



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

APPELLANT: Von Maur, Inc.  
DOCKET NO.: 06-28825.001-C-3  
PARCEL NO.: 04-27-103-018-0000

The parties of record before the Property Tax Appeal Board are Von Maur, Inc., the appellant, by attorneys Gregory J. Lafakis and Ellen Berkshire of Verros, Lafakis, & Berkshire, P.C. in Chicago; the Cook County Board of Review by attorney Ralph Proietti of the Cook County State's Attorney's Office; and School District No. 225, intervenor, by attorneys Joel R. DeTella and Patrick D. Burns of Sraga Hauser, LLC in Flossmoor.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND:** \$ 212,926  
**IMPR:** \$4,246,297  
**TOTAL:** \$4,459,223

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of an 86,205 square foot site improved with a two-story, masonry constructed anchor department store containing 162,450 square feet of aggregate building area. The subject building was constructed in 2003 and is part of the Glen Town Center, a mixed-use retail/residential development located in Glenview, Illinois. The subject has a land to building ratio of 0.53:1.

At hearing, a preliminary matter was addressed. A Motion in Limine was presented by appellant's counsel to bar the intervenor's review appraiser from testifying. Appellant's counsel argued that pursuant to Property Tax Appeal Board rules Section 1910.66 regarding rebuttal evidence, the intervenor failed to submit its review appraisal in a timely manner and was denied. Intervenor's counsel argued that although the Board

previously ruled that the review appraisal was untimely and not allowed, the review appraiser should be allowed to testify. The hearing officer granted the appellant's Motion in Limine and the intervenor's review appraiser was not allowed to testify.

The issue in this appeal is the determination of the correct market value of the subject property for assessment purposes as of January 1, 2006.

The appellant contends the assessment of the subject property is excessive and not reflective of the property's market value. The appellant contends the subject property had a market value of \$6,900,000 as of January 1, 2004. In support of this argument the appellant submitted an appraisal of the subject property prepared by Joseph M. Ryan, president of LaSalle Appraisal Group, Inc.

Ryan was called as the appellant's witness. Ryan testified that he is a State of Illinois Certified General Real Estate Appraiser with a Member of the Appraisal Institute (MAI) designation. Ryan also testified that he has appraised over 50 anchor department stores throughout his career. After an examination of Ryan's appraisal experience, he was accepted as an expert witness by the Property Tax Appeal Board without objection from the parties.

Ryan identified the appellant's appraisal report as the appraisal of the subject property he had prepared and identified for the record as Appellant's Exhibit #1. The appraisal was described as a summary report of a complete appraisal. The witness explained that the purpose of the appraisal was to estimate the fee simple market value of the subject property as of January 1, 2004. Ryan testified that he performed an interior and exterior inspection of the subject on December 22, 2004 as well as subsequent visits to the property. Ryan testified that the highest and best use of the subject as vacant was for commercial development, and as improved for continued use as a retail department store.

Ryan described the subject as being located in the Glen Town Center, a brand-new, mixed-use development located between Willow Road and Lake Street along Patriot Drive in Glenview, Illinois. Ryan asserted that big box competitors are located on the higher traffic thoroughfare of Willow Road, whereas, the subject is located in the middle of the Glen Town Center development. The witness testified that the subject was well removed from any expressway, whereas, anchor department stores are normally located in shopping centers just off major expressways. Ryan testified that upon his inspection of the subject property he had some misgivings regarding the ultimate success of this type property in this location. Ryan testified that another misgiving was that the subject basically stood alone, in that the only other anchor was a sporting goods store, whereas, the subject property is surrounded by well-established shopping malls with better locations.

Ryan explained that the appellant entered into an agreement with the developer requiring Von Maur to operate the subject property as a department store for 20 years whereby, the subject parcel was deeded over at no cost to the appellant to develop the site. Ryan also explained that having spoken with Mr. Terrence Kilburg, Von Maur's Chief Financial Officer, the cost to construct the improvement was \$11,176,000, of which a subsidy in the amount of \$5 million was awarded by the developer and/or city for a net construction cost to Von Maur of \$6,175,000. Ryan testified that discussions with Mr. Kilburg suggested that without the subsidy awarded to the appellant, the subject would not have been built. Ryan also testified that it is fairly typical in the industry for anchor stores to be given land at no charge or given a discount to encourage the development of the site.

Ryan testified that the subject property has adjacent parking consisting of a two-story decked parking garage on two sides of the subject. In addition, the witness indicated that upper deck parking was also available. The witness testified that Von Maur does not own the decked parking garage which is attached to the subject via a second floor walkway. However, the witness opined that in appraising other properties, he found that women do not like to park in enclosed areas, but rather prefer to park in open space areas due to lighting and security.

Ryan used two of the three approaches to value; the income approach and the sales comparison approach. Ryan testified he did not use the cost approach because market participants for properties such as the subject do not give that method of valuation any weight.

The first approach to value developed by Ryan was the sales comparison approach. Under the sales comparison approach Ryan used eight sales located in Illinois, Ohio, and Michigan. The witness also used one listing comparable located in Illinois. The comparables consist of anchor department stores ranging in effective age from five to thirty years old. The comparables range in parcel size from 56,192 to 755,330 square feet with land to building ratios ranging from 0.27:1 to 3.65:1. Some of the sales are located on pad sites with some located on larger sites. The improvements range in size from 94,341 to 254,720 square feet of building area. The sales occurred between January 2000 and September 2003 for prices ranging from \$2,750,000 to \$10,215,000 or from \$22.99 to \$50.07 per square foot, including land. After making adjustments, as well as comparing and contrasting the comparable properties to the subject, Ryan concluded a unit value range of between \$40.00 and \$45.00 per square foot. Based on these sales Ryan estimated the subject property had an indicated market value of \$42.50 per square foot of building area, including land, resulting in a total estimate of value of \$6,900,000, rounded for the subject as of January 1, 2004.

As a check of this estimate, Ryan also considered three national sales located within regional or super-regional shopping centers in Colorado and Texas. The three properties sold in 2004 for

prices ranging from \$3,500,000 to \$7,000,000 or from \$33.52 to \$34.82 per square foot of building area, including land. The witness explained that although his value estimate of \$42.50 per square foot is above this range, the estimate appears reasonable in that the subject is a brand new, one-year-old property.

The next approach to value developed by Ryan was the income approach. The witness explained that the initial step under the income approach was to estimate the subject's potential gross income using market rent. To estimate the subject's market rent Ryan used eight rental properties, all anchor department stores, located in Illinois, Indiana or Michigan. They range in building size from 79,247 to 297,000 square feet with lease dates ranging from 1997 to 2003. The rental properties represent a unit rental range between \$3.25 and \$7.25 per square foot of building area, or 1% of gross sales. They were all on a net basis with the tenant paying all operating expenses. Ryan reconciled his figure for the subject at a \$5.00 per square foot annual rental rate.

Ryan verified his market data with the publication The Dollars & Cents of Shopping Centers, the 2004 edition, published by the Urban Land Institute. It revealed that department stores in super-regional malls in the Midwest had sales that ranged from \$146.00 to \$153.00 per square foot and regional malls had sales that ranged from \$126.00 to \$136.00 per square foot. The subject's sales per square foot from October 2003 to October 2004 were \$87.50 and projected to increase to \$98.50 by year end. Since the subject was a brand-new property, Ryan stabilized the subject's sales at \$145.00 per square foot. Dollars and Cents disclosed that regional shopping centers would lease at 1-3% of gross sales. Since the subject property is a high end department store, Ryan estimated a percentage rent of 3%. The subject's market rent based on retail sales per square foot of building area is (3% x \$145.00/SF) \$4.35 per square foot. Based upon this information, the witness testified he was comfortable using a figure of \$5.00 per square foot on a net basis. Thus, the subject's potential gross income was estimated to be \$812,250.

Ryan estimated the subject property would have a vacancy and collection loss of 7% or \$56,858. Deducting 7% for the vacancy and collection loss resulted in an effective gross income of \$755,392. Ryan estimated operating expenses of \$0.30 per square foot or \$48,735 should be deducted. Ryan based this figure upon a report published by the Institute of Real Estate Management (IREM). After deducting for vacancy and collection losses as well as operating expenses, the witness determined the subject's net operating income to be \$706,657.

Ryan next estimated the capitalization rate using data from the direct capitalization approach as well as the band of investment technique. Ryan consulted with the Korpacz Real Estate Investor Survey, First Quarter 2003, wherein overall rates ranged from 7.25% to 10.00% for regional malls. The witness determined that anchor department stores have greater risk because of their size and limited number of potential users, and therefore, Ryan relied

on a capitalization figure of 10%. Ryan then applied a tax load of 0.45% to this figure. Using a capitalization figure of 10.45% when applied to the subject's net operating income, the witness opined a value, via the income approach of \$6,775,000, rounded for the subject as of January 1, 2004.

In reconciling the two approaches to value Ryan placed most weight on the sales comparison approach and was of the opinion the income approach supported the conclusion derived under the sales comparison approach. Ryan was of the opinion the subject property had a market value of \$6,900,000 as of January 1, 2004. Ryan testified that he also appraised the subject property in January 2007. Ryan further testified that he was not aware of any significant physical changes in the subject property from January 1, 2004 through January 1, 2007; that there were no significant changes to the market for similar properties in the subject's market area from January 1, 2004 through January 1, 2007; and that there would be no significant difference in the market value estimate for the subject from January 1, 2004 through January 1, 2006.

Under cross-examination by the board of review, Ryan agreed that in order to make comparisons to the subject he made qualitative adjustments to the sales comparables. Ryan testified he verified the terms and conditions of each sale with either the seller or buyer to the transaction. Ryan further testified he inspected all of the comparable sales as well as the comparable rentals used in the report.

In addition, the witness testified he considered the Old Orchard Mall, the Northbrook Court Mall and the Woodfield Mall to have superior locational attributes as compared to the subject. In addition, the witness testified he considered the subject to be a destination location, whereas, Old Orchard, Northbrook Court and Woodfield Mall have a higher developed retail presence with more anchor store choices. The witness considered the Glen Town Center more of a lifestyle center rather than a regional mall.

Under cross-examination by the intervenor, Ryan testified that the agreement between the developer and the subject property required that Von Maur occupy the department store for 20 years and included a kick-in point on sales per square foot which Von Maur never reached. The witness testified that he did not perform a cost approach or a land valuation. The witness also testified that in order to induce Von Maur to locate to this site, the appellant was given the land free of charge, so to compare the subject site to other sites would be misleading.

Ryan testified that Von Maur does not have any expenses relating to the maintenance or operations of the two-sided decked parking garage adjacent to the subject. However, the witness explained that the inherent value of the decked parking is a necessity for retail stores just as there would be no increase in value because of the sidewalks and streets. The witness testified that his comparable Sale 3 and Sale 4 were acquired by Von Maur at

auction; however, having spoken to the assessor's office, the two sales were considered to be arm's length transactions. Ryan testified that Sale 1 was a leased fee transaction, whereas, the remaining sales were fee simple. Ryan also testified that Sale 1 is located 240 miles from the Chicago metropolitan area, Sale 3 about 280 miles away and Sale 7 about 350 miles from Chicago.

On redirect, Ryan testified that in his opinion, without the subsidy to construct the subject building as well as the donation of the land by the developer, Von Maur would not have been built. Ryan opined that the subsidies awarded Von Maur failed to add any value to the subject. The witness testified that the \$5 million subsidy awarded Von Maur included a 20-year period in which the appellant was to pay back the \$5 million if a breakpoint of \$200 per square foot was reached. However, Ryan testified that the Chief Financial Officer of Von Maur indicated that 2007 sales reached a high of \$135.00 per square foot, but then dropped in 2008 to \$130.00 a square foot. Ryan testified that in his opinion, he did not foresee Von Maur reaching the \$200.00 per square foot breakpoint in the 20 year life of the agreement.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final total assessment of the subject of \$4,459,223 was disclosed. The subject's assessment reflects a market value of approximately \$11,734,797 or \$72.24 per square foot of building area including land, using the Cook County Real Property Classification Ordinance of 38% for 5A commercial property, such as the subject. The board of review also submitted what is termed "A Retrospective Appraisal of a Single Tenant Department Store Building Located at 1960 Tower Drive, Glenview, Illinois". The appraisal report was identified for the record as Board of Review Exhibit #1. The report was dated November 23, 2005 with an effective date of valuation of January 1, 2004. The author of the report is Jeffrey M. Hortsch, an Illinois State Certified General Real Estate Appraiser. Mr. Hortsch's report included two of the three approaches to value, the sales comparison approach and the income approach. The sales comparison approach was estimated at \$12,185,000 and the income approach was estimated at \$12,415,000. The appraiser reconciled his final opinion of value at \$12,200,000. The appraiser was not tendered to the Property Tax Appeal Board as a witness. The board of review did not provide any other party as a witness to support its findings.

One taxing district intervened in this matter. The intervenor submitted a summary appraisal report with a valuation date of January 1, 2005 and an estimate of value of \$12,100,000 for the subject. The appraisal was undertaken by Susan A. Enright who holds the designations of State Certified General Real Estate Appraiser as well as MAI. Enright testified that she had appraised approximately 15 to 20 anchor department stores. Enright was offered as an expert in the field of real estate valuation and without objection from the remaining parties was accepted as such by the Board. Enright's appraisal, which had

been timely filed in the tax year at issue, was marked and identified for the record as Intervenor's Exhibit #1.

The Enright appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of \$12,700,000, rounded; the income approach reflected a value of \$12,100,000, rounded; and the sales comparison approach indicated a value of \$12,200,000, rounded. In reconciling these approaches to value, she placed the greatest weight on the cost approach as well as the income approach to reflect a final value estimate of \$12,100,000 for the subject.

Enright testified that she had personally inspected the subject on March 17, 2007 which consisted of walking throughout the public areas of the property. The witness stated that the subject improvement was built in October 2003. The witness testified that the subject was appraised as a fee simple estate. Enright testified that the highest and best use of the site as vacant was for commercial development, and as improved for continued use as an anchor tenant department store. The witness testified that she was familiar with the subject's general area and described the subject's location.

The witness described the Glen Town Center as having a multiplex movie theatre, numerous small shops including a large number of national stores as well as several restaurants. The witness considered the Glen Town Center development a lifestyle center and opined that the trend in the market is toward lifestyle centers as compared to conventional type shopping malls.

The witness testified that Von Maur does not own the two-story decked parking garage which is attached to the subject via a second floor walkway. The witness asserted that the two-story decked parking garage is not for the exclusive use of Von Maur but rather for all the tenants; however, it is conveniently located next door to Von Maur. Enright explained that due to the ample amount of parking available, parking options at Von Maur included both enclosed parking as well as open-air parking.

The scope of the Enright appraisal indicated that it involved the physical inspection of the property (exterior and limited interior inspection) and the surrounding area, review of demographic and economic information concerning the neighborhood, and collection and analysis of comparable data in conjunction with the appropriate valuation methodology to develop a final value conclusion. The appraisal indicated that Enright relied to a certain extent on the physical building description and other financial details as contained in the appellant's appraisal.

Enright explained that the appellant entered into an agreement with the developer requiring Von Maur to operate the subject property as a department store for 20 years whereby, the subject site was deeded over to the appellant at no cost to develop. Enright further explained that Von Maur's cost to construct the

improvement was \$11,176,000 of which a subsidy in the amount of \$5 million was awarded by the Village for a net construction cost to Von Maur of \$6,175,000. Enright's appraisal disclosed that Von Maur was required to repay the Village subsidies of \$5 million through \$150,000 annual increments, based on a specified sales formula providing the Village with 1% on Von Maur's annual gross sales in excess of \$30 million. Enright testified that it is fairly typical in the industry for anchor stores to be given land at no charge or given a discount to encourage the development of the site.

Enright testified that the cost approach to value is most meaningful for a newer property, like the subject, because the actual construction costs are available. In recognizing that the subject was barely one year old, the witness considered it extremely important and a possible violation of Uniform Standards of Professional Appraisal Practice (USPAP), if the cost approach was not developed.

In the cost approach, Enright utilized six land sales, five of which are located in Glenview, Illinois, to estimate the subject's land value at \$30.00 per square foot applicable to the subject's 86,205 square feet for a land value of \$2,600,000, rounded. The \$30.00 per square foot value was applied to the fee pad area only. The land comparables sold from February 2002 to July 2005 for prices that ranged from \$12.22 to \$87.25 per square foot. The properties contained land sizes that ranged from 26,362 to 290,545 square feet. The appraisal noted that land sales #2 and #6 are located within other commercial components of the Glen Town Center development but have frontage on arterial streets and that sales #1 and #3 are located in Glenview, Illinois with arterial road frontage. These sales were accorded most weight in Enright's analysis. After making adjustments for time, size, location, utility and other factors, Enright concluded a value estimate for the subject's land of \$2,600,000, rounded.

Using the Marshall & Swift Cost Manual, Enright described the subject as an average, Class A-B mall anchor department store building having a total replacement cost new of \$71.55 per square foot or \$11,623,298. The actual reported cost new for the subject was \$11,176,000 or \$68.80 per square foot. The witness estimated indirect costs of marketing, financing and property taxes at 5% as well as entrepreneurial profit at 5% of the cost new. The witness testified that entrepreneurial profit was applied because sometimes department stores are leased, even though the subject was owner-occupied. Therefore, the witness estimated a total cost new of \$12,785,628 for the subject.

The appraisal indicated that since the subject is developed to its highest and best use, the economic age-life method was used to estimate depreciation. Enright opined that the subject's building appears to have been well maintained with no significant items of deferred maintenance; therefore, the effective age of the improvement was estimated at five years. Based upon this effective age, Enright estimated physical deterioration at 11%

with an estimated total economic life of 45 years. No deduction for functional obsolescence was noted, while external obsolescence was estimated at 10%. Deducting total depreciation estimated at 21% resulted in a depreciated value of the improvements at \$10,100,646. Adding back the land value estimate to the depreciated value of the improvements resulted in a final value in Enright's appraisal under the cost approach of \$12,700,000, rounded.

Under the income approach, Enright used nine rental comparables that ranged in size from 51,215 to 163,370 square feet of net rentable area and in rentals from \$7.00 to \$9.00 per square foot, on a triple net basis. After making adjustments to the comparables and noting that the subject is larger relative to all of the market rentals, she estimated a value of \$6.00 per square foot, net, for the subject.

Moreover, Enright's appraisal and testimony indicated that department store rents are typically structured based on anticipated sales volume with typical rents ranging from 2% to 6% of estimated retail sales. The witness also consulted the publication The Dollars and Cents of Shopping Centers published by the Urban Land Institute (ULI) with reference to the U.S. Regional Shopping Center category. The witness noted that the 2006 edition indicated total rent per square foot of \$7.00 and total rent per square foot of \$11.14 for the top 2% of full-line department stores with percentage rent ranging from 1.5 to 3%. The publication also noted that on a national basis, the average department store had store sales in the range of \$156.00 per square foot, the top 10% of department store sales within regional malls had average sales of \$213.00 per square foot and the top 2% had store sales of \$282.00 per square foot. Enright estimated a market rent for the subject to be 3% of gross sales of \$200.00 per square foot or \$6.00 per square foot for a potential gross income of \$974,700. Less a vacancy and collection loss of 3% indicated an effective gross income of \$945,459. Deducting stabilized expenses indicated a net operating income of \$907,056. Capitalizing the income by 7.50% reflected a value estimate under the income approach of \$12,100,000, rounded.

Enright's appraisal disclosed that the subject's reported sales in the first operating year (calendar year 2004) were projected at \$98.50 per square foot. The witness accorded little weight to this initial year performance in that Von Maur and the Glen Town Center were new to the market and located within a new development that was still under construction. Enright estimated a market rent for the subject to be 3% of gross sales of \$200.00 per square foot or \$6.00 per square foot to be reasonable. Enright testified that the sales breakpoint of \$30 million had not been met by year-end 2005.

As to her vacancy rate development, Enright testified that she considered the CB Richard Ellis studies that reflect overall vacancy rates at 7-10%; however, the witness indicated that those studies generally focus on different submarkets. The witness

testified that these studies do not really capture department stores because those stores do not really turn over; therefore, she believed the appropriate vacancy rate was 3% for the subject.

As to her development of the capitalization rate, Enright testified that she reviewed the Korpacz National Investor Survey, 1<sup>st</sup> Quarter, 2005 as well as the Real Estate Research Corporation Survey as to national regional mall properties. The witness stated that these publications reflect a capitalization range of from 5.5% to 9.5%, while the market derived overall rates from three of her improved sales indicated a capitalization range of 7% to 8.2%. Therefore, she concluded an overall rate of 7.5% to be reasonable.

Under the sales comparison approach, Enright utilized six properties sited in Illinois. The properties sold from August 1998 through April 2004 for prices that ranged from \$5,725,000 to \$14,905,675 or from \$72.47 to \$120.07 per square foot of gross building area before adjustments. The improvements ranged in size from 79,000 to 163,000 square feet of net rentable area and in age from 5 to 15 years old. In addition, Enright's appraisal provided the following descriptive data: sale #1 consisted of a two-unit, junior anchor retail center which was fully leased; sale #2 consisted of a one-story, masonry, single-tenant retail store; sale #3 consisted of a one-story, in-line, masonry, single-tenant retail store that was sold vacant; sale #4 consisted of a one-story, free-standing, masonry, single-tenant retail department store which was fully leased; sale #5 consisted of a one-story, masonry, big box retail warehouse building; and sale #6 consisted of a two-story, masonry, anchor tenant attached to a mall with said property as part of a bulk sale of six properties all of which were leased at the time of sale.

Enright's appraisal indicated that fee simple sales of freestanding anchor department stores are limited, while sales that do occur are typically either sold through bankruptcy (sale #5), or of a leased fee asset (sales #1, #2, #4 and #6) or a bulk sale (sale #6). In addition, Enright testified that her sale #1 was a leased-fee sale of a two-unit, junior anchor tenant, while stating that only two of her six suggested sale properties were anchor department stores.

Regarding her adjustments, the appraisal further noted that while sales #1, #2, #4 and #6 involved the sale of leased fee interests in real estate, she opined that the value of the leased fee interest approximated the value of the fee simple interest; therefore, no adjustments were made for this factor. Moreover, Enright stated that while size, sale date, location, age and other factors certainly had a role in the sale price of each comparable, she opined that the driving factor of each sale was the income potential of the property and the credit worthiness of each tenant.

After making narrative adjustments, Enright considered a unit value of \$75.00 per square foot of gross building area to be

appropriate for the subject estimating a market value for the subject of \$12,200,000, rounded. Furthermore, her appraisal stated that the market value conclusion recognized the non-monetary value of the parking decks and lots that service the subject property and the other tenants and/or occupants at the mall.

In reconciling the three approaches to value, Enright placed significant weight on the cost approach due to the fact that the subject property was newly constructed and the subject's actual construction costs were available. The witness placed primary weight on the income approach in that retail properties such as the subject are typically purchased based on the income potential of the property. The sales comparison approach was accorded less weight in that fee simple sales of freestanding anchor department stores are limited. The witness explained that department store sales that do occur are typically either out of bankruptcy of a given retail chain or of a leased-fee asset whether via a sale/leaseback or exercise of a purchase option within a lease. Therefore, the witness estimated a final market value for the subject at \$12,100,000, rounded, which she indicated would be applicable to tax years 2005 and 2006.

As to Enright's land sales, the witness testified that: sale #1 consisted of a strip center that was to be demolished and developed into a multi-tenant, multi-unit commercial building; sale #2 was intended to be improved with a restaurant, sale #3 was a gas station that was subsequently improved with a bank, sale #4 was purchased for construction of an auto dealership, sale #5 was an improved parcel that involved a complicated transfer; and sale #6 was a purchase for the construction of a Harley Davidson operation. The witness testified that her replacement cost new reflected a 2% increase over the actual reported cost new for the subject improvement.

As to Enright's rental comparables, she testified that: rentals #1 and #2 are less than one-half the size of the subject; rental #3 was not located in a regional mall; rental #4 is a free standing store in a power center and rental #5 was about one-half the size of the subject. Regarding the vacancy and collection loss rate of 3% used by Enright, the witness testified that based on conversations with people in the industry, anchor department stores typically have 20 year leases and are generally good credit tenants. Therefore, she considered a vacancy/loss rate of between 7 and 10% as reported by CB Richard Ellis, not applicable because this rate is intended for small stores that turn over every five years. The witness also testified that although she reported a capitalization rate of between 5.5% to 9.5%, she considered a capitalization rate of 7.5% appropriate because the subject was a brand new lifestyle center in a very affluent demographic area.

As to Enright's improved sale properties, she testified at length to the following: sale #1 consisted of a leased fee sale of a two-unit junior anchor retail center built in 1974 with each

store one-half the size of the subject building; sale #2 consisted of a leased fee sale of a two-anchor stand alone building about one-half the size of the subject; sale #3 related to essentially the trading of retail space within the same retail center which was about one-half the size of the subject building; sale #4 was a leased fee interest sale of a free-standing department store which was one-half the size of the subject's building; sale #5 was a big box retail warehouse which was purchased at auction; and sale #6 was part of a bulk sale with the purchase price for each property established.

In concluding arguments, the appellant requested that the Property Tax Appeal Board take judicial notice of a Property Tax Appeal Board decision related to an anchor department store sited within the Woodfield Mall: #04-25467-C-3. Courtesy copies of this decision were submitted into the record by the appellant and distributed to the remaining parties.

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

First, the Board finds the parties were in general agreement with respect to the physical description of the subject property. The Board also finds the parties were in general agreement that the subject property was part of the Glen Town Center, a mixed-use retail/residential development located in Glenview, Illinois. The Board further finds the appellant and the intervenor agreed and considered the Glen Town Center comparable to a lifestyle center rather than a regional mall. In addition, both witnesses agreed that there are limited sales of anchor department stores in the market place.

Having considered the evidence presented, the Property Tax Appeal Board finds that the best evidence of valuation in the record was the parties improved sales as well as the intervenor's development of a cost approach which demonstrates that a reduction in the assessment is not warranted for the 2006 tax year at issue. The Board accords little weight to the board of review's Hortsch evidence submission, due to the failure of the board of review to present the preparer for testimony and cross-examination concerning his qualifications, the methodology regarding data used therein as well as his conclusions.

In looking to the three traditional approaches to value, Enright placed significant weight on the cost approach due to the fact that the subject was new construction and the subject's actual construction costs were available. The appellant's expert witness, Ryan, also testified to this data. Enright accorded the sales comparison approach less weight in that fee simple sales of freestanding anchor department stores are limited. Nevertheless, the appellant's appraiser, Ryan, located and employed eight improved sales within the Midwest of similar anchor department stores in his sales comparison approach.

Enright's exhaustive testimony was credible and convincing regarding various market data and sources used in the three approaches to value and verification of sales data as well as the adjustments made to her comparables. The Property Tax Appeal Board finds Enright's findings of values and conclusions were articulated in a clear and convincing manner.

Overall, the Property Tax Appeal Board accorded diminished weight to the appellant's appraisal due to: the witness's evasive testimony at hearing; failure to provide a land value estimate considering the subject's current zoning and permitted uses; failure to consider the cost approach to value most especially due to the subject's new construction; failure to disclose the varying property rights related to his improved sale comparables and contradictions in his testimony, which was evasive at times, diminishing his credibility.

The Board finds both witnesses agreed that the cost to construct the subject improvement was \$11,176,000. Although the Village awarded Von Maur a subsidy in the amount of \$5 million, the Board finds the subject's actual construction costs of \$11,176,000 to be a good indicator of value. In addition, both witnesses agreed that it is fairly typical in the industry for anchor stores to be given land at no charge or given a discount to encourage development.

The Board further finds Ryan used two of the three approaches to value; the income approach and the sales comparison approach. Ryan testified he did not use the cost approach because market participants for properties such as the subject do not give that method of valuation any weight. The Board finds this argument unpersuasive. The Board finds that Ryan's appraisal fails to provide a land value estimate for the subject which impacts his ability to estimate a Highest & Best Use for the site as vacant. In addition, the Board finds any prudent and well informed buyer would surely consider the cost new of a recently built property. Therefore, the Board finds the absence of the cost approach to value diminishes the credibility of Ryan's appraisal report.

In contrast, Enright testified that the cost approach to value is most meaningful for a newer property, like the subject, in that the actual construction costs are available. In recognizing that the subject was barely one year old, the witness considered it extremely important. The actual reported cost new for the subject was \$11,176,000 or \$68.80 per square foot. Enright testified that her replacement cost new reflected a 2% increase over the actual reported cost new for the subject which the Board finds reasonable. The Board further finds the subject's actual construction costs are indicative of the subject's market value, which is supported by the land sale data in Enright's appraisal.

In the cost approach, Enright utilized six land sales, five of which are located in Glenview, Illinois, to estimate the subject's land value at \$30.00 per square foot for a land value estimate of \$2,600,000, rounded. The land comparables sold from

February 2002 to July 2005 for prices ranging from \$12.22 to \$87.25 per square foot. The land sizes ranged from 26,362 to 290,545 square feet. The appraisal noted that land sale #2 and #6 are located within other commercial components of the Glen Town Center development but have frontage on arterial streets and that sales #1 and #3 are located in Glenview, Illinois with arterial road frontage. These four sales were accorded most weight in Enright's analysis. After making adjustments for time, size, location, utility and other factors, Enright concluded a value estimate for the subject's land of \$2,600,000, rounded. The Board finds Enright's land value estimate reasonable.

The courts have stated that where there is credible evidence of comparables 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 (2<sup>nd</sup> Dist. 1979), the Court further held that significant relevance should not be placed on the cost approach or the income approach especially when there is market data available. Id. Moreover, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5<sup>th</sup> Dist. 1989), 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.

Therefore, the Board will also place significant weight on the sale comparables submitted by both the appellant and the intervenor consisting of fourteen sales located within Illinois, Ohio and Michigan. The appellant's three sales located outside the Midwest as well as its listing comparable are accorded less weight and will not be considered. The remaining fourteen sales consist of retail and/or anchor department stores ranging in age from five to thirty years old. The comparables range in parcel size from 56,192 to 755,330 square feet with land to building ratios ranging from 0.27:1 to 7.94:1. Some of the sales are located on pad sites with some located on larger sites. The improvements range in size from 79,000 to 254,720 square feet of building area.

The sales occurred between August 1998 and April 2004 for prices ranging from \$2,750,000 to \$14,905,675 or from \$25.45 to \$120.07 per square foot, including land. In comparison, the subject's assessment reflects a market value of \$11,734,797 or \$72.24 per square foot of living area, including land and falls within the range established by these properties. After considering adjustments to these comparables for variances in property rights, age, location, improvement size, land size as well as date of sale, the Board finds that these sale comparables support the subject's current market value. Therefore, the Board finds no reduction is warranted to the subject's assessment.

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.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

Acting 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 20, 2012

*Allen Castrovillari*

Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

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

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

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

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

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