



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Armstrong World Industries
DOCKET NO.: 06-01787.001-I-3
PARCEL NO.: 17-09-28-302-018

The parties of record before the Property Tax Appeal Board are Armstrong World Industries, the appellant, by attorney Gregory J. Lafakis and Peter D. Verros, of Verros, Lafakis & Berkshire, P.C. in Chicago; and the Kankakee County Board of Review by Special Assistant State's Attorneys Frederic S. Lane and Scott L. Ginsburg, of Robbins Schwartz Nicholas Lifton & Taylor, Ltd. in Chicago.¹

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

LAND: \$395,627
IMPR.: \$930,973
TOTAL: \$1,326,600

Subject only to the State multiplier as applicable.

ANALYSIS

The property at issue consists of an industrial complex of 34.46-acres located in Kankakee, Bourbonnais Township, Kankakee County and commonly known as Armstrong World Industries. The complex is

¹ The Bradley Elementary School District #61 and the City of Kankakee filed Requests to Intervene on April 21, 2008. With those filings, the intervenors sought 90 day extensions of time to submit their evidence. By letter dated April 28, 2008, the Property Tax Appeal Board granted each intervenor a 90 day extension to submit evidence. Neither intervenor sought any further extensions of time. By correspondence dated February 11, 2009, the intervenors submitted their evidence. Based on the foregoing facts, by letter dated March 5, 2009, the Property Tax Appeal Board advised each of the intervenors that their evidence was not timely submitted and therefore both intervenors were found to be in default and dismissed from the appeal. After a motion to vacate default by both intervenors, the Property Tax Appeal Board decided at its April 14, 2009 meeting to deny the motion to vacate.

actually composed of three parcels of which only parcel number (PIN) 17-09-28-302-018, consisting of 23.74-acres, was on appeal in this proceeding; despite the actual location of the improvements, this parcel has been assessed as if it contains all of the improvements. The other two parcels comprising the complex are identified by PINs 17-09-28-302-008 (2-acres) and 17-09-28-302-024 (8.72-acres).²

The property is improved with a multi-building, interconnected one, two and three-story industrial facility containing a total of approximately 395,669 square feet of building area; the office areas are air-conditioned and total 2.96% office build-out. Most of the buildings are one-story brick and concrete block structures, but there are three three-story buildings and warehouse/storage areas of metal frame and metal sandwich panel walls or steel frame with metal panel exterior walls. Original construction was in 1947 with additions occurring in various years through 2004. Clear ceiling heights vary from 12' to 15' in older portions of the facility and are 17' to 20' in newer additions; the racked warehouse is the tallest with a clear span of 70'. There are 12 dock doors and an interior loading bay in the facility. Most of the buildings have a wet sprinkler system.

The appellant appeared through counsel before the Property Tax Appeal Board contending that the market value of the subject property is not accurately reflected in the property's assessed valuation as the basis of this appeal. In support of this argument, the appellant submitted an appraisal prepared by Certified General Real Estate Appraiser J. Edward Salisbury of Salisbury & Associates, Inc. estimating the subject property had a market value of \$3,150,000 as of January 1, 2006 (Appellant's Ex. 1).

The appellant called J. Edward Salisbury as a witness. Salisbury has approximately 35 years of appraisal experience and has the Certified Illinois Assessing Officer (CIAO) designation from the Illinois Property Assessment Institute and the Certified Assessment Evaluator (CAE) designation from the International Association of Assessing Officers. Salisbury testified that he has appraised hundreds of industrial properties; moreover, he stated he is familiar with the subject's market area and is familiar with the market for industrial properties within that area. Salisbury made an interior and exterior inspection of the subject property on August 15, 2007 along with meeting with officials at the plant.

Salisbury was then tendered as an expert in the appraisal of industrial properties for *ad valorem* tax purposes. Counsel for the board of review then engaged in *voir dire*. It was established that the site inspection occurred about one week prior to submission of the appraisal report. Also, as set forth

² Based on data in the record from both appraisers, these parcels had 2006 land assessments of \$24 and \$164, respectively.

in the Qualifications of the Appraiser, Salisbury acknowledged that he is a Candidate Member having successfully completed all of the course work necessary for the MAI (Member of the Appraisal Institute) designation, but has never submitted any years of experience credits, a demonstrative appraisal of a complex industrial property, or sat for the required eight-hour exam. On further direct examination Salisbury testified that he considered himself to be competent to complete this appraisal assignment.

Without objection or further discussion, Salisbury was accepted as an expert.

The purpose and intended use of the appraisal was to determine market value of the subject property for property tax purposes as of January 1, 2006. Salisbury in his cover letter to the appraisal summarized the concept of market value as contained in the Uniform Standards of Professional Appraisal Practice (USPAP) as including a willing buyer, willing seller, neither party under duress, and the property being exposed to the open market.

In researching the ownership history of the property, Salisbury found no changes in ownership in the five years prior to January 1, 2006.

Salisbury testified the subject site had 34.46-acres consisting of three irregularly shaped parcels. The property was located in an older, established, mixed-use neighborhood in Kankakee of commercial and industrial properties with some residential properties and very little vacant land. (see also Appellant's Exhibit 1, p. 38)

Salisbury determined the property was improved with 395,669 square feet of building area for industrial use with warehouse capabilities. Salisbury had requested building diagrams, a plot plan and exterior measurement data from the company, all of which were presented to Salisbury at the time of the inspection, including a spreadsheet showing each building and designating a number to it along with a corresponding size; on page 32 of Salisbury's report, the spreadsheet data was summarized by building, year built, and square footage for each floor with a total size per building. Salisbury noted the company spreadsheet included additional data such as ceiling heights also. Salisbury testified that he randomly spot-checked some of the size figures of the buildings and each one checked matched the data provided by the company. Salisbury also considered site improvements such as fencing, asphalt parking areas, concrete trailer parking, and concrete aprons going up to loading docks, along with sidewalks, curbs, exterior lighting and landscaping.

Salisbury was of the opinion the subject's highest and best use as vacant would be for continued use as an industrial site and as improved the subject's highest and best use would be for continued industrial use. (See Appellant's Exhibit 1, p. 34-37)

Salisbury testified that the market for industrial properties as of 2006 had generally been going down for a number of years. Several features also affect the marketability of the subject according to Salisbury including: its age, having been constructed initially in 1947 with additions to 2004 that resulted in a weighted average age of 40 years; its construction in stages; and its newer rack warehouse which was constructed as a single unit, however, this 70' high honeycomb system with a conveyor for shipping an entire pallet of goods by Armstrong would not be feasible for a lot of other industries.

Due to the multiple additions that have been made over the years, Salisbury calculated a weighted age of 40 years for the improvement. (Appellant's Ex. 1, p. 33) The appraiser also did not calculate the property's expected economic life, effective age and/or remaining economic life because industrial properties depreciate very rapidly in the early part of their life and stabilize in the later part. Between ages 30 and 40, industrial properties near the end of their life as potential investments for other industrial users; around age 40, a typical buyer of an industrial property would attempt to incubate or break the property into smaller pieces to lease. (TR. 34-35; see also Appellant's Ex. 1, p. 14-15)³ Published cost services like Marshall depict industrial properties with an expected life ranging from 40 to 50 years. (TR. 35)

Salisbury estimated in his report that a realistic marketing time for the subject would be from 12 to 24 months due to the size of the facility which limits the number of potential purchasers. (Appellant's Ex. 1, p. 38) Salisbury testified that a property like the subject with its age would probably have a marketing time more likely to be 18 months to 2 years. (TR. 58-59)

Of the three approaches to value, for this report Salisbury used both the cost and sales comparison approaches. The income approach to value was not used since this is an older, multi-building facility which is typically not leased to a single tenant. Salisbury further opined that it would be very difficult to accurately estimate net income for a property like the subject using rents for portions of industrial properties because of these various issues. (TR. 37)

Under the cost approach, the appraiser estimated the subject's value as \$2,900,000, rounded. To develop the land value, Salisbury researched various sources and was unable to find any sales of industrial sites similar in size to the subject's 34-acres. Through the county's economic development office, Salisbury found four listings of properties which were zoned industrial⁴ and located in Kankakee. The properties range in

³ Reference to the hearing transcript are denoted "TR." followed by page citation(s).

⁴ A small fraction of Listing #2, consisting of two parcels located across the street from one another, was noted as zoned B-3.

size from 3.22 to 152-acres of land area. The listing prices ranged from \$190,000 to \$4,560,000 or \$30,000 or \$59,006 per acre. A small negative adjustment was made because the listings used were 18 months after the appraisal date and minimal adjustments were required for location. Listing #2 was given a negative adjustment for its smaller size. Based on adjusted listing prices, the appraiser concluded a market value of \$20,000 per acre for the subject land or \$700,000, rounded.

Next, the appraiser determined a replacement cost new for the subject improvement of \$18,302,991 or \$46.26 per square foot of Class C (steel exterior wall) building area utilizing the Marshall Valuation Service and including lump sum adjustments for site improvements such as sidewalks, parking, exterior lighting, and landscaping. Salisbury explained that reproduction cost estimates involve individually costing out each building in the manner in which it was built to reproduce exactly what was present. In replacement cost, Salisbury assumed a single building under one roof constructed with an average ceiling height of the current structure and used the Marshall Valuation Service to estimate the cost. Salisbury adjusted the manual data for items such as a sprinkler system, story height above typical, and a floor area perimeter multiplier was calculated along with a local cost multiplier⁵ to arrive at a cost of \$43.41 per square foot of building area before the lump sum adjustment.

To calculate depreciation, Salisbury applied an extraction method utilizing sales where the land value can be estimated accurately, then calculating the replacement cost new of the buildings, and then determining the amount of depreciation of each of those properties as compared to the subject. In this report, Salisbury used sales #1, #2, #3 and Listing #1 from his comparable sales approach in the report because they were in areas where land values were known and the ages were most similar to the subject. In addition, Salisbury testified that he had performed an appraisal of Listing #1, had performed appraisals of properties next to Sales #1 and #2, and has toured the properties in Sales #1 and #2. (TR. 47)

In the report, Salisbury further noted that his market studies of sales of manufacturing facilities indicate these properties do not depreciate on a straight line basis; instead, there is rapid depreciation in the early years of 4% - 6% per year which stabilizes during the remaining years. To arrive at the depreciation figure, Salisbury deducted the land value from the sales price for these three sales and one listing to arrive at the value contribution of the improvements. He next calculated the replacement cost new for each property and deducted the improvement's contributory value to arrive at the amount of accrued depreciation which was then divided by the replacement cost new to provide a total percentage of depreciation. This

⁵ The local cost multiplier primarily reflects variation in labor costs between areas.

figure was then divided by the age of the improvements to provide a percentage of depreciation per year. Salisbury displayed this analysis of the three sales and one listing in a chart on page 48 of his report, Appellant's Ex. 1. This analysis resulted in abstracted rates of depreciation of 2.10% to 3.78% per year for properties ranging in age from 25 to 39 years old. From this data, the appraiser found the subject should have a rate of depreciation of 2.2% per year; with a weighted age of 40 years, the subject has depreciation of 88% from all causes. Deducting depreciation of \$16,106,632 from the subject's replacement cost new results in a depreciated value of improvements of \$2,196,359 and then adding back the land value of \$700,000 results in an estimated market value of the subject under the cost approach of \$2,900,000, rounded.

Next Salisbury developed the sales comparison approach to value. In doing so, he selected five sales and two listings which were located in Effingham, Centralia, Watseka, Mendota, Decatur, Salem and Rockford. In his testimony, Salisbury noted that Listing #2 has since sold for considerably less than its listing price. (TR. 52) The appraiser opined that listings on the open market are a good gauge since they reflect the upper limit of value of a property. Except for one comparable, Salisbury testified the chosen comparables were near interstates and were in communities with varying degrees of similarity in terms of the industrial economic base of Kankakee/Bourbannais/Bradley. (TR. 52-56)

None of the comparables were leased at the time of sale. Salisbury testified that within the comparable sales approach he would not utilize properties where a significant portion of the property was leased on a long-term basis because such a sale would reflect a leased fee sale, not a fee simple sale. (TR. 56)⁶

The comparables range in size from 201,900 to 685,620 square feet of building area and range in age from 25 to 61 years old. The comparables feature land-to-building ratios ranging from 1.75:1 to 8.98:1, clear ceiling heights ranging from 14' to 49', and office build-outs ranging from 1.85% to 20.65% of building area. The five sales occurred between May 2003 and December 2005 for prices ranging from \$750,000 to \$2,090,000 or from \$2.91 to \$8.10 per square foot of building area; the two listings from May and June 2007 were for \$2,600,000 and \$6,300,000, respectively, or \$6.84 and \$9.19 per square foot of building area. After making adjustments to the comparables as outlined on page 67 of the report for date of sale, location, size, land-to-building ratio, age, and/or conditions of sale along with an overall adjustment, the appraiser was of the opinion the subject had an indicated

⁶ A sale in fee simple gives all of the property rights to the purchaser or owner. In a leased fee sale, the buyer is buying an income stream along with the property which is encumbered such that for the remaining term of the lease, the buyer is obligated under those lease terms. (TR. 56-57)

value under the sales comparison approach of \$8.00 per square foot of building area or \$3,150,000, rounded.

In reconciling the two approaches to value, Salisbury gave predominantly most weight to the sales comparison approach as the interaction of buyers and sellers in the marketplace tend to set a better indication of value. This is in contrast to the cost approach which has so many factors, the primary one of which is depreciation, making it difficult to have reliability. Therefore, Salisbury arrived at a final opinion of value of \$3,150,000 as of January 1, 2006.

Based on this evidence, the appellant requested a reduction in the subject's assessment.⁷

On cross-examination it was established that Salisbury's compensation for preparing the appraisal was not based in any way on whether there was a reduction in the assessment. However, Salisbury did acknowledge that if the person engaging him for an appraisal requests a range of value expected to be achieved in performing the appraisal, he will provide that; furthermore, if the final appraisal result is not within the range that was quoted, Salisbury does not get paid for performing the appraisal. (TR. 66) While Salisbury assumes the instant appraisal was within any range that may have been quoted, he does not remember.

Salisbury also acknowledged that it is his practice to collect as much data as possible before he performs an inspection of the property being appraised. (TR. 111)

Page 13 of the appellant's appraisal report sets forth market value "as defined by agencies that regulate federally insured financial institutions in the United States" and references a citation to 1312 Code of Federal Regulations; the witness was not aware that there was no such section in the Code of Federal Regulations. The appraiser did not recall if the definition of market value was or was not set forth in the 2006 edition of the USPAP Manual.

The map on page 11 of the report depicts part of the subject property lying in flood zone X, but most of the property is in a different (greater) flood hazard area which is not otherwise identified. (TR. 75-77) Salisbury acknowledged that it was a mistake to state on page 29 that "[t]he site does not appear to be in any designated Flood Hazard Area."

Salisbury also reported the subject property was zoned I-2 at page 16, but at page 35 referred to the subject as having a zoning classification of M-2, Heavy Industrial District. While on page 35 the appraiser said the subject buildings were used to support a manufacturing plant, on page 37 the report indicates

⁷ The appellant's claim request on the Industrial Appeal form was for a reduction to \$1,307,115 or a fair market value of approximately \$3,921,345.

the property is improved as a distribution warehouse built in stages between 1947 and 2000. Salisbury acknowledged that the subject property is in fact a distribution warehouse with manufacturing.

Salisbury also acknowledged an error on page 47 that should have indicated three sales and one listing were used in the abstraction method of depreciation, not four sales and one listing. (TR. 81)

In the cost approach, the appraiser did include one small property among the listings. Salisbury explained the small parcel depicts an extremely high value as compared to the other listings; moreover, the small property was included only because he did not find suitable sales and only found listings. (TR. 82-83) Salisbury also acknowledged an error as to Listing #2 that actually contains 2.887-acres of land, not 3.22-acres as reported in the appraisal.⁸ No adjustments were made for parcel size other than for the smallest one, Listing #2. On page 42, three of the listings have no specific street address or parcel identification information; as to the fourth listing, Salisbury was not aware that there was no "1600 Stanton Drive North" in Kankakee. The witness acknowledged that the four land listings were significantly higher than his estimated value for the subject of \$20,000 per acre. (TR. 92)

Procedurally to find land sales, Salisbury first tries to identify the major commercial and industrial brokers in the given area and contacts those persons to identify land sales made for industrial development. Second, Salisbury examines public records for land sales. In addition, Salisbury will also contact residential brokers and also area appraisers he has traded information with before for any information they may have on industrial land sales. Salisbury did not speak to appraiser Andrew Brorsen. Every county and some cities also have some form of an economic development office. Salisbury did contact the development office to ascertain if there was any recent industrial construction that could lead back to a land sale and/or whether there was any industrial land currently for sale.

Salisbury also acknowledged that none of the vacant land listings were in older downtown districts like the subject; at least two were in industrial parks. (TR. 83-84) The appraiser also acknowledged that page 44 should have said "based on the sales **listings** in the report" he drew his land value conclusion [emphasis added to show correction]. On page 43 of the report, Salisbury indicates that site valuation is preferably determined by the sales comparison approach, even though in this instance Salisbury could find no sales of vacant land for comparison, but only listings. (TR. 86-87) As to the downward adjustment for listings, Salisbury testified that as a general rule a listing

⁸ This increases the per-acre listing price of #2 to \$65,812 per acre from its reported \$59,006 per acre price.

price for an industrial property is normally fairly significantly above what the property ultimately sells for. Salisbury maintains land sales and listings from all over Illinois and tries to track properties as they sell. Salisbury, however, does not have a specific analysis of Kankakee listings versus final sale prices. (TR. 85-86)

As to the replacement cost new estimate, Salisbury did not value the office area separate from the manufacturing or warehouse portion of the property. Salisbury acknowledged that one of the newer additions to the subject was the state-of-the-art computerized rack storage system, however, Salisbury found the system to be a minus on functionality for most buyers. Salisbury was not sure if that building could be severed and sold separately. In addition, although as stated on page 30 most of the newer buildings were of brick and concrete block construction, Salisbury chose to prepare the replacement cost new estimate using Class C construction from Marshall which is steel, a lower cost than brick and concrete. (TR. 101-02) Salisbury testified that Marshall issued cost multipliers quarterly and updates are issued quarterly or semi-annually. The most appropriate publication date for the local cost multiplier for this report would have been the January 2006 chart with various Illinois (larger) communities. The local multiplier may be impacted by local labor rates, materials, access to materials, and labor force along with anything else impacting construction.

The appraiser reported there appeared to be some items of deferred maintenance, but he did not identify any items of deferred maintenance. The only other physical depreciation would be that caused by the normal aging process. Salisbury did not note any specific instances of functional or external obsolescence in the report.

Salisbury acknowledged that it was erroneous to state on page 48 that the weighted age of the subject falls within the range of ages of the comparable sales used in abstracting depreciation for the subject. (TR. 113) Since Sale #5 was a 46 year old building, Salisbury could have used this sale in the extraction analysis. (TR. 114-15) Salisbury disagreed with the contention that land values should be highly comparable if the appraiser uses comparable sales to extract depreciation. (TR. 115-16) In this report, the land values were estimated to range from \$7,415 to \$10,000 per acre as shown on page 48 of the report. The appraiser acknowledged that the estimated land value calculations need to be pretty accurate as an error could have a significant impact on the depreciation analysis. (TR. 121) Also on page 48 in extracting depreciation, the comparable sales were said to have replacement costs new of the buildings ranging from \$27.72 to \$45.94 per square foot of building area, even though the subject's replacement cost new was said to be about \$46.25 per square foot of building area including site improvements. (TR. 117-18)

As to the sales comparables, Salisbury found industrial properties as of 2006 were depressed as compared to the Kankakee city area. (TR. 90-91, 128)

As to Sale #1, Salisbury acknowledged that he made no adjustment for market conditions and noted the property was not advertised with a brokerage, but was advertised by the owner. The appraiser acknowledges that Effingham, where Sale #1 is located, was a much smaller community than Kankakee. However, Salisbury opined that property values in Effingham are influenced by proximity to the interstate allowing access to St. Louis, Chicago, Indianapolis, and Memphis. (TR. 126) Sale #2 was noted to be over 200 miles from the subject. Sale #3 was noted to be about 15 miles from the nearest interstate. Sale #4 is about 100 miles from the subject property and Salisbury opined that a buyer seeking an industrial property in Kankakee would look to Mendota, Illinois as well. (TR. 129) The appraiser acknowledged that Sale #4 had been vacant since August 1996 prior to its November 2003 sale date. Prior to the closing on Sale #4, the buyer arranged to occupy the property before the closing. (TR. 132) The property in Sale #5 is about 122 miles from the subject; depreciation on this property was approaching 100%. Listing #1 was nearly 100 miles from the subject property and was on the market for four years as of January 2006. Listing #2 was about 140 miles from the subject. Listing #2 had a previous list price of \$3 million and eventually sold in 2007 for \$600,000 or \$1.58 per square foot of building area.

Salisbury reiterated that the building data shown on page 32 of the report came directly from the taxpayer/company and that the appraiser checked exterior measurements of a couple of the buildings, although he did not recall specifically which buildings he measured. Salisbury acknowledged that he did no measurements of partial second or partial third floor areas.

In answer to the Hearing Officer's question, Salisbury confirmed that, but for checking measurements on a few of the buildings, Salisbury accepted the total square footage as reported by the taxpayer/company.

On redirect examination, Salisbury testified that even if the land value were estimated to be \$35,000 per acre resulting in an estimated value of \$3.4 million under the cost approach, such change in land value would not change Salisbury's final opinion of value of the subject of \$3.15 million because he placed more reliance upon the sales comparison approach to value than the cost approach. (TR. 140-41) Salisbury also opined based on his experience of appraising industrial properties throughout Illinois, the sale price of industrial property does not decrease the further one goes away from Kankakee. (TR. 141)

Land value is determined by use, location, and for industrial property, land within an industrial park is more preferred to land in a downtown area such as the subject. The preferred location for industrial users is to be around like-kind property,

such as an industrial park, and a location close to transportation arteries. Salisbury testified that demand for industrial land throughout Illinois has been on the decline for a long time; furthermore, in most areas, with some negotiation and the construction of "much of a building," an industry can get the land for free. The value of industrial land can be influenced by the supply and demand for land in a given area. However, land value by itself in one location versus another location does not indicate whether that location is superior or inferior to the subject property.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$2,884,281 was disclosed. The subject's assessment reflects a market value of \$8,609,794 using the 2006 three-year median level of assessments for Kankakee County of 33.50%.

The board of review's first witness was Richard Buchaniec, an Illinois licensed General Real Estate Appraiser, who has approximately 35 years of experience. Since 1985, he has operated Buchaniec & Company and prior thereto he worked for four years for the Cook County Assessor's Office and also worked for William A. McCann & Associates for about four years. Buchaniec received the MAI designation from the Appraisal Institute in 1982 and also has the CIAO designation from the Illinois Property Assessment Institute along with the CAE designation from the International Association of Assessing Officers.

Without objection, Buchaniec was tendered and accepted as an expert qualified to perform appraisal reviews.

Buchaniec performed an appraisal review (Board of Review Ex. 2) for the Bourbonnais Township Assessor Doug Anderson of the Salisbury appraisal report (Appellant Ex. 1). Buchaniec testified that he conformed to USPAP Standard 3 in performing this appraisal review and in developing and reporting his findings. He was retained to do a desk review of the Salisbury report; it was not within the scope of the assignment to include any opinion of value for the subject property. Buchaniec's only familiarity with the subject property is from driving by.

In the review, Buchaniec set forth his observations and recommendations that can be used "in the assessment review process." (Board of Review Ex. 2, p. 1) As a result of the review, Buchaniec opined that Salisbury's opinion of value could be considerably below a reasonable range of market value for the subject.

Buchaniec reported that he did an exterior only inspection of the property on September 4, 2008. In response to a request for more information on the building areas, Buchaniec was given "some GIS sketch take-offs . . . with the table with building areas" prepared by Andrew Brorsen. (TR. 153) As depicted in a grid format on page 3 of the review as to factual data, Buchaniec found the improvement description to be "inadequate" because the

GIS map indicated the total building area was approximately 356,276 square feet whereas the Salisbury appraisal reported the building area to be 395,669 square feet.

On page 4 of the review, Buchaniec indicated seven topics of disagreement with the Salisbury report which were detailed on pages 5 and 6 of the review document. Under the highest and best use analysis, Buchaniec contended that Salisbury on page 36 made an erroneous statement "that the present use of the site as though vacant is its highest and best use. If the site was vacant, it has no present use." (Board of Review Ex. 2, p. 5) Within the cost approach, Buchaniec noted the land valuation presented only four listings and no sales; furthermore, he found the value conclusion of \$20,000 per acre was never explained in the narrative when the listings presented asking prices ranging from \$30,000 to \$59,006 per acre. Buchaniec opined that an appraiser could adjust the listings based on historic data indicating the difference between listing prices and final sale prices, but he contended that the appraiser must explain the basis for making the adjustment within the report.

For purposes of a review, Buchaniec testified about the only way to check on the cost approach other than land sales is to see if the reviewer can arrive at the same figure with the same service and the same input. "I don't put my own input in there; I use whatever is in the report to see if I can duplicate those figures." (TR. 157) As stated on page 5 of the review for the replacement cost new estimate, Buchaniec input the same parameters in an on-line version of SwiftEstimator⁹ "plus adjustments for the exterior walls and HVAC systems left out by the appraiser."

Pages 9 and 10 show the SwiftEstimator - Commercial Estimator - Summary Report with a report date of January 2007, an effective age of 40 years with heating denoted as "space heater." Buchaniec asserted that a Class C building is a masonry-type building with poured concrete foundations and concrete structural membrane. In his re-creation, Buchaniec input Class S because Salisbury had "specified the exterior walls were steel" which is an S Class building. Buchaniec reported the basic structure cost he found was \$47.83 per square foot as compared to Salisbury's finding of \$43.41 per square foot. Buchaniec also contends that Salisbury erroneously input the subject climate area as moderate instead of extreme. The basis for this assertion is that Buchaniec lives in Illinois and does not believe it to be moderate. He does not know if the valuation service has geographical distinctions within the United States for moderate versus extreme. The climate data input effects the HVAC system and with moderate gives a lower cost as opposed to extreme which would give a higher cost. (TR. 165) Buchaniec also noted that

⁹ This menu driven on-line system is the same as the subscriber/published version, but designed for the sporadic user like Buchaniec as more cost effective.

the lump sum addition of \$1,127,000 was not detailed; however, he testified that he took the figure at face value. (TR. 161) The SwiftEstimator also depicts physical and functional depreciation of 80%. (Board of Review Ex. 2, p. 10) Based on the foregoing, Buchaniec opined that the subject's value under the cost approach was understated by at least \$2,133,000 for both the land and improvements.¹⁰

As to the calculation of depreciation, Buchaniec noted that deriving depreciation using the extraction method was generally acceptable in the industry, but the main requirement is that the properties are directly comparable, both locationally and physically. The first step in the method is to subtract the land value from the comparables. Buchaniec noted that Salisbury deducted land values of \$10,000, \$10,000, \$8,000 and \$7,420 per acre even though the subject's land was estimated to have a value of \$20,000 per acre. The reviewer contended there was no substantiation for these values. He also asserted the properties were not locationally comparable since the applied land values were at least 50% lower than the subject's land value estimate on a per-acre basis. Buchaniec testified that all things being equal, the unit price of land is proportionate to its desirability and relative value. Based on the foregoing, Buchaniec opined that the properties were not locationally comparable to the subject and it was inappropriate for Salisbury to use these properties in the extraction method of calculating depreciation. Buchaniec further noted that the land value assumptions then impact the residual building value and the depreciation calculation.

The reviewer also testified that older buildings used in the extraction method by their very nature have a lot of functional obsolescence built into them which is reflected in their sales prices. When the appraiser calculates a depreciation factor, it will contain functional obsolescence and external obsolescence. In contrast, by using a replacement cost analysis for the subject, the functional obsolescence has been eliminated and external obsolescence has been allowed for by using a land value. Therefore, Buchaniec stated the depreciation factor is being overstated when using old buildings. (TR. 169-70) The witness further explained that when he used the extraction method, he would use the same land value for the comparables that was estimated for the subject and would use the same replacement cost estimated for the subject for the comparables.

As to the quality of the comparables in the sales comparison approach to value, Buchaniec opined that the subject's location appeared to be superior to all of the comparable sales. Except for Sale #3, the properties were from 101 to 214 miles from the subject. "It appears as if the appraiser reused data from other appraisals for southern Illinois industrial properties in the

¹⁰ Buchaniec "assumed" the land value to be \$30,000 per acre based on the listing prices. (Board of Review Ex. 2, p. 5)

appraisal of the subject." (Board of Review Ex. 2, p. 6) Buchaniec testified that he could not see why these distant comparables were used unless they were just handy for Salisbury.

The reviewer testified that when he performs an appraisal, he uses a service known as CoStar and does a perimeter search for instance for every sale within 10 miles of the subject and/or within 50 miles of the subject to avoid large adjustments for location and different factors. In the course of his desk review, Buchaniec did a radius search on the CoStar service using building size as one of the parameters and came up with five or six sales of industrial properties with interstate access which he did not analyze. The review notes there were sales in University Park and Bedford Park (30 and 50-miles from the subject, respectively). The sale prices ranged from \$14.22 to \$28.27 per square foot, and averaged \$19.87 per square foot. Buchaniec compared his research to Salisbury's sales, except for Sale #3, which in remote locations averaged \$3.31 per square foot.

As to the sale adjustment process within the sales comparison approach, the reviewer reported the adjustments were +122%, +175%, +116% and +168%, respectively. Buchaniec testified that adjustments over 35% to 40% means the sales are not truly comparable to the subject and the appraiser is reaching for straws. (TR. 174) Also, given the narrative for Sale #3, Buchaniec opined the overall adjustment should have been positive instead of negative.

The last category of the desk review was entitled "Analysis in General" wherein Buchaniec stated:

Based upon the preceding discussions and observations, it appears that, for whatever reason, the appraiser deliberately directed his efforts toward obtaining a low market value. His cost approach featured an unexplainably low unit land value, plus parameter omissions required for the input into the replacement cost derivation model. The sales comparison approach relied upon the sales of properties having an unacceptable degree of comparability to the subject.

(Board of Review Ex. 2, p. 6)

On cross-examination, Buchaniec confirmed that he did not do a valuation of the subject property. Buchaniec testified that his review process for the report such as this one is to submit it and "they call me back and tell me what mistakes I made." (TR. 175-76) It was noted the transmittal letter, in the first paragraph, erroneously referred to the client as the Bourbonnais **County** Assessor [emphasis added]. In the report the use of this review was for an assessment review process by the township assessor; however, Buchaniec testified that the township assessor

wanted a review of the Salisbury appraisal that was submitted for a complaint.

This review was specific to the Salisbury report. However, if another appraiser used similar techniques and methodology such as the climate entry in the replacement cost new, that appraiser would likewise be wrong according to Buchaniec. The reviewer used Mapquest to determine proximity of Salisbury's comparables to the subject based on the fastest road rather than the shortest route.

Buchaniec did not recall if the 2006 version of USPAP Standard 3 required specifying the property owner in a review. He also could not recall if a reviewer must specify the interest that was appraised. Although Buchaniec noted the legal description of the property presented by Salisbury was adequate, on questioning he acknowledged that he could have noted it was "not applicable"; the witness further asserted that when he gets a copy of an appraisal report he does not know if all the addenda have been supplied. The reviewer acknowledged all of the categories deemed "adequate" were shown on pages 3 and 4 of the document such as zoning/uses and flood plain status. (TR. 182-84, 187-88) The reviewer testified that Salisbury used appropriate appraisal methods to value the subject property. He also agrees that it was appropriate in this instance to give more weight to the sales approach over the cost approach.

As to the subject's building size using GIS maps, Buchaniec explained these are aerials and measure only ground floor area without distinguishing between manufacturing, warehouse and/or office areas; while Buchaniec did not measure the buildings himself, he believes for second story area the ground floor would simply be multiplied by two whether it is a full story or not. In the review, Buchaniec noted a problem with the building size, but never made a judgment as to which size was correct.

Buchaniec characterized his criticism of the highest and best use data (comment #2) regarding the use of the property as vacant as getting a little picky and not a real important item.¹¹ Likewise, as to Salisbury's land value estimate, the reviewer was unable to determine how the final estimate was reached, not that the determination was in error. (TR. 189-90)

As to lump sum figures for site improvements, Buchaniec acknowledged that every appraiser he is familiar with, except himself, provides a lump sum. As to climate, Buchaniec stated that he always uses extreme for Illinois "because it's [extremely] cold here. To me, it's extreme." He is not aware of any geographic demarcation by Marshall for climate by region. (TR. 191-92)

¹¹ Correctly phrased, the highest and best use of the site as vacant would be for future development when economics or conditions prevail that indicates that should be done.

For the extraction method of calculating depreciation, Buchaniec acknowledged that the most accurate land valuation deduction would be to essentially perform a mini-appraisal on each of the land parcels in the area of the comparables, but the reviewer thought such an approach is cost prohibitive. Buchaniec simply found that the basis for the land value deductions was not presented in Salisbury's report.

Buchaniec acknowledged that the CoStar service he had only includes properties in Will, Cook and DuPage Counties. The two nearby communities mentioned in Buchaniec's report were in Will and Cook Counties, respectively.

For the sale adjustment process, Buchaniec summarized the percentage adjustments to the sales comparables which would have to be made to arrive at a price of \$8.00 per square foot as Salisbury did for the subject. The reviewer contends this is a measure of comparability.

The reviewer acknowledged that the subject facility is a large, old, outmoded facility as compared to more modern one-story industrial plants that may have a multi-story office area. Buchaniec acknowledged that it would be difficult to find similar facilities to the subject. Buchaniec contends that Salisbury was making an effort to come in at the low end deliberately because in reviewing the appraisal, Buchaniec could not find the support for what Salisbury was doing. The reviewer, however, made no effort to verify the sales data in the Salisbury report.

In answer to the Hearing Officer's question, Buchaniec acknowledged that he never used the SwiftEstimator with a Class C building to see what the result would be for the replacement cost new estimate.

On redirect examination, for purposes of a review, Buchaniec indicated that stating something was "adequate" was not the same as saying that it was correct. As to the distance of the chosen sales comparables, Buchaniec found it to be a 'red flag' because there is a lot of area between Kankakee and the comparables. In performing a review, Buchaniec checks CoStar for comparables to see what sales were available within a certain proximity of the subject.

For re-cross examination, Buchaniec clarified that noting something as "adequate" means it is in the report and it appears to be conforming to what it is. To determine which sales to use, the reviewer would begin looking for properties in close proximity to the subject and then research whether those sales had any degree of comparability to the subject including consideration of property rights sold.

The board of review's second witness was Andrew Brorsen, who has been a real estate appraiser for over 37 years and has been co-owner of Brorsen Appraisal Service, P.C. since 1978. He is an

Illinois Certified General Real Estate Appraiser and Real Estate Broker who also has several professional designations including an MAI from the Appraisal Institute and both the Senior Residential Appraiser (SRA) and Senior Real Property Appraiser (SRPA), both of which were issued by the Society of Real Estate Appraisers which is now part of the Appraisal Institute. Brorsen also worked for two other businesses as an appraiser for a total of about six years.

Brorsen estimated that in his career he has performed in excess of 3,700 appraisals mostly in the Kankakee area including residential, commercial, industrial, agricultural and special purpose properties. He further estimated that of those appraisals, hundreds have been of industrial, manufacturing and warehouse facilities and more than 100 of those would have been in Kankakee or Kankakee County.

Without objection, the witness was qualified as an expert in the valuation of industrial properties.

Using both the cost and sales comparison approaches to value, Brorsen prepared a retrospective summary appraisal report of the subject's estimated market value of \$8,600,000 assuming fee simple interest ownership as of January 1, 2006. (Board of Review Ex. 1) The appraisal was prepared for the City of Kankakee, Bradley Elementary School District No. 61 and Douglas Anderson, Bourbonnais Township Assessor,¹² but the appraisal was submitted in this matter as substantive evidence by the Kankakee County Board of Review. It is further noted that intended users of the appraisal include the Kankakee County Assistant State's Attorney as counsel for the board of review (Board of Review Ex. 1, p. 3).

Brorsen testified that he worked at the subject property from 1965 to 1970 with tasks from sweeping floors, to maintenance and the production department. The appraiser acknowledged that the property is no longer the same as there have been considerable additions to the property. Brorsen inspected both the interior and exterior of the subject property on July 21, 2008 for purposes of this appraisal. Both a plant manager and plant engineer accompanied him on the tour and answered questions as to when various improvements had been built. On inspection, the appraiser found the property to be well-maintained. He further testified that the property was in average to above average condition based on all the new additions to the property since the 1970's. (TR. 236)

¹² "The intended use (function) of this appraisal was understood to assist the intervenors: The City of Kankakee and Bradley Elementary School District 61 in making decisions concerning a real estate tax assessment appeal in the case referenced as: 2006 PTAB Docket No. 06-01787.001-I-3." (Board of Review Ex. 1, p. ii)

For data on the subject property, Brorsen relied on public information from the county and township assessor's offices along with use of the county's GIS system. In summary, Brorsen described the subject as consisting of multiple interconnected buildings that were 1, 2 and 3-stories in height and were built from 1947 to 2004 with a weighted estimated age of 39 years old. Clear ceiling heights ranged from 12' to 67' and there were mezzanines in only the maintenance shop. The construction was said to be Class C masonry/steel and all steel with heat only in the manufacturing and warehouse areas and air-conditioning and heat in the office areas with wet sprinkler systems throughout. Brorsen reported the subject as having a gross building area for manufacturing, warehouse and office space of 356,276 square feet with ancillary improvements that contain an additional 14,448 square feet consisting of utility and storage buildings.¹³ As shown in a chart in the addenda, Brorsen set forth dimensions from assessor office sketches, building permit information and GIS measurements that total 370,724 square feet of building area. (TR. 228) For purposes of this appraisal, the appraiser included all three parcels of 34.46-acres. Brorsen's flood map data like that of Salisbury showed the subject to be primarily in a high flood risk area. Site improvements included a paved employee parking lot, concrete semi-trailer parking lot, gravel lots, fencing, security lighting and loading dock areas with concrete pads.

Brorsen described the rack warehouse which was built in 1996 as a fully-automated system capable of moving the appellant's products on skids and has the capacity to be adapted if product sizes were to change. It is contained within Building 13 and is 68' high. (TR. 234-35)

The appraiser opined that the difference in building size between his data and that of Salisbury may arise from the calculation of mezzanine areas which Brorsen did not include in his figures. (TR. 228-30) He also testified that if the taxpayer/appellant had provided a spreadsheet of the subject buildings and sizes, Brorsen would only have used such information as a guide, but would not have relied upon it. Had Brorsen been allowed the opportunity, he would have measured the buildings at the subject site, but he was not allowed to do so.

Brorsen also described the subject as being used to manufacture vinyl floor tile where the raw materials are assembled and mixed on the third floor and then dropped down to the second floor for processing and then dropped to the first floor for packaging and storage. The appraiser noted that while multiple story industrial facilities "are now not built very often" he contended

¹³ On page 16 of the report, Brorsen reported there were other smaller structures that were not included in the analysis, but which could be seen on the GIS aerial map. (Board of Review Ex. 1) Brorsen testified these structures were not critical to the actual operation and use of the facility. (TR. 231)

there are processes that are more efficient with vertical production. He further stated the method is common and still used in numerous manufacturing facilities. (Board of Review Ex. 1, p. 17; TR. 239) Brorsen testified that of two new manufacturing lines the appellant has added to the facility, one was a vertical process as previously described and one was a horizontal process. (TR. 239-40)

Brorsen testified that he is familiar with the Kankakee County Economic Development Committee, but he was not aware of that entity having specific data on any land sales.

As of the valuation date at issue, Brorsen did not consider Kankakee County to be an economically depressed area. He noted the county consists primarily of agricultural land areas and that 60% of the county population live in the Kankakee, Bradley and Bourbonnais areas with the other major community being Manteno on the northern edge of the county along I-57. He contended unemployment was stable to the valuation date and the growth of residential and commercial units provided a very positive outlook. Leading employment opportunities were retail followed by manufacturing and then public administration.

Brorsen reported according to county records no transfers of the subject's property rights had occurred within the most recent ten years prior to the effective date of the appraisal. Moreover, there was no indication the subject was being offered for sale as of the effective date of the appraisal.

Based upon annual survey data, Brorsen set forth the total amount of industrial space and the amount of such space being offered on the market in Kankakee County in 1998, 2000, 2002, 2004, 2005 and 2006. (Board of Review, Ex. 1, p. 18) In this time period, the total inventory grew by about 2 million square feet and the vacancy rate remained stable at about 4%. Based on his data gathered for Kankakee County, Brorsen opined that application of the general industrial market in other parts of the United States for this time period would not apply to the local market.

Despite having no statistical evidence regarding industrial properties in the subject market, Brorsen opined a typical market exposure time of 6 to 18 months for an industrial facility. He further opined that the marketability of the subject property was at least average to fair; marketing time was estimated to be one year for this facility. (TR. 19)

At hearing, the appraiser opined the highest and best use of the parcel as vacant would be for development compatible with its surrounding uses. (TR. 241) On page 21 of the report, Brorsen wrote the highest and best use of the site if vacant would be for some type of industrial development compatible to surrounding uses. (Board of Review Ex. 1) Brorsen also concluded as long as the value of the whole property exceeds the value of the site as if vacant, the present use will continue to be the highest and best use of the property as improved.

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 eight vacant land sales in Kankakee and Bourbonnais that ranged in size from 1 to 23.13-acres. Recognizing that there were few land sales of the size of the subject, Brorsen researched the most recent land sales and continued going back in time until he felt there were a sufficient number of sales to support his opinion; Land Sale #7 was closest in size and Land Sale #8 was closest in location to the subject. (TR. 243-44)¹⁴ Brorsen only knew of one land listing in the same industrial park where his office is located about ¼-mile from the subject. The land sales occurred from September 2002 to June 2006. The land comparables sold for prices ranging from \$35,000 to \$781,500 or from \$24,950 to \$48,015 per acre. The appraiser adjusted the price of Land Sale #6 downward for location and noted the purchaser was an adjacent land owner who may have paid a premium. Since matched pairings for economies of size resulted in no consistent size versus price regression, no adjustment for size was made. After adjustments, Brorsen found adjusted land sale prices to be between ±\$33,800 and ±\$36,600 per acre and thus, the appraiser concluded an estimated land value for the subject of \$1,206,000, rounded, or \$35,000 per acre.

To estimate the value of the improvements under the cost approach, Brorsen utilized replacement cost new using primarily the Marshall Valuation Service along with consideration of actual construction costs of over \$7 million based on building permit data from 1977 and 2004 collected on the subject. In calculating the replacement cost new, Brorsen relied upon data derived from Marshall under Section 14 for Classes B and S "industrial structures" and Section 15 for Class B "office structure"; except for the Class D "yard buildings" said to be "low cost quality," the main improvements were rated as average quality. (Board of Review Ex. 1, p. 26) As shown on six pages in the addendum, Brorsen set forth the cost estimates for seven sections of manufacturing, warehouse, office space and yard buildings utilizing a moderate climate rating. Brorsen testified that he tried to lump similar types and ages of buildings together. He further testified that it was necessary to categorize the structures in this manner as there was no category within the valuation service that would lump an entire industrial facility as one category. (TR. 254) The base cost in each section was refined for various features like the appraisal effective date and locally for the Kankakee area. Brorsen explained that no entrepreneurial profit was added because the subject was built for owner occupancy and not as an investment property. In summary, Brorsen estimated a replacement cost of \$23,867,196 for

¹⁴ Brorsen testified that for a 2007 appraisal of the subject property he also found an industrial land sale of 78-acres located on Illinois Route 17; he found no data that it had been listed other than as a 78-acre property. (TR. 246-47)

the building with site improvements. (Board of Review, Ex. 1, p. 31)

Brorsen reported the primary method of measuring depreciation in this appraisal was the age/life method, dividing the effective age estimate by the total economic life estimate. From physical observation, Brorsen found no deferred maintenance and no functional or economic obsolescence. (TR. 259; Board of Review Ex. 1, p. 27-28) The only form of depreciation apparent was physical due to the natural aging of the property. Brorsen calculated a weighted age for the subject property of 39 years and determined that to be the effective age. (TR. 261) To determine total physical life, Brorsen considered examples in the local and area market noting that industrial facilities over 110 years old are still operating presently. To determine the economic life expectancy of the subject, again looking to the local area, the appraiser concluded other facilities of similar age continue to operate. Based on the local examples, Brorsen concluded the total economic life of the subject would be at least 65 years and therefore he opined that the subject would still have at least 25 years of economic life.

In the cost calculations in the addendum, Brorsen displayed varying depreciation figures for different categories of improvements with the office and industrial buildings (Sections I and II) having 77% depreciation each, Section III with 48% depreciation, the rack warehouse with 25% depreciation, various warehouse structures with 5%, 15%, and 28% depreciation followed by yard building and a rail car building with 88%, 90% and 28% depreciation, respectively. In testimony, Brorsen stated the depreciation "was around 63%." (TR. 263) On page 31 of the report, Brorsen summarized the various amounts of depreciation of 62% or \$14,693,759.

Brorsen did not use the extraction method for determining depreciation because, in his opinion, it has several weaknesses in that the appraiser must be highly familiar with the comparable data in order to extract the data and it also has to be highly similar for instance in quality of material. (TR. 259-60) Brorsen has never been able to develop the extraction method in a manner in which he felt comfortable that it was an accurate and reliable indication of depreciation.

In conclusion, Brorsen was of the opinion the subject improvements along with site improvements had a depreciated value of \$9,173,400, rounded. To this data, Brorsen added the land value of \$1,206,000 to arrive at an indicated value under the cost approach of the subject of \$10,400,000, rounded.

Using the sales comparison approach, the appraiser identified six properties suggested as similar to the subject. The sales occurred between September 2000 and June 2006 with buildings that ranged in size from 100,000 to 560,000 square feet and were constructed from 1940 to 1990. The improvements were said to be either one-story, two-story or part one-story and part two-story

structures of steel or masonry construction. The comparables had gross land areas ranging from 5 to 50-acres and had land-to-building ratios ranging from 1.02:1 to 7.33:1. The properties were located in Chicago, Blue Island, Peotone, Wilmington and Kankakee. The properties were estimated to be from 4 to 55-miles from the subject. Four comparables were described as manufacturing with warehouse; one was described as light manufacturing/warehouse and one was described as heavy and light manufacturing/office. The properties had from 2% to 11% office space. Ceiling heights ranged from 12' to 58'. The comparables had weighted ages ranging from 31 to 51 years old. The sales prices ranged from \$2,100,000 to \$15,000,000 or from \$12.27 to \$26.79 per square foot of building area including land.

Brorsen described that his parameters for selecting comparable sales begin with location. If sufficient data is found in the area, he will stop, but if he feels there is insufficient data he expands the parameters until a sufficient amount of data has been gathered to develop an opinion of value. (TR. 272) In this matter, he expanded the search to Will (Sales #4 and #5) and Cook Counties (Sales #1, #2 and #3); he also considered other western counties, but no comparables were found. The appraiser opined that the subject property would be marketed in the northeast part of Illinois and, if it did attract a user, the user would select this area as its reason for locating in Kankakee. (TR. 287) The appraiser also sought properties with improvements in the 200,000 to 600,000 square foot range. Sales were confirmed through public records and, if possible, with one of the parties involved along with visiting the property. He also noted that no listings were included in his report because he did not find any listings in the local area.

In testifying regarding the individual comparable sales, Brorsen acknowledged that Sale #1 was leased at the time of sale and was a multi-tenant property of three tenants; one tenant was manufacturing and the others were warehouse. (TR. 275-76) Likewise, Sale #2 had been converted to multi-tenant property and was fully leased at the time of sale. (TR. 277) As of the time of sale, Sale #3 had been converted to nearly all warehouse. (TR. 278) Brorsen was familiar with Sale #4 having done an appraisal on it in the past; the property was a three-tenant building of heavy manufacturing and office use at the time of sale with one unit empty and still being offered for lease. The appraiser noted that Sale #5 was a leased property which was purchased as an investment. Brorsen opined that being a leased property does not have an impact on the sale; it was an investment. (TR. 281) Sale #6 was included because it was the only Kankakee sale that Brorsen found similar in size to the subject, even though the sale is admittedly dated; the appraiser did not place a lot of reliance on this sale since the time adjustment alone would result in a 30% upward adjustment. (TR. 283)

The appraiser made adjustments to each property for differences from the subject. (Board of Review Ex. 1, p. 38) Brorsen

adjusted the comparables located in Chicago/Blue Island for location, but contends there is still comparability based on age and size of the structure(s). Brorsen testified that he examined the sales and found no evidence of size regression. He further noted there were too many dissimilarities between the comparables to extract a size adjustment, therefore, no size adjustment(s) were made. (TR. 285)¹⁵ Brorsen noted that Sale #4 was adjusted for the inclusion of \$100,000 in personal property. Sales #4 through #6 were adjusted upward for date of sale. Each sale was adjusted for estimated land contribution and condition of the improvements; four of the comparables were adjusted for office space/utility.

Noting that three comparables had overall upward adjustments and three comparables had overall downward adjustments, Brorsen wrote that the least adjusted data were given the most emphasis. He then concluded that the subject has an estimated unit value of \$24.00 per square foot or \$8,600,000, rounded, based on the building size of 356,276 square feet excluding the yard buildings. (Board of Review Ex. 1, p. 39) Brorsen explained that approximately 15,000 square feet of yard buildings were excluded from the gross building area because a buyer would view those as storage or ancillary structures, not really part of the square footage the buyer was interested in utilizing.

In reconciling the approaches to value utilized in his appraisal, Brorsen opined a market value of \$8,600,000 for the subject having given most emphasis to the sales comparison approach. As a result of its evidence, the board of review requested confirmation of the subject's assessment.

On cross-examination, Brorsen acknowledged that the Kankakee County Board of Review was not his client for purposes of this appraisal assignment. Brorsen disagreed that appearing before the Property Tax Appeal Board as a witness for the board of review was beyond the intended use of his appraisal. He further testified that it was just a coincidence that the final opinion of value was within about \$100,000 of the estimated market value of the subject using its 2006 assessment. (See Board of Review Ex. 1, p. 13)

On questioning, Brorsen did not recall if he requested data on the plant size and/or drawings from the plant manager in the course of touring the facility or not. (TR. 296) Brorsen's only verification of his GIS measurements was made through the assessor's records. Page 15 of the report with a sketch of the facility details only the first floor(s); the appraiser acknowledged that newer facilities of this nature would be one big rectangular building. Brorsen also acknowledged that even today, a processor using vertical or gravity-type processing

¹⁵ Brorsen further opined that based on the analysis of the data, it appeared larger units sold for more per square foot and therefore, if he had made a size adjustment it would have raised his final unit value. (TR. 286)

typically does not build a multi-story structure. For the subject, most of the 3-story space was built in the 1940's which was typical for the construction era in which it was built. It was pointed out that the appraiser began writing the instant report on October 2, 2008 (p. 4) and also certified/completed the report on the same date (p. 44).

Brorsen acknowledged that his report does not mention having researched two other counties west of Kankakee; he clarified that in the course of testifying he just recalled that he had done that. The area influencing the subject is Kankakee, Will and Cook Counties; Kankakee County is admittedly viewed as a fringe area to the Chicago metropolitan area. The land area of Kankakee County is primarily agricultural. The appraiser reiterated that sales data was confirmed with either a participating broker or reviewing public record, however, the person with whom data may have been confirmed is not identified in the report. (TR. 299-300)

Brorsen reiterated that the weighted age of the subject is 39 years old which is also its effective age and its actual age. (TR. 306) Although he testified that the subject was in average to above-average condition, nowhere in the report is there any mention of any portion of the subject structure being in above-average condition.

The appraiser opined that the most active industrial market in terms of size would be properties of 50,000 to 150,000 square feet of building area. For the Kankakee area, the market significantly diminishes above 150,000 square feet. Given today's electronic marketing, Brorsen contends the subject property would be marketed as being in northeast Illinois which includes Chicago. The appraiser further explained that exposure time refers to the time before the effective date of the appraisal (i.e., for the subject 6 to 18 months) and the marketing time is a prediction of the time it may take to sell the property at the appraised value (i.e., for the subject 12 months). (Board of Review Ex. 1, p. 19)

In the appraisal report, Brorsen did not discuss the location of the subject in a floodplain and did not have any land sales that were located in a floodplain in the land value estimate within the cost approach. Land Sale #6 is located on Route 50 and an older area of the city, like the subject; although it is not in an older downtown district like the subject. The remaining seven land sales were within industrial districts. Brorsen acknowledged that typically the advanced age of the subject would give him pause in determining depreciation, but in this circumstance he found the cost approach was necessary to study the various components and understand how the property was put together. (TR. 318) He further acknowledged that the replacement cost contemplates using modern methods, materials, design, architecture, energy efficiency and other such practices and using Class B as opposed to Class C in the analysis results in a higher cost estimate.

Brorsen noted that older vintage industrial buildings like the subject may be put to an alternative use by converting them and such renovation, rehabilitation, remodeling or demolition for construction of a new structure could involve significant expense and would mean such a vintage property has some sort of functional obsolescence. (TR. 322) Brorsen also testified that he formed his opinion of the subject's life expectancy based on actual market data, not on the life expectancy schedule(s) published by Marshall Valuation Service. Brorsen agreed that in his final analysis, little emphasis was placed on the cost approach to value and most reliance was placed upon the sales comparison approach. (TR. 325)

As to the search for comparable sales, Brorsen acknowledged that his written report indicated the search outside of Kankakee County included only Will and Cook Counties, however, he also recalls having searched both Iroquois and Grundy Counties for comparables ranging in size from 200,000 to 600,000 square feet of building area. Brorsen opined that any sales outside of the four counties mentioned would not be comparable to the subject's market. (TR. 327)

As to his Sale #1, the appraiser acknowledged the property was built in one stage in 1940 with a full renovation in 1986. Moreover, the property is in Chicago and thus located in a much larger local labor force than the subject. He also acknowledged that vacant industrial land in the area of Sale #1 would be significantly higher than the subject. In addition, this property was only about 60% the size of the subject and was approximately 90% leased to five different tenants as a multi-tenant facility as of the time of sale.

Sale #2 located in Cook County was constructed in one stage as a part one-story and part two-story structure. This property is about 60% the size of the subject and was a 100% leased multi-tenant structure at the time of sale with an overall upward adjustment as compared to the subject.

Sale #3, relatively close to Midway Airport and near two different interstate highways, was built in 1951 with renovation in 1976. The property was 100% leased at the time of sale.

As to Sale #4, this property was admittedly less than 1/3 the size of the subject. It was also a one-story structure with a weighted age of 33 years which was 65% leased as a multi-tenant building (three tenants) at the time of sale. Lastly, this sale included three ten-ton cranes as personal property with an allocated total value of \$100,000 of the purchase price.

Sale #5 located in Will County was 100% leased to three tenants at the time of sale consisting of a small credit union, a warehouse company, and a manufacturing company. This sale also included over 50-acres of land.

For Sale #6 that occurred in 2000 was the only sale among Brorsen's sales comparables that did not have a lease in place when it sold. This structure was built in one stage in 1969. However, Brorsen conceded that due to major adjustments needed for change in market conditions from the date of sale to the date of valuation, this sale was too old. (TR. 338)¹⁶

In terms of adjustments to the sale comparables, Brorsen reiterated that price/size regression which assumes all other factors are equal was not predominant, but he also admitted such an analysis was not in his written report. None of the comparable sales had the number of additions as the subject.

In answer to the Hearing Officer's questions, Brorsen testified that even if the subject property were found to have 395,669 square feet of building area, that fact would not change his final conclusion of value because no size adjustments were made in his sales comparison approach to value. (TR. 346) He further indicated the Kankakee market area consisted of the communities of Kankakee, Bradley and Bourbonnais which together comprise about 60% of the county's population.

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.

a. "Correct assessment of property ... subject of an appeal"

The Property Tax Code (hereinafter the Code) authorizes the Property Tax Appeal Board to determine the correct assessment of "property which is the subject of an appeal." (35 ILCS 200/16-180) There is no dispute on the record that there is only one parcel under appeal in this matter. Moreover, there is no dispute on this record that portions of the improvements are located on the other two parcels which comprise the subject complex, however, the assessing officials placed all of the improvement assessment on the parcel currently on appeal. The evidence further reveals that the assessments on the other two parcels are *de minimus*. (See Footnote 2)

Illinois' system of taxing real property is founded on the Code. (35 ILCS 200/1-1 et seq.) Section 1-130 of the Property Tax Code defines "real property" in pertinent part as:

The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon. . . and all rights and privileges belonging or pertaining thereto, except

¹⁶ Brorsen further acknowledged on cross-examination that for a different appraisal assignment involving a valuation date of January 1, 2006, Sale #6 was specifically removed as being too old for consideration. (TR. 339)

where otherwise specified by this Code. (35 ILCS 200/1-130).

The evidence reveals that the Kankakee County Board of Review accepted the assessor's practice with regard to the subject property by placing the value of the industrial complex on primarily one parcel number (which is the subject of this appeal), rather than to assess the property in accordance with Sections 9-155, 9-160 and 9-180 as may be appropriate from time to time to reflect the value of each parcel and its respective improvements.¹⁷ Despite the provisions of the Code, the Property Tax Appeal Board using its equitable jurisdiction will recognize this practice of the Kankakee County Board of Review and its assessing officials in assessing primarily the subject parcel with the value of the industrial complex despite the fact that

¹⁷ As a general proposition, except in counties with more than 200,000 inhabitants that classify property for taxation purposes, each tract or lot of property is to be valued at 33 1/3% of its fair cash value. 35 ILCS 200/9-145. As stated by the Illinois Supreme Court in Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill. 2d 428, 430 (1970), "[e]ach tract or lot of real property shall be valued at its fair cash value, estimated at the price it would bring at a fair, voluntary sale." Furthermore, the Code specifies valuation is to be "the value of each property listed for taxation as of January 1 of that year, or as provided in Section 9-180, and assess the property at 33 1/3% of its fair cash value" (35 ILCS 200/9-155). Moreover, Section 9-160 of the Code (35 ILCS 200/9-160) provides in pertinent part:

Valuation in years other than general assessment years. On or before June 1 in each year other than the general assessment year, in all counties with less than 3,000,000 inhabitants, . . . , the assessor shall list and assess all property which becomes taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which had not been previously added to or included in the valuation of the property on which such improvements have been made, specifying the property on which each of the improvements has been made, the kind of improvement and the value which, in his or her opinion, has been added to the property by the improvements. [Emphasis added.] (35 ILCS 200/9-160)

Section 9-180 provides further support for the proposition that valuation of property is specific to the tract or lot identified for assessment purposes (35 ILCS 200/9-180):

The owner of property on January 1 also shall be liable, on a proportionate basis, for the increased taxes occasioned by the construction of new or added buildings, structures or other improvements on the property from the date when the occupancy permit was issued or from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use to December 31 of that year. (35 ILCS 200/9-180)

the complex was actually spread over three separate parcel numbers. The Property Tax Appeal Board further recognizes that this practice of the Kankakee County Board of Review was not in conformance with the terms of the Code, however, equity and the weight of the evidence mandate accepting this practice lest there be an unsubstantiated windfall reduction in the assessment to reflect the proportionate value of the only parcel on appeal while the Board simultaneously does not have jurisdiction to make upward adjustments to the assessments of the other two parcels comprising the complex.

b. The appraisal evidence

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. 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); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Having considered the evidence presented, the Property Tax Appeal Board finds that the evidence indicates a reduction is warranted.

The appellant submitted an appraisal estimating the subject property had a market value of \$3,150,000, as of January 1, 2006. The Kankakee County Board of Review submitted an appraisal estimating the subject property had a market value of \$8,600,000 as of January 1, 2006. The parcel under appeal has an assessment of \$2,884,281 reflecting a market value of \$8,609,794 using the 2006 three-year median level of assessments for Kankakee County of 33.50%. Thus, the Board finds that the evidence provided by both parties demonstrates the subject's assessment is excessive.

One of the differences in the appraisals was with respect to the building area associated with the subject property. Moreover, although the size discrepancy was raised by the Hearing Officer, the parties did not stipulate regarding the total building size. Therefore, the Board will make a determination based on the best evidence in the record regarding the building size.

Although Brorsen testified he utilized GIS data and data from the assessor regarding building size, his appraisal did not contain the building area associated with the "yard" improvements. Moreover, he was unable to measure any of the improvements while touring the facility. More importantly, while Brorsen testified that the assessor's records assisted him in determining the building size, the property record card of the subject property has no building size data which raises the question as to what data he was examining that provided building size data. In this regard, the Property Tax Appeal Board finds the basis for the data obtained from the assessor in terms of building size is not credible and based on the totality of the evidence, the Board finds Brorsen understated the size of the subject improvements. Although Salisbury did not measure each building, he was allowed

to use data from the owner as to each building's size and was able to spot check some measurements upon inspection. In summary, the Board finds that Salisbury's estimate of size of the building improvements is the better supported of the two conclusions as to the size of the subject complex.

There are three methods used to evaluate property: (1) the comparison or market approach which focuses on sales of comparable property; (2) the income approach which is used when the property is most valuable as rental property; and (3) the reproduction or replacement cost method which focuses on what it would cost to recreate real property with the same value. Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill. App. 3d 9, 14 (5th Dist. 1989). In this matter, both appraisers developed the cost and sales comparison approaches to value in their respective appraisals. Furthermore, both appraisers placed most reliance upon their sales comparison approaches in arriving at a final value conclusion. Additionally, the review appraiser noted that primary reliance upon the sales comparison approach would be appropriate for the subject property. Therefore, in analyzing the appraisal evidence, the Board will focus on the sales comparison approaches used by Salisbury and Brorsen.

None of the sales analyzed by Salisbury involved ongoing leases at the time of sale whereas five of six sales considered by Brorsen involved ongoing leases at the time of sale. Furthermore, of these five sales, four were multi-tenant buildings, dissimilar to the subject's single user configuration. The Board also finds using multi-tenant buildings runs counter to Brorsen's highest and best use determination of the subject as improved. The Board finds that the appraiser should have made an adjustment for these sales which were leased. Additionally, Brorsen provided no specifics as to the lease terms, length of the lease, or any other details by which the Board could analyze these sales which involved ongoing leases. The Board also does not find credible Brorsen's opinion that being leased does not have an impact on the sale. The Board finds Brorsen's opinion particularly suspect when he next acknowledged that the property was purchased "as an investment." The subject is an owner occupied and built property for a specific purpose. The Board finds the sales considered by Salisbury, fee simple sales, to be more indicative of market value than sales of fully leased properties which were considered by Brorsen.

Furthermore, the one non-leased sale property, Sale #6, was a dated sale from 2000 that Brorsen acknowledged would be inappropriate to rely upon. Examining the six sales considered by Brorsen, the Board finds the two sales from Will County were the best sales in terms of similar market, despite the need for downward adjustments due to the existing leases at the time of sale. These two Will County properties sold for \$21.00 and \$22.33 per square foot of building area including land.

Turning next to the sales and listings considered by Salisbury, the Board has given less weight to the two listings finding that

listings are less indicative of market value than fee simple sales. The Board gives most weight to Salisbury's Sale #3 in Watseka, a market more similar to the subject's market area, but still needing an upward adjustment for location as recognized by Salisbury. This property, while smaller than the subject, was similar in age and other characteristics and sold for \$8.10 per square foot of building area including land. Salisbury also recognized that this sale price needed an upward adjustment for time or market conditions.

Therefore, after reviewing the appraisals and considering the testimony provided by both appraisers, the Board finds the subject property to have an estimated fair market value as of January 1, 2006 of \$10.00 per square foot of building area including land or \$3,960,000, rounded. Having concluded the subject parcel's assessment as established by the board of review is incorrect and since fair market value has been determined, the 2006 three-year median level of assessments for Kankakee County of 33.50% shall apply.

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.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn P. Lerski

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: December 23, 2010

Allen Castrovillari

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.