FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Comm. Consol. School Dist. No. 93
DOCKET NO.: 06-01838.001-C-3
PARCEL NO.: 02-20-404-011

The parties of record before the Property Tax Appeal Board are Comm. Consol. School Dist. No. 93, the appellant, by attorneys Scott L. Ginsberg and Ken Florey, of Robbins Schwartz Nicholas Lifton Taylor in Chicago; the DuPage County Board of Review; and Chicago Industrial Investments, LLC., the taxpayer/intervenor, by attorney James P. Boyle of Crane & Norcross in Chicago.

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

LAND:	$398,200
IMPR.:	$2,092,550
TOTAL:	$2,490,750

Subject only to the State multiplier as applicable.

ANALYSIS

For purposes of this appeal and pursuant to Property Tax Appeal Board rule 1910.78 (86 Ill.Admin Code §1910.78), Docket No. 06-01837.001-C-3 was consolidated with Docket No. 06-01838.001-C-3 for purposes of oral hearing. A separate decision will be issued for each docket number.

The subject property consists of 215,392 square feet of land area improved with a one-story masonry and concrete panel industrial building containing 95,694 square feet of building area. The subject was built in 2000 and features a reinforced poured concrete foundation with 2,459 square feet of office area (approximately 2.6% of total building area) and approximately 93,235 square feet of warehouse and storage area operated as a distribution warehouse. In addition, the subject has a ceiling height of 28 feet and 10 exterior docks with two drive-in doors. The subject is located at 245 – 265 E. Lies Road in Carol Stream, Bloomingdale Township, DuPage County.

Community Consolidated School District No. 93, acting as appellant, appeared through counsel before the Property Tax Appeal Board arguing the fair market value of the subject was not accurately reflected in its assessed value. In support of this argument, the appellant submitted an appraisal prepared by Certified Real Estate Appraiser Dale J. Kleszynski of Associated Property Counselors, Ltd. estimating the subject property had a market value of $7,500,000 as of January 1, 2006 (Appellant's Exhibit "011").

As its witness, the appellant called Dale J. Kleszynski, with over 33 years of appraisal experience. Kleszynski is a licensed Illinois appraiser with MAI (Member of Appraisal Institute) and SRA (Senior Residential Appraiser) designations from the Appraisal Institute. Kleszynski noted that he has appraised from 30 to 100 warehouse facilities. Without objection, Kleszynski was accepted as an expert witness in this matter.

Kleszynski testified that he made an exterior inspection of the subject property in December 2007 and January 8, 2008. Kleszynski did not personally make an interior inspection of the subject property. In preparing his report, Kleszynski relied upon the descriptive information found in the appraisal report prepared by CB Richard Ellis and upon public records. Kleszynski testified the site consisted of 4.94-acres and contained 395.32 square feet of road frontage. The subject was improved with a 95,694 square foot building containing approximately 2.6% of office space. Kleszynski reported the subject's condition as being good. Kleszynski testified that the property rights subject to the 2006 appraisal were to estimate the value of the fee simple interest of the subject. Kleszynski further testified that the highest and best use for the subject site as vacant was for development in accordance with the current zoning ordinance and area development patterns as industrial and distribution in character. Kleszynski opined that the highest and best use of the subject as improved was as each improvement existed. Kleszynski estimated the market value of the subject using the three traditional approaches to value.

Under the cost approach, the appraiser estimated the subject's value as $7,725,000, rounded. To develop the land value, seven vacant land sales located in Carol Stream, Hanover Park and Bloomingdale were considered. These properties ranged in size from 87,120 to 455,638 square feet of land area and sold from July 2003 to March 2007 for prices ranging from $609,840 to $3,527,000 or from $4.47 to $8.50 per square foot of land area. Kleszynski testified that he did not adjust the land sales for size because it was not warranted. Kleszynski testified that upon his review of the land data and after comparison, the data did not show a clear-cut indication that size of the site would allow an extraction of an adjustment. For example, Kleszynski stated that comparable land sale #2 and #3, the smallest and largest land sales, sold in February 2005 for $7.00 and $7.74, respectively, per square foot of land area, even though the later contains 368,518 additional square feet of land area. As further evidence of his contention that the data did not allow for an adjustment, Kleszynski testified that land sale #1 sold in 2006 for $4.62 per square foot of land area while comparable #3 sold in 2005 for $7.74 per square foot of land area, even though there was only 100,000± square foot difference in their size. He did, however, adjust the comparable land sales for date of sale since his records indicated land prices increased in the subject's market area from 2003 to 2006 and decreased in value from 2006 to 2007. Kleszynski estimated the subject's site value of $6.00 per square foot of land area or $1,300,000, rounded (page 27, Appellant Exhibit "011").

Next, the appraiser determined a replacement cost new for the subject improvement of $6,920,590 or $72.32 per square foot of building area utilizing the Marshall & Swift Cost Service and data taken from internal files for similar type properties that he evaluated in the past (page 29, Appellant Exhibit "011"). Kleszynski testified that he estimated a base cost of $42 per square foot and then applied various adjustment multipliers for story height, number of stories, perimeter costs, current costs, local costs and entrepreneurial profit. Kleszynski stated that his entrepreneurial profit of 15% was estimated based on his contact with developers and can range anywhere from 10% to 30%. Depreciation was estimated to be 10% based on an age/life method. Kleszynski did not find any functional obsolescence during his exterior inspections. He found the subject was well designed for distribution with adequate docks and good ingress and egress. Kleszynski opined that based on the market and data in the subject's area there were no outside forces impacting the subject property, and therefore, he found no economic obsolescence. Physical depreciation was based on the building being well maintained and based on five years using a 50-year life. After subtracting 10% depreciation or $692,059 from the replacement cost new of $6,920,590, adding the depreciated values for the site value of $200,000, and the estimated land value of $1,300,000, the appraiser arrived at an estimated value for the subject of $7,725,000, rounded using the cost approach.

In developing the income approach to value, Kleszynski first searched for rental comparables. Kleszynski selected four rentals located in Carol Stream. The comparables were described as single or multi-tenant industrial properties that ranged in size from 94,158 to 305,094 square feet with 60,000 to 128,000 feet of leased or available space. The properties had clear ceiling heights ranging from 18' to 30'; loading docks ranging from 2 to 17 and parking units ranging from 114 to 290 automobiles. Rental rates ranged from $3.98 to $6.25 per square foot on a net basis. Based on an analysis of this data, Kleszynski estimated the subject's market rent of $6.00 per square foot of building area or projected potential gross income of $574,164.

Kleszynski assumed a vacancy and credit loss of 5% ($28,708) given the subject's market area for an effective gross income of $545,456. Next the appraiser calculated a management fee of 2.5%

along with reserves for replacement of $14,500 and miscellaneous fees of 1% for total expenses of $33,590. After making these deductions, Kleszynski estimated the subject had a net income of $511,866 (Page 33, Appellant Exhibit "011").

The appraiser then estimated the capitalization rate for the subject from published indices, current financing terms and market data. The appraisal report depicts overall capitalization rates for industrial investment properties ranged from 6.8% to 8.0%. Based on the age, nature of improvements and location, Kleszynski estimated a capitalization rate of 7.25% was appropriate. Capitalizing the subject's net income resulted in an estimate of value under the income approach of $7,100,000, rounded.

Next, Kleszynski developed the sales comparison approach to value. In doing so, he selected six comparable sales located in Glendale Heights or Carol Stream, Illinois. In his testimony, Kleszynski noted that the primary selection for sales was industrial properties in Carol Stream and Glendale Heights that were located within approximately a one mile radius of the subject or within a one-half mile radius of the intersection of Kimberly and Fullerton Avenue. The sales comparables were within 1.8 miles of the subject. Kleszynski testified that all of the sales are in adjacent suburbs to the subject, in the same industrial district, serviced by similar roadway access and expressway access as the subject. The selected comparables ranged in size from 25,414 to 101,158 square feet of building area and were built from 1985 to 2000. The comparables featured land-to-building ratios ranging from 1.40:1 to 3.89:1, clear ceiling heights ranging from 14' to 28' and 3 to 12 loading docks. Four of the comparables had 1 to 3 drive-in doors and five were reported to have from 60 to 124 parking spaces.[1] The properties sold from December 2004 to October 2006 for prices ranging from $2,230,000 to $8,847,000 or from $77.62 to $91.58 per square foot of building area, including land (Page 43, Appellant Exhibit "011"). After making adjustments to the comparables for date of sale, land-to-building ratio and size, the appraiser was of the opinion the subject had an indicated value under the sales comparison approach of $78.00 per square foot of building area, including land, or $7,500,000, rounded.

In reconciling the three approaches to value, Kleszynski gave most weight to the sales comparison approach to arrive at an estimate of value of $7,500,000 as of January 1, 2006. Kleszynski testified that for the other approaches to value, he did not have information associated with the actual operation of the property, and because of that, it did not allow him to make some comparisons that he would normally have made. Kleszynski stated that the sales comparison approach was the strongest

[1] The witness corrected the building size for comparable #6 to 55,000± square feet of building area with 337,000 square feet of land area and a land-to-building ratio to 5.42:1. The sales price then indicated a price of $90.32 per square foot of building area, including land.

because the location of the data was within a very short distance of the subject property and the physical characteristics of that data, which, in his opinion created a reasonably tight range from approximately $77 to $90 per square foot of building area.

On cross-examination, Kleszynski acknowledged that he did not have support within the appraisal report for his statement that "properties similar to the subject are often leased at rates that range from $4.75 to over $6.50 per square foot on a net basis." (Page 33, Appellant Exhibit "011"). Kleszynski further acknowledged that in the sales comparison approach, his comparable #6 was a sale-leaseback. Kleszynski testified that he was aware of the leaseback during the preparation of his report, however, he did not feel it had any impact on his adjustment process for this comparable. Kleszynski further acknowledged that comparable #6 was subject to a Section 1031 tax exchange, however, again he felt this did not impact his adjustments to comparable #6. Kleszynski acknowledged that comparables #1 and #5 and comparables #3 and #4 were purchased by the same purchaser on the same day. Kleszynski testified that a purchaser buying multiple properties did not affect his opinion of value. After reviewing the sales further, Kleszynski acknowledged that even though the aforementioned properties were purchased by the same buyer on the same day, they had different sellers in each transaction. Upon further questioning, Kleszynski could not recall if the subject was a single tenant building or a multi-tenant building. He agreed that a multi-tenant building would have a greater expense associated with it.

The Board of review presented its "Board of Review Notes on Appeal" wherein the subject's final assessment of the subject property totaling $1,848,000 was disclosed. Based on the subject's assessment and utilizing the 2006 three-year average median level of assessments for DuPage County of 33.21% as determined by the Illinois Department of Revenue, the subject property has an estimated fair market value of $5,564,589.

In support of the subject's assessment, the board of review adopted the appellant's retrospective appraisal evidence previously submitted and deferred presentation.

The taxpayer/intervenor, Chicago Industrial Investments, L.L.C., through counsel, called as its first witness, P. Linas Norusis, who is employed by CB Richard Ellis. He is the senior managing director in their valuation and advisory services group. Norusis has been with CB Richard Ellis since 2004, managing director since 2006 and senior managing director since 2008. Norusis has been a real estate appraiser since 1985 and is currently certified in six states; Illinois, Indiana, Wisconsin, Michigan, Kentucky and Missouri. Norusis holds the MAI designation from the Appraisal Institute. He has prepared over 1,000 industrial appraisals, with well over 100 in the DuPage area.[2] Chad Bosley, a senior real estate analyst, assisted him in preparation of an

[2] Norusis was recognized as an expert without objection.

appraisal report of the subject property. Bosley physically inspected the subject and did a preliminary search of all market data, and co-wrote the report. Norusis prepared one report for two different properties (205–235 East Lies Road and 245-265 East Lies Road). The same market data was used for each property. Norusis testified that his firm used the three traditional approaches to value in estimating a value for the subject with primary emphasis being placed on the income capitalization approach because he believed the subject was most likely to be purchased by investors who are more concerned with the income producing capability of property as opposed to the physical characteristics. Norusis testified that the highest and best use of the subject as improved was for continued industrial use.

Under the cost approach to value, Norusis analyzed four vacant land sales. The sales were located in Carol Stream, Hanover Park and Bloomingdale, Illinois. They ranged in size from 2 to 10.46 acres. The sales occurred from April 2004 to February 2005 and sold for prices ranging from $610,000 to $3,527,000 or from $196,085 to $370,332 per acre or from $4.50 to $8.50 per square foot of land area. Adjustments were made for size, corner access and frontage. Based on these vacant land sales, Norusis estimated the subject's land value at $4.50 per square foot of land area or $970,000. (Page 45, Taxpayer/Intervenor Exhibit "A").

For the improvement, Norusis used the <u>Marshall Valuation Service</u> to estimate the replacement cost new of the subject (Page 47, Taxpayer/Intervenor Exhibit "A"). The subject was described as a one-story, 6 year old industrial, in good condition with pre-cast concrete exterior walls, a 28' ceiling height and as having a gross building area of 95,694 square feet. A base square foot cost of $27.29 was applied with additional factors and refinements added for sprinklers, floor area and cost multipliers to arrive at a final square foot cost of $45.90 or $4,392,245. Site improvements and indirect building costs of 5% were added to the base building cost which indicated $4,835,000, rounded, for direct and indirect building costs. Entrepreneurial profit of 5% ($241,750) was added to arrive at a replacement cost new for the subject improvements of $5,076,750. Norusis estimated 11.1% depreciation which was deducted from the replacement cost new to arrive at a depreciated replacement cost of $4,512,667. The estimated land value of $970,000 was added which indicated an estimated value for the subject utilizing the cost approach to value of $5,482,667 or $5,500,000, rounded or $57.47 per square foot of building area, including land (Taxpayer/Intervenor Exhibit "A").

Utilizing the sales comparison approach, Norusis examined five comparable sales. The sale properties, built from 1993 to 2004, were located in Bolingbrook, Joliet, Hanover Park, Carol Stream and Aurora, Illinois. They had office space ranging from 3% to 10% of total building area, ceiling heights ranging from 27' to 40' and land-to-building ratios from ranging from 1.08:1 to 3.27:1. The comparables ranged in size from 91,200 to 694,367 square feet of building area and sold from January to December 2005 for prices ranging from $5,850,000 to $38,250,000 or from $46.45 to $64.14 per square foot of building area, including land. The comparables were adjusted for age/condition, land-to-building ratios, clear heights, percentage of office space and economics. After making adjustments, the sales indicated a value ranging from $48.77 to $55.73 per square foot of building area, including land. Norusis testified that based on the sales comparison approach, the subject was estimated to have a market value of $5,200,000, rounded, or $53.34 per square foot of building area, including land.

Norusis further testified that he performed a backup analysis utilizing a net income multiplier analysis. Norusis estimated the net operating income for the subject of $4.07 per square foot of building area. The five sales indicated they had net operating incomes ranging from $3.85 to $4.69 per square foot of building area. He then used the price per square foot of each sale and divided it by the net operating income per square foot of each sale to arrive at a net income multiplier for each comparable sale. Norusis then applied the net income multiplier to the estimated net income for the subject property which indicated a price per square foot. This was used as a secondary check on the direct adjustments that were previously estimated. This method provided a range of value from $49.28 to $58.84 per square foot of building area for the subject property based on a net income multiplier analysis. Norusis testified that the value range based on the net operating income multiplier analysis was consistent with the direct sales comparison approach analysis.

Norusis next developed the income capitalization approach to value. Norusis gave this approach to value the most weight relative to the three approaches to value. Norusis utilized four comparable properties located in close proximity to the subject. Norusis was able to obtain specific lease information for each comparable. The four rental comparables were built from 1993 to 2005, had occupancy rates of either 100% or 55%, ranged in size from 70,400 to 305,094 square feet of building area, had office space ranging from 3.8% to 19.7% of total building area, clear ceiling heights ranging from 24 to 30 feet, leases ranging from 3 to 10 years with rental rates ranging from $3.98 to $6.15 per square foot of leased area on a triple-net basis.

In addition, Norusis utilized 12 additional actual lease transactions located in the greater north DuPage County industrial submarket as a secondary check as to the market rental rates for the subject. Based on the comparable rental properties, Norusis estimated a market rent for the subject of $5 per square foot of building area. Potential gross income of the subject was estimated to be $478,470 from which 11.06% or $55,503 for vacancy and credit losses were deducted to arrive at a net rental income for the subject of $422,967 or $4.42 per square foot of building area. Effective gross income was estimated to be $571,738. Operating expenses of $182,647, including property taxes, were deducted which indicated a net operating income of

$389,091 or $4.07 per square foot of building area. The comparable sales indicated an overall capitalization rate ranging from 6.91% to 8.25%, and industry publication Korpacz Real Estate Investor Survey for the first quarter of 2006, which indicated a range of overall capitalization rates ranging from 5.5% to 9%. After interviewing market participants, who indicated overall capitalization rates ranging from 7% to 7.75%, Norusis opined an overall capitalization rate of 7.5% was appropriate. Applying this rate to the subject's net operating income yielded an estimated value for the subject utilizing the income approach of $5,200,000, rounded, or $54.34 per square foot of building area, including land.

After reconciling the three approaches to value, and giving most weight to the income capitalization approach, Norusis estimated the subject's value to be $5,200,000 as of January 1, 2006.

During cross-examination, Norusis was questioned on his lack of a time adjustment for his land sales when the data indicated there was an increase in industrial property sales. Norusis acknowledged that he did not make any adjustments to his land sale #3 even though it was irregular in shape, had approximately 1,750 less road frontage than the subject and sold approximately 14 months prior to the evaluation date during a time in which record high prices were recorded. Norusis testified that he felt comparable land sale #3 was most representative to the subject property. Norusis further acknowledged that he did not check the "green sheet"[3] for improved sale #1 during his analysis and that improved sale #1 may have not been placed on the open market prior to its sale.

In regards to his sale comparison approach, Norusis admitted that the PTAX-203 forms for his improved comparable sales #2 and #3 indicated they were not advertised for sale and were not sold using a real estate agent.

During questioning regarding his income approach to value, Norusis could not refute that the rental properties he used in his analysis had an occupancy rate of 1.4% and yet he concluded the subject should have 11.6% vacancy in preparing his analysis. Norusis also admitted that using a vacancy rate of 11.6% for the subject's submarket vacancy rate was incorrect. Norusis further admitted that his expense comparables lacked addresses from which his data could be verified, and therefore, his estimate of operating expenses of $1.91 per square foot of building area also could not be verified. Norusis testified that his conclusion of the real estate tax expense and management fees expense, on a per-square-foot basis, were higher that any of the comparables he used. Norusis admitted that his appraisal report provided no analysis as to how he came up with a 7.5% overall capitalization rate, other than it fell between the range of 5.5% and 9%.

[3] Otherwise known as the PTAX-203 or PTAX-203A form.

During re-direct, Norusis appeared to have trouble testifying as to who the actual client was. Norusis testified that the client for the appraisal report was Chicago Industrial Investments, LLC. Norusis testified earlier that Tim Harbeck, a senior real estate manager of CB Richard Ellis, Inc. acted as the property manager for the subject properties and hired valuation and advisory services group of CB Richard Ellis, Inc., to prepare an appraisal report. Norusis testified that he did not view any of the comparables used in his appraisal report and only drove by the subject property. He did not go inside the subject property as he did not think it was necessary. Norusis testified that he relied on Chad Bosley for whether the information was true and correct.

Norusis further testified that no size adjustments were warranted for properties containing at least five acres of land area. Norusis opined that five acres or so was adequate and was considered similar in that a purchaser would look at a five acre parcel and a ten acre parcel in the same way; it all depended on how big of a building a purchaser could put on the property. Norusis testified that the most important factor they considered in his sales comparison approach to value was time of sale. Norusis testified that of the 12 lease transactions on page 59 of his appraisal report, the lease rentals could be verified because the tenant name is listed. Norusis clarified that the 11.6% vacancy rate he used was appropriate when considering all of the rental comparables, instead of 5%, which represented the physical vacancy within the four rental comparables on page 29 of his appraisal.[4] Norusis further testified that CB Richard Ellis is the largest commercial real estate firm in the world with over 25,000 employees. They have several different groups within CB Richard Ellis that provide services for management, leasing, mortgage financing, valuation and advisory services. Norusis stated that the valuation and advisory services group is essentially a silo within CB Richard Ellis that provides unbiased, third party estimates of market value regardless of who the client is. Norusis admitted that the person who hired him to do the appraisal also works for CB Richard Ellis.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board finds that an increase in the subject's assessment is warranted.

The appellant, Community Consolidated School District No. 93, contends the assessment of the subject property is incorrect and not reflective of its market value. The law in Illinois requires real property to be valued at fair cash value, estimated at the price it would bring at a voluntary sale. <u>Cook County Board of Review v. Illinois Property Tax Appeal Board</u>, 384 Ill.App.3d 472, 480, 894 N.E.2d 400, 323 Ill.Dec. 633 (1st Dist. 2008). Correspondingly, fair cash value is defined in the Property Tax

[4] Under the heading "Vacancy" for "Rent Comparables" Norusis testified that it should read 5% and not 11.4%. (page 29, Taxpayer/Intervenor Exhibit "A").

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). Fair cash value is synonymous with fair market value. Cook County Board of Review v. Illinois Property Tax Appeal Board, 384 Ill.App.3d 472, 480 (1st Dist. 2008). 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 do so. 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). The Board finds the evidence in this record supports an increase in the subject's assessment.

The "Board of Review Notes on Appeal" depicts the subject's final assessment of the subject property totaling $1,848,000 indicating the subject property has an estimated fair market value of $5,564,589. The board of review adopted the appellant's retrospective appraisal evidence and deferred presentation of its evidence in support of the subject's assessment. The appellant, Community Consolidated School District No. 93, submitted an appraisal, prepared by Dale J. Kleszynski, MAI, SRA, of Associated Property Counselors Ltd., estimating the subject property had a market value of $7,500,000 as of January 1, 2006. The taxpayer/intervenor, Chicago Industrial Investments, LLC., submitted an appraisal, prepared by P. Linas Norusis, MAI and Chad Bosley, SRA, of CB Richard Ellis, Inc., estimating the subject property had a market value of $5,200,000 as of January 1, 2006.

The Board finds the manifest weight of the evidence presented in this appeal supports an increase in the subject's assessment. The Board further finds the best evidence in this record of the subject's fair market value as of January 1, 2006, is the retrospective appraisal presented by the appellant.

The Board finds the appraiser, Dale J. Kleszynski, offered credible evidence and testimony in support of the subject's estimated market value of $7,500,000. Kleszynski gave primary reliance to the sales comparison approach to value in estimating the subject's fair market value. Norusis, the taxpayer/intervenor's appraiser, on the other hand, placed primary reliance on the income approach to value in estimating the subject's fair market value. The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach. Since there are credible market sales of distribution warehouses, such as the subject, contained in this record, the Board placed most weight on this evidence as presented by both parties.

The record depicts Kleszynski indicated the property rights being appraised were the fee simple interest while Norusis testified that he was hired to provide an estimate of the market value of the subject.[5] The Board finds Chicago Industrial Investments, LLC is the owner of the subject; CB Richard Ellis acting as property manager of the subject property hired Norusis, also of CB Richard Ellis, to estimate the subject's market value. The Board finds that even though Norusis testified that he has no present or prospective interest or bias with respect to the subject property, a possible bias could exist which may call into question and reflect on the credibility of the final value conclusion contained in the CB Richard Ellis appraisal. The Board finds that both appraisers agreed that the highest and best use of the subject property as improved was for its current or existing use.

Both appraisers described the subject as a being improved with a one-story industrial warehouse/distribution center constructed in approximately 2001. The subject was described as having 98,961 square feet of building area situated on 5.15 acres or 224,489 square feet of land area. Kleszynski estimated a marketing time for the subject property was 12 to 18 months while Norusis estimated a marketing time of 6 months. The Board gave more weight to the marketing time as presented by Kleszynski based on his experience of appraising distribution/warehouse facilities in the subject's immediate market area. The Board finds Norusis testified regarding his position as senior managing director of the CB Richard Ellis valuation and advisory services group, however, the testimony revealed Chad Bosley, who was not called as a witness, gathered all of the data and personally inspected the subject property in preparation of the appraisal report. During re-direct examination, Norusis did not offer credible testimony regarding which client the appraisal was prepared for, CB Richard Ellis as property manager or Chicago Industrial Investments, LLC. Norusis testified that he took the data as gathered by Bosley as being true and correct. A majority of the verification of the data used was performed by Bosley. The Board finds Norusis appeared to have acted in a supervisory role in preparation of the appraisal. Therefore, the Board finds Norusis' testimony lacked credibility, was perhaps biased and did not adequately support the estimate of value found in the CB Richard Ellis appraisal. The Board further finds Kleszynski's appraisal to be better supported and more credible.

[5] Page iv of the CB Richard Ellis appraisal depicts the property rights appraised is the fee simple estate. (page iv, taxpayer/intervenor's Exhibit "A").

Both appraisers utilized the cost approach to value. Norusis examined four vacant land sales while Kleszynski utilized the same vacant land sales as Norusis and added three additional land sales. The differences between the two appraisers were in the adjustments made to the comparables to estimate a land value for the subject. Norusis adjusted his land sales for size while Kleszynski did not make this adjustment. Based on the inconsistency of the data, Kleszynski opined that a size adjustment could not be clearly extracted for analysis purposes. Kleszynski testified, and the data revealed, that after a review of data, a clear extraction of an adjustment for size was not available. As an example, Kleszynski testified that the smallest property and largest property, which both sold in 2005, only had a $0.74 difference in the square footage price, even though there was over a 368,000 square foot difference in size between the two parcels. In addition, Kleszynski also pointed out two parcels with only a 100,000 square foot difference in size had a difference in price of $3.62 per square foot. Norusis testified that all of his adjustments for land size were downward[6], even though comparable land sale #1 was twice as large as the subject and comparable land sale #2 was half the size of the subject. The evidence and testimony further revealed Kleszynski made an adjustment for date of sale while Norusis did not. Kleszynski testified that he adjusted upward for date of sale for comparables #2 through #6 which occurred prior to 2006 and downward for #1 and #7, which were post–dated from January 1, 2006. Kleszynski testified that the market appeared to be trending upward between 2003 and 2006. During cross-examination, Norusis admitted that on page 16 of his appraisal report he indicates that in 2005 a new record was set for industrial property sales which included a 52.65% increase in sales of industrial properties from 2004. In addition, the report depicts that the average price per square foot of industrial property increased from $56 to $63 per square foot between 2004 and 2005, almost a 12% increase. In addition, Norusis agreed that for the past two years (2004 and 2005), the marketplace had been expanding at an annual rate of over 50% with record high prices and low capitalization rates reported. Further, Norusis agreed that the Chicago market's industrial sales increased by 37% between 2004 and 2005 with the price per square foot for industrial property in the Chicago market increasing 9% between 2004 and 2005. Norusis admitted, however, that despite this data, he did not apply a date of sale adjustment to his land sale comparables.

Norusis further acknowledged that he considered land sale #3 as being most representative of the subject, even though it was irregular in shape when compared to the subject and contained only 40 to 60 feet of road frontage, while the subject is generally rectangular in shape and contains approximately 400 feet of road frontage. Counsel for the appellant pointed out that Norusis' land sale #3 had a unit cost ($4.50 per square foot of land area) significantly lower than any of the other three

[6] Transcript page 223.

land sales he used. Despite these differences, Norusis estimated the subject's land value at $4.50 per square foot of land area, the absolute lowest of any land comparable. Kleszynski estimated the subject's land value to be $6.00 per square foot of land area. Both parties presented land sales ranging from $4.47 to $8.50 per square foot of land area. Based on the testimony of the appraisers and the data presented, the Board gave more weight to Kleszynski's estimate of land value, $6.00 per square foot of land area or $1,300,000, rounded.

Both appraisers used the Marshall Valuation Service cost data to estimate the subject's replacement cost new. Kleszynski utilized a base cost of $42.00 per square foot of building area while Norusis used $27.29 per square foot of building area. Kleszynski testified that upon his review of the CB Richard Ellis appraisal, it appeared to him that using the Marshall Valuation Service with a base cost range from $20 to $30 per square foot, the buildings were described as being pole buildings and frame constructed buildings. Kleszynski testified that the subject is a tilt-up paneled warehouse distribution center that appeared to have steel beams and columns. In addition, Kleszynski pointed out that Norusis' appraisal depicted the subject had a flat roof and steel metal decks and bar joists. Kleszynski testified that the cost approach in the CB Richard Ellis appraisal appeared fundamentally incorrect in terms of the description of the building and using $25 as a base cost,[7] which was more reflective of a pole building. Kleszynski further testified that he verified this concern with actual contractor statements for buildings he had been involved with in industrial locations. Norusis did not attempt to clarify this discrepancy during his testimony, and no other evidence was provided to disprove Kleszynski's claim that an incorrect base cost was used for the subject in the CB Richard Ellis appraisal. Kleszynski's appraisal depicts that based on interviews with developers active in the construction of building improvements throughout Northern Illinois he utilized an entrepreneurial profit factor of $1.15 per square foot of building area, or $110,048 ($1.15 x 95,694). Kleszynski testified that entrepreneurial profits ranged from 10% to 30% and opined that 15% was appropriate in this instance, based on his contacts with developers. For his estimate of entrepreneurial profit, Norusis utilized a figure of 5% of direct building cost or $230,237 ($4,604,745 x 5%). Kleszynski estimated the subject's building improvements replacement cost new of $6,920,590 and Norusis estimated the subject's replacement cost new for the subject improvements of $5,076,750.

The Board finds both appraisers were generally in agreement on the amount of depreciation; 10% versus 11.1%. The Board further finds the divergence between the two appraisers occurs depending on the correct base cost, land value, the addition of depreciated value of the site improvements and entrepreneurial profit.[8] The

[7] A base cost of $27.29 per square foot was actually used.
[8] Kleszynski added $200,000 for depreciated site improvements while Norusis testified that miscellaneous site improvements of $25,000 were added.

Board is unable to find support based on the testimony in this record or in the CB Richard Ellis appraisal that a 5% entrepreneurial profit of 5% of total building cost is appropriate. Utilizing the cost approach to value, and after subtracting depreciation and adding the depreciated value of the improvements, Kleszynski estimated the subject value to be $7,725,000, rounded, and Norusis estimated the subject's value to be $4,835,000. The Board finds Kleszynski's estimate of the base cost, entrepreneurial profit and his included land value estimate is better supported, therefore, Kleszynski estimate of value using the cost approach to value was given more weight in the Board's analysis.

During cross-examination, Norusis was unable to recall why an insurable value schedule was included in the CB Richard Ellis appraisal, other than to testify that periodically people ask for an insurable value just as a check against their existing insurance policies to make sure they have adequate coverage. (See page 51 of the taxpayer/intervenor Exhibit "A").

Both appraisers also developed an estimate of value using the income capitalization approach to value. Norusis placed primary emphasis on the income capitalization approach. Norusis testified that he and Bosley identified four comparable industrial properties located in the immediate area of the subject. Norusis testified that they had specific lease information for the four properties. They also utilized 12 additional lease transactions located in the greater north DuPage County industrial submarket as a secondary check of the market rental rates. After analyzing the properties, Norusis arrived at an estimate of market rent for the subject of $5 per square foot of building area. This estimated market rent was then applied to the subject to arrive at potential rental income. Vacancy and collection loses were deducted to arrive at effective gross income. After applying various expenses typical of the subject, Norusis testified that the net operating income was capitalized to arrive at an estimate of market value for the subject using the income approach to value. Norusis further testified that the market rental data was compared to the subject specific data as well. At the time of the appraisal, the subject property had leases in place that ranged from $4.87 to $5.28 per square foot, which Norusis found was consistent with the estimated market rents.

During cross-examination, Norusis acknowledged that he concluded a vacancy rate of 11.6% for the subject was proper even though all five sales used in the sales comparison approach were 100% occupied and with 11 of the 12 rental comparables being 100% occupied. Further, appellant's counsel pointed out that Norusis' rental comparables had tax liabilities ranging from $0.93 to $1.10, and yet when applied to the subject, a figure of $1.19 for real estate taxes was used. In addition, management fees for the comparables ranged from $0.08 to $0.11 while a management fee of $0.12 was applied to the subject, higher than all of the rental comparables. Norusis agreed that none of the rental comparables had a replacement reserve expense; yet $0.15 was applied to the subject during the income analysis. Appellant's counsel argued that this represented instances where the market data gathered was ignored when applied to the subject. Norusis estimated the subject's net operating income to be $389,091 or $4.07 per square foot of building area. Kleszynski examined four rental comparables located in Carol Stream, Illinois. Kleszynski's comparables rented for prices ranging from $3.98 to $6.25 on a net basis. Using a marketing time of 6 and 12 months for a 10 year lease term and a vacancy rate of 5%, management expenses of 2.5% of effective gross income with miscellaneous expenses estimated at 1% of effective gross income and $0.15 per square foot of building area for reserves for replacements, Kleszynski estimated the subject's net income to be $511,866 or $5.35 per square foot of building area. Norusis utilized an overall capitalization rate of 7.50% and Kleszynski utilized an overall capitalization rate of 7.25%. Each appraiser estimated their respective overall capitalization rates after examination of various published indices and market data. The Board finds the final estimated capitalization rate as used by each appraiser was not well supported in either appraisal. Rather, the Board finds each appraiser estimated an overall capitalization rate within a specified range with little or no explanation as to how the final estimated overall capitalization rate was decided upon. Kleszynski estimated the subject's value based on an income approach to value of $7,100,000. Norusis estimated the subject's value under the income capitalization rate method to be $5,200,000. The Board finds Norusis failed to support and/or offer substantive testimony to refute the allegations, or explain why he and/or Chad Bosley utilized figures outside of the established range as depicted by the market data. Based on the data in this record and the credibility of the testimony herein, the Board finds Kleszynski's estimate of value for the subject using the income approach to value is better supported by the manifest weight of the evidence in this record.

Both appraisers developed the sales comparison approach to value with Kleszynski giving primary weight to this method in estimating the market value of the subject property. The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979), the court held that significant relevance should not be placed on the cost approach or income approach especially when there is market data available. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989), the court held that of the three primary methods of evaluating property for the purpose of real estate taxes, the preferred method is the sales comparison approach.

In developing the sales comparison approach Norusis used five suggested comparable sales, while Kleszynski utilized six suggested comparable sales. Norusis concluded an estimated market value of $5,200,000 or $53.34 per square foot of building area, including land. As explained in the CB Richard Ellis appraisal, page 55 (taxpayer/intervenor Exhibit "A") Norusis did not adjust each improved sale to the subject property in order to account for specific physical and locational characteristics, rather, he extracted a unit of comparison that he felt was significant, from the improved sales after analyzing each comparable property. Kleszynski concluded an estimated market value of $7,500,000 or $78.00 per square foot of building area, including land.

The Board gave less weight to the opinion of value concluded by Norusis. During cross-examination, Norusis agreed that he may have not used several sales located within the north DuPage industrial submarket. Norusis was unable to testify whether there were industrial distribution warehouses in the same neighborhood as the subject which sold around the date of valuation. He relied on the data provided by Chad Bosley. Norusis agreed that sale #1, a multi-tenant building with over seven times the building area square footage than the subject and with approximately ten times the land area of the subject, was also located approximately 22 miles south of the subject in Bolingbrook, Illinois. The marketing time for sale #1 was marked as "not available." Norusis admitted that he had not checked the PTAX-203 and 203A forms which may have indicated the marketing time. Norusis could not recall if improved sale #1 was on the market prior to its sale. Upon questioning from appellant's counsel, Norusis agreed that one criterion for market value is that a reasonable time is allowed for exposure in the open market. Norusis agreed that if sale #1 was not exposed to the open market, it might not be reflective of the subject's market value.

Norusis further agreed that sale #2, located 40 miles south of the subject, was for two buildings and not one like the subject. In addition, sale #2 was considered light manufacturing and not a distribution warehouse, like the subject. Norusis explained that the subject had space that could be utilized for light manufacturing. Norusis agreed that the PTAX-203 form indicated that sale #2 was not advertised for sale or sold using a real estate agent. Upon questioning, counsel for the appellant brought out that sale #3 may have been on the market for only three months and not the estimated market exposure time of six months as suggested was appropriate for an arm's-length-transaction in the CB Richard Ellis appraisal. Further, sale #3 was occupied with a lease tenant at the time of sale and a CoStar document submitted by taxpayer/intervernor's counsel confirmed that the tenant would remain occupying the single tenant building upon completion of the sale (marked as Appellant Exhibit "H"). Norusis acknowledged that he applied an adjustment to sale #5 for age because it was one year newer than the subject, however, he did not apply an adjustment for age to sale #2 which was even newer than sale #5 at less than one year old. Norusis did not adjust any of the sale comparables for size or location.

Norusis did, however, make an upward adjustment for economics to sale #4, even though it was located in the same submarket as the subject, approximately one-mile from the subject. Kleszynski analyzed six sales, all of which were located in Carol Stream, like the subject. Kleszynski's sale comparables sold from December 2004 to October 2006 for prices ranging from $2,230,000 to $8,847,000 or from $77.62 to $91.58 per square foot of building area, including land. Norusis' sale comparables sold from January to December 2005 for prices ranging from $5,850,000 to $38,250,000 or from $46.45 to $64.14 per square foot of living area, including land. Norusis testified that he also prepared a backup analysis based on a net income multiplier analysis. Norusis estimated the net operating income for the subject of $4.07 per square foot of building area as found in his income approach analysis. Information obtained on the five sales in the sales comparison analysis indicated they had net operating income ranging from $3.85 to $4.69 per square foot of building area. Norusis then used the price per square foot for each sale and divided it by the net operating income per square foot of each sale to develop a net income multiplier for each comparable sale. Norusis then applied the net income multiplier to the estimated net income for the subject property to arrive at an indicated price per square foot which was used as a secondary check of the direct adjustments made in the sales comparison approach. The indicated range of value was from $49.28 to $58.84 per square foot with an average of $53.11 per square foot. Norusis testified that the values based on the net operating income multiplier were consistent with the direct sales comparison approach analysis.

The Board finds Norusis adjustments were inconsistently applied based on the physical differences of the sale comparables when compared to the subject. In addition, the Board further finds Norusis utilized properties outside of the subject's immediate market area, even though sales of distribution warehouses located in close proximity to the subject existed at or close to the date of valuation. The Board finds these factors undermine the veracity and validity of the CB Richard Ellis appraisal report. Norusis applied a net income multiplier to the sale comparables, however, as pointed out by counsel, the sale comparables were dissimilar to the subject in size and location and therefore the Board placed little weight on the income multiplier analysis as utilized by Norusis. The Boards finds it problematic that the sale comparables were not adjusted for size and location, because the Board finds they were significantly dissimilar to the subject based on size and location while more similar properties existed. The Board further finds it problematic that Norusis was unable to testify as to whether his comparable sales were exposed to the open market, a critical component of an arm's-length transaction, which calls into question whether they are truly representative of the subject's fair market value.

The Board finds Kleszynski's sale comparables were most similar to the subject property based on use, size, location and most features. The Board gave most weight in its analysis to Kleszynski's sale comparables #1, #3, #4 and #5. The Board gave less weight to Kleszynski's sale comparable #2 because sale #2 occurred in 2004 and the testimony revealed the market was trending upward with record prices. In addition, the Board gave less weight in its analysis to Kleszynski's sale #6 because the testimony revealed this sale transaction may have involved a sale-lease-back provision. The four most representative sales in this record sold in either November 2005 or August 2006 for prices ranging from $77.62 to $91.58 per square foot for building area, including land. The Board finds this to be a fairly tight range of comparable properties. All were located in close proximity to the subject, were similar in size to the subject, contained many of the same features as the subject and sold nearest in time to the tax lien date of January 1, 2006. The Board finds Kleszynski made competent, logical and reasonable qualitative adjustments (see pages 43-44 of Appellant's appraisal report) to the comparables for differences when compared to subject in arriving at the final opinion of value of $7,500,000 or $78.00 per square foot of building area, including land. The Board finds this estimate to be at the low end of the established range and well supported in this record.

The Board further finds the value conclusion determined by Kleszynski to be better supported than Norusis' value conclusion based on the comparable sales and testimony elicited at hearing.

Considering the totality of the evidence in this record, the credibility of the witnesses and giving more deference to Kleszynski's final value conclusion under the sales comparison approach, the Board finds the subject property's estimated market value of $5,564,589 or $58.15 per square foot of building area, including land as reflected by its assessment is incorrect and not supported.

The Property Tax Appeal Board finds the appellant, Consolidated Community School District No. 93, submitted the best evidence regarding the subject's fair market value. Thus, the Board finds the subject property had a market value of $7,500,000 as of January 1, 2006. Since market value is established, the 2006 three-year average median level of assessments for DuPage County of 33.21% 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.

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: June 21, 2013

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

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

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

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