the Board finds the appraisal prepared by Brorsen and submitted by the Kankakee County Board of Review and Manteno Community Unit School District No. 5 is superior to that prepared by Salisbury that was submitted on behalf of the appellant. The Board finds the data used by Brorsen was superior to that used by Salisbury. Additionally, the Board finds Salisbury's appraisal had errors which tended to undermine the credibility of the report.

Initially, the Board finds the subject building was approximately seven years old as of the assessment date. Of the two appraisers, only Brorsen developed the cost approach to value. Under the facts of this appeal, particularly the age of the subject building, the Board finds the inclusion of the cost approach adds some credence to Brorsen's conclusion of value, even though he stated this approach sets the upper limit of value. In reviewing Brorsen's cost approach to value the Board finds he appears to have overstated the land value at $40,000 per acre. There were three land sales located in Manteno that sold for unit prices ranging from $17,171 to $32,614 per acre. Although these were older sales and the parcels were significantly smaller than the subject site, the Board finds that these were indicative of land values in the subject's immediate area. The two sales that sold most proximate in time to the assessment date were located in Kankakee and were smaller than the subject with 6.75 and 7.18 acres. The sales occurred in June 2005 and September 2005 for prices of $36,393 and $30,000 per acre, respectively. The Board finds these two sales also indicate Brorsen's estimated land value of $40,000 per acre was excessive. In conclusion the Board finds Brorsen's inclusion of the cost approach to value gives some credibility to his conclusion of value.

With respect to the income approach to value the Board finds Brorsen's use of comparable rentals located in closer proximity to the subject than those used by Salisbury were superior in estimating market rent. Ultimately Brorsen estimated the subject had a market value under the income approach of $24,500,000, which is approximately $2,151,000 below the market value reflected by the subject's assessment.

With respect to the sales comparison approach the Board again finds Brorsen's use of sales located within 35 miles of the subject property were superior to the comparable sales selected by Salisbury that were located throughout the United States. Eight of the comparable sales selected by Brorsen were described as distribution warehouses. Additionally, the comparables were relatively similar to the subject in age, size, percent of office area, ceiling height and land to building ratio. Excluding sale #1, which seems to be an outlier, the comparables had a relatively tight price range from $31.87 to $57.00 per square foot of building area, including land. The Board finds, however, that nine of the ten comparables selected by Brorsen were leased at the time of sale. The fact that the comparables were leased at the time of sale would indicate the purchase prices may be reflective of more than just the real property and negative adjustments would be needed. Nevertheless, the Board finds the sales contained in Brorsen's appraisal support the subject's assessment which reflects a market value of approximately $26,651,042 or $47.00 per square foot of building area, including land, using the 2006 three year median level of assessments for Kankakee County of 33.50%.

The record contained evidence that the subject sold in August, 2008. However, the Board gave this evidence no weight in determining the subject's assessment as of January 1, 2006. The purported sale of the subject occurred approximately 32 months after the assessment date at issue. Additionally, Salisbury testified that the subject was built to suit and with the sale went a long term lease to Mars, which calls into question the arm's length nature of the transaction or whether the price was indicative of the market value of the real estate. Based on this record the Board gave no weight to the August 2008 sale of the subject in arriving at its conclusion of the correct assessment as of January 1, 2006.

In conclusion, after considering the respective estimates of value developed by Brorsen using the cost approach, income approach and the sales comparison approach, the Board finds the assessment of the subject property as established by the Kankakee County Board of Review is correct and no change is justified.

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

Chairman

Member	Member
Member	Member

DISSENTING:

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

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

Date: August 19, 2011

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

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

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

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