FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Sears #1570-Woodfield
DOCKET NO.: 06-26516.001-C-3 through 06-26516.002-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Sears #1570-Woodfield, the appellant, by attorneys Ellen Berkshire and Gregory J. Lafakis of Verros, Lafakis & Berkshire, P.C. in Chicago; the Cook County Board of Review by Cook County Assistant State's Attorney Aaron Bilton; and Palatine Township H.S.D. #211 and Schaumburg C.C.S.D. #54, the intervenors, by attorney Michael J. Hernandez of Franczek Radelet P.C. in Chicago.

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

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
06-26516.001-C-3	07-13-200-002-0000	3,809,735	1,613,962	$5,423,697
06-26516.002-C-3	07-13-200-009-0000	112,507	6,096	$118,603

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two parcels of land totaling 1,393,337 square feet and improved with a two-story masonry constructed anchor department store constructed in 1971. The subject improvement contains 307,152 square feet of building area. In addition, there is a second building consisting of an auto center. This building contains 57,471 square feet of building area of which 31,409 square feet is a first floor retail/shop area and 26,062 square feet is a second floor tire storage area.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant submitted a complete summary appraisal report with an effective date of January 1, 2004 (Appellant's Exhibit 1) and presented the testimony of the appraisal's author, Joseph M. Ryan of LaSalle Appraisal Group, Inc., Chicago. The parties stipulated to Mr. Ryan's credentials and his expertise as an appraiser. Therefore, the PTAB accepted Mr. Ryan as an expert witness in the valuation of department store properties.

The witness described the subject property and its environs. Ryan testified that the subject contains a large site with a 3.82 to 1 land to building ratio which is over the high end of the sales comparables. He opined this large area was needed due to the large size of the improvement and the need for parking. Ryan testified that the surrounding land would not be able to be redeveloped due to the operating agreement which restricted the land not underneath the improvements as parking. Ryan opined that the size of the subject was too large for industry standards.

Ryan testified the subject had an actual age of 33 years with an effective age of 25 years and a remaining economic life of 15 years. He opined the property was in good condition for an older department store. Ryan testified that the subject’s highest and best use as vacant would be for commercial use and that continuation of its use as a department store building is its highest and best use as improved.

To estimate a total market value for the subject of $12,475,000 as of January 1, 2004, Ryan employed two of the three approaches to value; the income capitalization approach and the sales comparison approach to value. Ryan testified that the cost approach was not applicable to the subject for several reasons; most importantly, that market participants do not consider the cost approach in their investment decisions.

In the income approach, Ryan testified he analyzed nine comparables located in Illinois, Indiana, and Michigan. Ryan testified all the comparables were smaller than the subject; they range in size from 79,247 to 297,000 square feet. The commencement dates on the leases range from 1997 to 2003, with lease terms ranging from five to 40 years. The rents range from $3.25 to $7.25 per square foot, triple net with two comparables have rent based on 1% or 2.5% of sales. Ryan testified after consideration of the data and adjustments for age, condition, utility and location, he estimated that rent of $4.00 net per square foot for the department store.

In addition, Ryan testified he reviewed *Dollars & Cents of Shopping Centers, 2004* to estimate a lease for the subject at 2% to 3% of gross sales. He testified he also reviewed the actual sales of the subject and stated they declined from 1999 through 2003 for stabilized gross sales in 2004 of $145.00 per square foot.

Ryan estimated the potential gross income (PGI) of $1,228,608 for the subject as of January 1, 2004. Vacancy and collection loss (V&C) of 7.0%, or $86,003, was estimated by surveying market data in the subject's market area. The deduction of the V&C resulted in an effective gross income (EGI) of $1,142,605 for the subject. The Real Estate Management survey along with discussions with property owners were some of the sources utilized to estimate expenses applicable to the subject. Excluding real estate taxes, the appraiser estimated that $0.20 per square foot of building area, or $61,430, was applicable for the subject. The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $1,081,175 for the subject through the income approach to value.

To estimate the capitalization rate, Ryan testified that he utilized direct capitalization supported by the band of investment method and *Korpacz Investor Survey* to estimate a capitalization rate of 10%. The appraiser calculated an effective tax rate of .51%, which was added to establish a total capitalization rate of 10.51%. Dividing the NOI by the appraiser's total capitalization rate resulted in an indicated value for the subject department store of $10,300,000, rounded.

The contributory value of the auto center was added to this value to arrive at a total estimate of market value for the subject property under the income approach of $12,000,000, rounded. Ryan testified he determined the contributory value of the auto center under the sales comparison approach. Ryan testified he did not utilize the income approach for the auto center because he was unable to find similar properties with rental data.

To estimate a value for the subject through the sales comparison approach, Ryan testified he analyzed eight sales and one offer for sale of similar properties located in the Midwest area. The properties are located in Illinois, Michigan and Ohio. The properties consist of department store buildings in regional malls. The comparables range in building size from 94,341 to 254,720 square feet of building area and in land size from 56,192 to 755,330 square feet. The comparables have land to building ratios ranging from 0.27:1 to 3.65:1 and range in age from five to 30 years old. The comparables sold from January 2000 to September 2003 for prices ranging from $2,750,000 to $10,215,000, or from $25.45 to $50.07 per square foot of building area, including land. Comparable number nine is being offered for sale at the price of $22.99 per square foot of building area, including land. Ryan testified the size of the subject was a factor in the analysis and all the sales were adjusted downward to account for their smaller size. Ryan testified, after adjustments, he arrived at an adjusted sale range of $30.00 to $35.00 per square foot of building area, including land and reconciled the subject department store at $35.00 per square foot of building area, including land. As to sales #3 and #4, Ryan testified these properties were purchased through bankruptcy.

Ryan testified he performed a check for reasonableness as to the estimate of value. He reviewed the sales of three other department stores which sold in 2004, two in Texas and one in Colorado. Ryan testified these properties sold from $33.52 to $34.82 per square foot of building area, including land. Ryan opined that sales of department stores, excluding either coast, range generally from $25.00 to $50.00 per square foot of building area.

After his analysis, Ryan selected $35.00 per square foot of building area, including land as a unit value for the subject, resulting in an estimated market value for the department store of $10,750,000, rounded.

As to the estimate of value for the auto center, Ryan testified he analyzed the sale of three comparable properties. He stated these properties were smaller than the subject. The comparables range in building size from 18,500 to 26,051 square feet of building area and in land size from 49,927 to 154,872 square feet. The comparables have land to building ratios ranging from 2.70:1 to 5.95:1 and range in age from 16 to 39 years old. The comparables sold from November 2002 to February 2003 for prices ranging from $525,000 to $1,350,000, or from $28.38 to $51.82 per square foot of building area, including land. Ryan made adjustments to the sales after comparing and contrasting them with the subject. After his analysis, Ryan selected $30.00 per square foot of building area, including land as a unit value for the subject, resulting in an estimated market value for the auto center of $1,725,000, rounded. A total value for the subject was then estimated as of January 1, 2004 at $12,475,000.

When reconciling the two approaches to value, Ryan testified he accorded primary weight to the sales comparison approach to value as the subject is owner occupied and has no rental history. The appraiser testified he gave some weight to the income capitalization approach to value. The appraiser's final estimate of value for the subject was $12,475,000 as of January 1, 2004.

Ryan testified that he is not aware of any significant changes in the market for properties similar to the subject between January 1, 2004 and January 1, 2006. He opined that there would be no significant difference in value for the subject property during those years.

Under cross examination by the intervenor, Ryan elaborated on the lack of the cost approach in the valuation report. He acknowledged that there were other land sites that sold within the area, but testified that they were not pad sites for anchor department stores. Ryan acknowledged he did not find an estimate of value for the land and that a land value is a component of tax assessment. He testified his value includes one economic unit comprised of the land, building and auto center.

Ryan acknowledged the subject is located in a super-regional mall and that the vacancy rates presented in the data exclude regional malls. He testified there could be a market for big box stores for vacated anchor department stores.

Under the sales comparison approach, Ryan testified he considered the sales per square foot of the comparable properties, but did not agree that the lower the sales per square foot the less comparable a property actually is.

Ryan agreed that, of his sales comparables, all but sales #5 are in locations inferior to the subject. He testified he considered comparable #5 superior in location due to its effective tax rate. Ryan testified that all of the sales comparables except for comparable listing #1 have inferior land to building ratios and that all the comparables had smaller building sizes than the subject. He acknowledged that all the comparables required a downward adjustment for their size.

Ryan acknowledged that comparable #1 was a leased fee sale. He testified that Sears leased the space at the time of the sale and renegotiated the lease.

As to comparable #2, Ryan testified this property was sold by Saks and purchased by the mall where the seller then leased the property as a Saks outlet for five years. He was unaware of the Costar Comps sheet for this property, but aware that the property was purchased by the mall prior to it being placed on the market. He testified he verified the lease was negotiated between two parties acting prudently and it was a market lease.

Ryan acknowledged comparables #3 and #4 sold through bankruptcy. He testified comparable #5 was vacant at the time of sale and later torn down. He did not agree that this comparable had a different highest and best use as the subject.

As to comparable #6, Ryan acknowledged this sale did not include any land as the property was built on a ground lease. He testified he made adjustments to the sale price for the ground lease and described this in the report. He acknowledged that comparable #6 and #7 were sold as part of a packaged sale, but opined that each property was negotiated separately and verified.

Ryan opined that the additional sales were more national where the eight comparable sales and one comparable offering where more regional in nature. He was unaware of the condition of the mall at the time of sale for the properties located in Texas. He also was unaware of any vacancy issues in the malls where the comparables where located.

Ryan then testified as to the locations and lease dates of the rental comparables utilized in the income approach. He acknowledged that rental comparable #7 and sales comparable #1 are the sale property and that rental comparable #8 is an asking rent not an actual lease.

Ryan testified he utilized a 7% vacancy rate even though the subject has been fully occupied for at least 10 years. He testified this rate was based on retail space in the northwest suburbs and in looking at the vacancy of some of the comparable properties. Ryan acknowledged he used a capitalization rate from the first quarter of 2003 as listed in *Korpacz Investor Survey*.

Under-cross examination by the board of review, Ryan acknowledged that the auto center sales comparable #1 was a sale to the tenant and that for sale #2 the buyer was a partial owner-occupant. In sale #3 the auto center was part of a car dealership; Ryan agreed that the sale included more than just the auto center. He testified none were two-story buildings nor were they part of a mall.

Ryan testified that in looking at the Midwest region he used the definition of a store from the Appalachians to the Rockies. He further described the Chicago metropolitan area and compared that to other areas were the comparables were located. He again acknowledged the bankruptcy sales of comparables #3 and #4 and reiterated his opinion that these sales were at market. Ryan testified that, although sales comparables #6 and #7 were purchased together they were each separately negotiated. He acknowledged he made no adjustments for the bankruptcy sales and no adjustments for the packaged sale of comparables #6 and #7.

On re-direct, Ryan testified that all the comparable properties utilized in both approaches had adequate parking associated with the properties.

Ryan testified that rental comparable #7 is a power center with the highest rental rate. He opined this was due to the fact that it was a recent development and the developer was trying to recapture the costs of land acquisition and construction costs.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $9,352,131 was disclosed. This assessment reflects a fair market value of $24,610,871 or $67.50 per square foot of building area land included, when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A commercial property is applied. In support of this market value, the notes included a retrospective appraisal. The appraiser, Jeffrey M. Hortsch, utilized the income and sales comparison approaches to value to estimate the value of the subject property at $25,000,000 as of January 1, 2004. As a result of its analysis, the board requested confirmation of the subject's assessments. At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions.

In support of the intervenors' position, this intervenor submitted a complete, summary appraisal of the subject prepared by Eric Dost with an effective date of January 1, 2004 and an estimated market value of $26,000,000 (Intervenors' Exhibit 1). Mr. Dost was the intervenors' only witness in this appeal. Mr. Dost testified that he is president of Dost Valuation Group since 2003. The parties stipulated to Mr. Dost's qualifications as an expert in the appraisal field. Therefore, Dost was admitted as an expert in the field of property valuation by PTAB.

Dost testified he performed an inspection of the subject on July 26, 2006. Dost described the subject the subject and it's neighborhood characteristics. He defined super-regional malls and opined that Woodfield, where the subject is located, is one of the top 10 largest malls in the country.

Dost opined that the highest and best use of the subject as vacant was commercial use and that as improved, it highest and best use would be its current use. In addition, Dost developed the two of the traditional approaches to value in estimating the subject’s market value along with estimating a land value. Dost testified he did not do a complete cost approach because potential buyers of this property would not be interested in the depreciated replacement cost of an improvement of that age.

As to the land value, Dost testified he researched the market for large land sales and analyzed four comparable sales. The properties range in size from 446,478 to 1,089,000 square feet. They sold between December 2000 and June 2006 for prices ranging from $6.01 to $16.24 per square foot of land area. Dost testified he made adjustments to the sales and arrived at an estimate of land value for the subject at $12.00 per square foot, or $16,700,000, rounded. Dost opined that the value of the land as estimated in 2004 would not be less than that amount in 2005 and 2006.

The next method developed was the sales comparison approach. Under this approach, Dost utilized five sale comparables for the department store. These buildings are described as large retail buildings which are freestanding, a mall anchor store, or located in a power center. They range in age from four to 36 years old and in size from 79,000 to 254,720 square feet of rentable area. They sold from August 2001 to June 2003 for prices ranging from $5,725,000 to $13,664,735 or from $35.33 to $104.94 per square foot of rentable area, including land.

Dost opined the most important factor was location. He testified that comparable #1 is a single-tenant retail store and comparable #2 was purchased by the mall owner and demolished for redevelopment as a lifestyle center. He opined that comparable #2 was at the end of its useful life at the time of purchase and really represents a land sale. Dost testified comparable #3 is a single-tenant building located within a larger shopping center. He stated comparable #4 is located within the same submarket area as the subject. And that comparable #5 is a single-tenant building that is part of a larger shopping center. All the comparables are located in Illinois and within the North or Northwest suburbs.

Dost testified that if comparable #2 is removed from the analysis, the range of sales prices changes to $72.47 to $104.94 per square foot of building area, including land. Dost made adjustments for various factors of comparison. He testified he considered the location of the subject to be the main factor. Dost determined a value for the subject of $70.00 per square foot of rentable area which yields an estimate of value for the department store under this approach of $21,500,000, rounded. Dost opined that the value for 2004 would not be less for 2005 and 2006.

As to the automotive center, Dost testified he analyzed four sale comparables located in Cook County. These buildings are described as large automotive buildings. They range in age from 11 to 42 years old with one property's age unknown and in size from 28,044 to 432,566 square feet of rentable area. They sold from July 2001 to December 2003 for prices ranging from $1,150,000 to $1,824,719 or from $57.50 to $152.24 per square foot of rentable area, including land.

Dost testified he made adjustments for various factors of comparison to arrive at an estimate of value for the auto center at $75.00 per square foot of rentable area, including land or $4,100,000, rounded. Combining the two estimates of value, Dost opined a total value for the subject under the sales comparison approach at $25,600,000. He opined that the estimate of value in 2004 would not be any less in 2005 and 2006.

Under the income approach, Dost testified he examined two sets of rent comparables, one for the department store and one for the auto center. For the department store, Dost testified he reviewed the rental data on four comparables. The commencement dates on the leases range from 2000 to 2003. The rents range from $3.92 to $9.90 per square foot of building area. Dost testified that comparable #4 has a minimum rent with an additional percentage rent at a low breakpoint. After adjustments, Dost estimated rent for the subject at $6.50 per square foot of building area.

Dost analyzed rental data on five auto centers located in Cook County. He testified comparable #4 is an 18,200 square foot, two-story building. The rents range from $9.50 to $12.50 per square foot of building area. Dost testified that comparable #5 is an asking rent of $12.50 per square foot of building area. Dost estimated the rent for the auto center at $9.00 per square foot of building area.

Dost stated he estimated vacancy and collection at 3%. He testified he reviewed market statistics for the northwest suburban Chicago retail market and, more importantly, the subject's actual history.

As to expenses, Dost testified he subtracted for management fee, replacement for reserves and property taxes, but also captured the taxes as potential gross income prior to applying the vacancy rate. Total operating expenses were estimated at $1,982,472 for an operating income (NOI) at $2,224,153.

In determining the appropriate capitalization rate (CAP rate), Dost testified he applied three different methods. He stated he reviewed the CAP rates of the sales comparisons which ranged from 7.7% to 8.7% and for auto centers from 6.9% to 7.5%. Dost testified he reviewed Korpacz Real Estate Survey, first quarter, 2004, but felt that the subject did not fit into a single category. In addition, Dost testified that he applied a band of investment analysis. He testified he concluded a CAP rate of 8.5%. NOI was then capitalized by this rate to reflect a market value estimate under the income approach of $26,200,000, rounded, for the subject.

In reconciling the various approaches, Dost opined a typical buyer for the subject could be either an owner or an investor and that both approaches were applicable. He testified he believed he had adequate data for both approaches and chose a value kind of in between the estimates developed in both approaches. Dost estimated a value for the subject property as of January 1, 2004 at $26,000,000. He opined the 2005 and 2006 value would not be any less than that estimated in 2004.

Under cross-examination, Dost testified he has never conducted an appraisal for an operator of an anchor department store and that he performed 10 to 12 appraisals of anchor department stores for ad valorem tax purposes.

As to the land sales, Dost acknowledged that land sale #1 was the up leg of a 1031 exchange. He opined that the subject's location on Elk Grove Road was not on an arterial road. He testified the land was developed with a freestanding discount department store. He agreed that this type of development would not be a retail use in a regional or super-regional mall. He also agreed that the zoning for this property was different than the zoning for the subject.

Dost testified that land sale #2 had different zoning than the subject and is about one-third the size of the subject. He acknowledged that the property was not on the market at the time of sale, but that the buyer approached the seller directly.

Dost also acknowledged that land sale #3 had a different zoning than the subject and a little over half the size of the subject. He also testified this property was also not on the market at the time of sale.

As to the improved sales, Dost acknowledged that comparable #1 was a leased fee sale and was a brand new store at the time of sale. Comparable #2 was adjusted for age, but Dost acknowledged that the property was only three years older than the subject. Dost testified that this sale was the only sale of an anchor store associated with a regional mall analyzed in this approach. He testified this comparables is the closest in size and age to the subject. He opined that this comparable's location in Yorktown Mall is inferior to the subject because the subject's mall is one of the 10 largest in the country. He opined that the location for the subject property for comparison would be that it is attached to the Woodfield Mall which is within Schaumburg which is within the Chicago Area. He opined that one needed to look at the macroeconomic level and the microeconomic level.

Dost acknowledged that comparable #3 was a leased fee sale, but was unaware if it was a sale leaseback. He testified this property is a freestanding building located in a larger power center.

Comparable #4 is a large discount store and, Dost testified, was built in 2000. Dost testified comparable #5 was sold back to the developer and leased by the seller for one year.

As to the auto center sales comparables, Dost testified that none of the sales were two-story buildings and none were even half the size of the subject. He acknowledged that the two largest properties at 20,000 to 25,000 square feet of building area sold for a range approximately at $57.00 to $70.00 per square foot of building area. He acknowledged the other two sales of building sizes from 10,000 to 15,000 square feet of building area had prices from approximately $140.00 to $150.00 per square foot of building area. Dost acknowledged that for these comparables when the size doubled the price halved. He also acknowledged that the largest comparable would need to double in size to get to the subject's auto center square footage.

In regards to the department store rental comparables, Dost acknowledged rental comparable #1 for the department store is a freestanding discount store about one-third the size of the subject and built in 2000. Rental comparable #2, Dost testified, is only about 30% the size of the subject, built in 2001, and not an anchor store, but a freestanding store. He testified rental comparable #3 was the closest in age to the subject and within a regional mall.

Dost testified rental comparable #4 was located in a hybrid center with components of a power center and a lifestyle center. He opined its location was an extension of Woodfield Mall. He testified that rental comparable #4 called for additional rent over and above the price per square foot based on a percentage of sales. Dost was unaware of what the sales were for this comparable.

As to the auto center rental comparables, Dost reiterated that one comparable was actually a two-story auto center. He acknowledged at all the rental information is asking rents and not actual rental data. Dost acknowledged that comparables #2 and #4 were auto dealerships or contained components of an auto dealership such as sales area, service area and auto body shop.

For vacancy and collection, Dost testified he used 3% to account for this loss. He acknowledged that the average for the northwest suburbs in 2005 and 2006 was 7% and testified that this data is for retail, but excludes regional malls. He stated he also considered the other anchor stores within Woodfield Mall when he estimated the percentage of vacancy for the subject.

As to the capitalization rate, Dost testified he did not rely on one specific piece of information to estimate this rate.

The appellant then called Mr. Gary Battuello as a rebuttal witness. Batuello testified that he the managing partner of the Ramsland & Vigen Real Estate Appraisal Coumpany in Duluth, Minnesota. He testified he has been an appriaer for 28 years and carries the MAI designation from the Appraisal Institute. Battuello indicated he maintains full time appraisal licenses in Minnesota and Wisconsin and gets temporary permits for assignments in other states. He testified he has appraised between 50 and 60 anchor departments stores with the vast majority in regional malls located in various states. Battuello testified he has performed between 60 and 75 appraisal reviews with the majority of those for ad valorem tax purposes. Battuello was admitted as an expert in appraisal review and in the valuation of department store properties without objection of the remaining parties.

Batuello testified he reviewed the intervenors' appraisal prepared by Dost and submitted a written report (Appellant's Exhibit 2) He testified he read the intervenors' appraisal, came to understand how it was put together, what information was used and compared it to the Uniform Standards of Professional Appraisal Practice.

Batuello testified that one of the most significant aspects of the subject is that it is a very large anchor store in a mall. He opined that Dost does not place enough emphasis on the size of the subject nor its relationship to current standards. Batuello stated much of Dost's data was leased fee information that would need to be market adjusted for fee simple.

As to the land sales, Batuello testified these sales were not anchor department stores and were intended for other retailing uses. He opined there was a difference between anchor store economics and configurations and, what he termed, street land value. He clarified this by opining that Dost arrived at a value for the land based upon the best big box sales he could find. But, he testified, when an anchor department store is built the same economics for the land component are not used; it doesn't have the same shape or economics as a big box on an arterial street. Batuello opined that this land value could be misleading.

Batuello testified that the land sales included some sales that were never on the open market which can suggest a lack of an arm's length sale, some sales were deferred tax exchanges, and Dost relied upon Costar Comp sheets to confirm the sales. He opined that its better practice to confirm the sales and the impact these elements had the sale price.

In regards to the rental comparables, Batuello testified all but one comparable of the department store comparables were not anchor department stores and the data compiled is not a good indicator of an anchor department store's rent in a mall setting. In addition, Batuello testified the auto center rental comparables were all asking rents. He opined that both rental rates estimated by Dost for the subject were not well supported by the market data.

Batuello opined that the vacancy rate established by Dost was well documented and supported within the appraisal. As to the capitalization rate, Batuello testified the rate arrived at by Dost was, for the most part, supported. He opined that the input information used in the income approach were not adequate to provide a reliable indication of value under this approach.

As to the sales comparison approach, Batuello testified that the vast majority of information was not for anchor department stores. Therefore, he opined, it did not meet the principle of substitution. Batuello testified that the subject is an anchor department store and that this is the submarket that Dost should have been looking at for sales to adequately compare to the subject. He opined it was almost impossible to compare another property type and adjust them and get a reasonable indication of value.

Batuello also noted that a couple of Dost's sale comparables were leased fee sales and not fee simple sales. Batuello testified that Dost did not make adjustments to these properties for the condition of the sale; Batuello opined that this type of sale was not similar enough to a fee simple sale.

Batuello opined that Dost's conclusion of value was not a reliable opinion of market value for the subject for ad valorem tax purposes. He based this on the data used and the impossibility of adjusting the sales because they are different property types.

Under cross-examination by the intervenors, Batuello acknowledged he was not an Illinois licensed appraiser at the time of the hearing. He testified that development of a land value can be a key component in determining the highest and best use.

Batuello testified that in rare circumstances a leased fee interest can reflect market; he opined that in a situation where the property type meets exactly the needs of the market and the leased fee sales are proven to sell at the same prices as fee simple, the leased fee could be market.

Batuello testified that anchor department stores outside the east and west coast are relatively homogenous and opined that if one is located in a well performing mall that is a good indicator of value for a similar performing mall in another community. He agreed that Woodfield Mall is a well performing mall.

Batuello reiterated that he agreed with Dost's conclusion regarding vacancy and opined it was well supported. Batuello also agreed that appraisers make adjustments for elements of comparison. He testified that the best comparable for an anchor department store was another anchor department store, but stated it wasn't the only one. He opined it was very difficult to determine adjustments for the different property type, different set of buyers in the market.

Under cross examination by the board of review, Batuello acknowledged he has been a review appraiser in front of the PTAB only in testifying on behalf of the property owner. He testified he has found only elements of an appraisal as reliable.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the determination of the subject's market value for ad valorem tax purposes.

When market value is the basis of the appeal, the value of the subject property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. (86 Ill.Adm.Code §1910.65(c)).

In determining the fair market value of the subject property for the 2006 tax year, the PTAB examined the parties' three appraisal reports. The PTAB accords no weight to the board of review's evidence for the report lacked the preparer's testimony to explain the methodology used therein.

That having been said, the PTAB then looks to the remaining evidence that comprises the Ryan appraisal and testimony presented by the appellant, the Dost appraisal and testimony presented by the intervenors, and the Batuello appraisal review and testimony presented by the appellant in rebuttal.

The courts have stated that where there is credible evidence of comparable sales, these sales are to be given significant weight as evidence of market value. Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207 (2nd Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5th Dist. 1989). Therefore, the PTAB will give primary weight to the sales comparison approaches within the appraisals.

In totality, the parties' experts submitted 13 suggested sales comparables for the department store and seven suggested sales comparables for the auto center. In Willow Hill Grain, Inc. v.

Property Tax Appeal Board, 187 Ill.App.3d 9, 14, the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach. Thus, the PTAB finds that the best evidence of value is the market data submitted by the parties under this approach to value.

The PTAB gives little weight to the intervenors' appraisal's land value as this does not include a valuation of the subject's improvement. The Courts have stated that it is necessary to calculate the entire assessment which includes the improvements and the land. Showplace Theatre v. Property Tax Appeal Board, 145 Ill.App.3rd 774 at 777. (2nd Dist. 1986).

The PTAB also gives little weight to the intervenor's appraisal's department store sales #1, #3, #4 and #5. Two of these properties were leased fee sales, one was sold back to the developer and leased by the seller. In addition, Dost testified that the most important factor in this analysis was location and that the subject was part of one of the 10 largest malls in the country. He further testified on cross examination that for location the subject is considered to be in Woodfield Mall within Schaumberg within the Chicago area. He opined that one needed to look to the macroeconomic level and the microeconomic level.

In addition, Batuello testified that a non-anchor department store is a different property type than the subject and making adjustments for the differences would not result in a reliable indication of value.

The PTAB finds that the testimony supports the location that the subject is located in a super-regional mall and similar comparables are those that are anchor department stores located in regional malls.

The intervenors' appraisal's department store comparable #2, by Dost's own testimony, is the only anchor department store in a regional mall and is similar to the subject in age, construction, land to building ratio and all other characteristics. This comparable sold in January 2003 for $35.33 per square foot of building area, including land. Dost testified he deemed this comparable inferior in location due to its location in Yorktown Mall as opposed to Woodfield Mall; another factor that supports using anchor stores within regional malls. The PTAB will therefore, give this sale weight.

As to the appellant's appraisal's department store sales, the PTAB gives little weight to the sale offering as this was not a completed transaction. The PTAB finds all the sales were of similar anchor department stores located in regional malls. In addition the PTAB finds that Ryan's testimony clarified the nature of the sales for comparables #3, #4, #6 and #7 to show that these sales were at market values. Therefore, the PTAB gives weight to the eight sales comparables offered in the appellant's appraisal. The comparables sold from January 2000 to September

2003 for prices ranging from $25.45 to $50.07 per square foot of building area, including land.

When incorporated into the appellant's appraisal, the intervenors' appraisal's department store sale #2 is at the low end of the unadjusted range. The PTAB finds that after adjustments for pertinent factors, the subject's department store has a value of $40.00 per square foot of building area, including land, or $12,286,080.

As to the subject's auto center, the parties' appraisals offered a total of seven suggested sales comparables. Both witnesses testified to the difficulty in finding comparables similar in size to the subject and design. Both parties offered sales that included auto dealerships; the PTAB gives weight to both parties' comparables. After combining the comparables, the new unadjusted range of sales is from $28.38 to $152.24 per square foot of building area, including land. The PTAB gives weight to Dost's testimony under cross-examination that when the size of the building is doubled, the price of his comparables is halved. Therefore, the PTAB finds, after adjustments for pertinent factors, the subject's auto center has a value of $40.00 per square foot of building area, including land, or $2,298,840.

In conclusion, the Property Tax Appeal Board finds the subject property had a market value of $14,585,000, rounded. Since the fair market value of the subject has been established, the Board finds that the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A properties shall apply and a reduction is accordingly warranted.

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

Chairman

Member

Member

Member

Member

DISSENTING:

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

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

Date: January 21, 2011

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

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

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

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