



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

APPELLANT: Armstrong World Industries
DOCKET NO.: 07-01110.001-I-3
PARCEL NO.: 17-09-28-302-018

The parties of record before the Property Tax Appeal Board are Armstrong World Industries, the appellant, by attorney Gregory J. Lafakis of Verros, Lafakis & Berkshire, P.C., in Chicago, and the Kankakee County Board of Review.

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

LAND: \$395,627
IMPR.: \$924,847
TOTAL: \$1,320,474

Subject only to the State multiplier as applicable.

ANALYSIS

The property at issue consists of an industrial complex of 34.46-acres located in Kankakee, Bourbonnais Township, Kankakee County and commonly known as Armstrong World Industries. The complex is actually composed of three parcels of which only parcel number (PIN) 17-09-28-302-018, consisting of 23.74-acres, was on appeal in this proceeding; despite the actual location of the improvements, this parcel has been assessed as if it contains all of the improvements. The other two parcels comprising the complex are identified by PINs 17-09-28-302-008 (2-acres) and 17-09-28-302-024 (8.72-acres).¹

¹ Based on data in the record, these parcels had 2007 land assessments of \$22 and \$164, respectively. (See Brorsen updated report as of January 1, 2007, p. 2)

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

The appellant timely filed the appeal from a decision of the Kankakee County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2007 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

The parties presented no objection to a decision in this matter being rendered on the evidence submitted in the record and prior testimony in light of the decision rendered in Docket No. 06-01787.001-I-3. (Letter of appellant's counsel dated June 26, 2013; electronic mail communication from Assistant State's Attorney Teresa Kubalanza issued May 23, 2013). Therefore, the decision of the Property Tax Appeal Board contained herein for the 2007 assessment appeal shall be based upon the evidence contained in and made a part of this 2007 record along with the adoption of testimony as applicable from Docket No. 06-01787.001-I-3. Furthermore, it should be noted that the Board's decision in Docket No. 06-01787.001-I-3 was affirmed on appeal by the Illinois Appellate Court in Kankakee County Board of Review v. Property Tax Appeal Board, 2012 IL App (3d) 110045 (2012).

The documentary evidence filed in this 2007 proceeding by the appellant consists of an appraisal report prepared by J. Edward Salisbury with an opinion of market value of \$3,150,000 as of January 1, 2006. This is the same evidence which the appellant filed in the 2006 assessment appeal.

Based on this evidence, the appellant requested a reduction in the subject's assessment reflective of the appraised value at the statutory level of assessment of 33.33%.

The board of review filed its "Board of Review - Notes on Appeal" wherein the subject's total assessment of \$2,884,281 was disclosed. The subject's assessment reflects a market value of \$8,648,519 using the 2007 three-year median level of assessments for Kankakee County of 33.35%.

The board of review's documentary evidence consists of an appraisal of the subject property prepared by Andrew Brorsen with an opinion of market value of \$8,600,000 as of January 1, 2006, an update of that appraisal report with an unchanged final value opinion as of January 1, 2007, and an appraisal review of the Salisbury appraisal report prepared by Doug Anderson. Besides the "Board of Review - Notes on Appeal," the only new evidence submitted by the board of review in this 2007 assessment appeal is the Brorsen update report.

All findings as previously set forth by the Board in Docket No. 06-01787.001-I-3 are adopted and incorporated herein as if fully set forth. The Board will now discuss the Brorsen update report.

The 46-page report plus addenda section presented a cost approach to value with a conclusion of \$10,400,000 on page 31 of this report. As part of the cost approach, Brorsen estimated the subject's land value to be \$35,000 per acre which is the same land value estimate that was presented in his 2006 appraisal report. In summary, for the estimated replacement cost new Brorsen set forth a figure of \$23,787,553 for the building(s) plus an additional \$1,204,966 for site improvements (see page 31). Next, the appraiser displayed varying depreciation figures for the various components of both the building improvements and the site improvements resulting in a total of approximately 63% for depreciation or \$15,815,335 which then resulted in a depreciated cost new of \$9,177,200. To this figure, Brorsen added the land value of \$1,206,000 to arrive at an indicated value under the cost approach of the subject of \$10,400,000, rounded.

On page 32 of this report, Brorsen determined that as an owner/user property, too many assumptions would be necessary to utilize the income approach to value for the subject property as the rental data did not have the size and complexity of the subject property. (See also p. 42)

Commencing on page 33, Brorsen performed a sales comparison approach to value. In describing the appraisal process, Brorsen reported that his search parameters did not reveal any additional sales in the local Kankakee County market since the January 1, 2006 appraisal was developed. "An area wide search resulted in the selection of six (6) sales that met the criteria stated above."

Next, as depicted in a chart on page 34 of the report, Brorsen identified nine (9) properties suggested as similar to the subject. The sales occurred between January 2006 and November 2007 with buildings that range in size from 213,640 to 612,000 square feet and were constructed from 1940 to 1987. As summarized on page 34, the improvements had land-to-building ratios ranging from 1.02:1 to 8.64:1 with office space ranging from 1% to 13% and wall heights ranging from 12' to 36'. These comparables had gross land areas ranging from 5 to 51.4-acres. The properties were located in Chicago, Chicago Heights, Blue Island, Matteson, North Aurora, St. Charles and Joliet. Seven comparables were described as manufacturing with warehouse and two were described as warehouse with some light manufacturing. These comparables had weighted ages ranging from 19 to 51 years old. The sales prices ranged from \$3,600,000 to \$15,000,000 or from \$16.85 to \$46.35 per square foot of building area, including land. Brorsen's report summarized the subject as a manufacturing with warehouse facility of 356,276 square feet of building area and a gross land area of 34.46-acres. The subject had a land-to-building ratio of 4.21:1 with 4% office space and was built between 1947 and 2004 resulting in a weighted age of 40 years old and presented ceiling heights of 14' to 68'.

As part of the addenda, Brorsen had individual sheets with photographs of the nine comparable sales which he analyzed. Each of the nine comparables was reported to be leased from 10% to 100% with five of the properties being 100% leased facilities.

On page 35 of the report, Brorsen outlined his consideration of adjustments to the comparables for differences from the subject. The appraiser applied either downward or upward adjustments to all comparables for location except as to sale #2 located in Joliet. Additional adjustments were made for land contribution, improvements, general overall utility, design utility and office finish utility. These various adjustments are summarized in grids on pages 38 and 39 of the report. As summarized, Brorsen determined that overall downward adjustments were warranted for

most of the comparables and three comparables, #5, #7 and #8, warranted overall upward adjustments. As written on page 40 of this report:

The adjustment process resulted in a negative overall adjustment to the unit price of three of the comparable data presented, with positive overall adjustment on the other three comparable data presented. The least adjusted were given the most emphasis.

As depicted in the report, Brorsen opined a unit value of \$24.00 per square foot of building area "as the most apparent unit price" which resulted in a value indication for the subject of \$8,600,000, rounded. (Report, p. 40)

In reconciling the two approaches to value utilized in this report, Brorsen opined a market value of \$8,600,000 for the subject giving primary emphasis to the sales comparison approach.

Based on the foregoing, the board of review requested confirmation of the subject's assessment.

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

The Property Tax Code (hereinafter "the Code") authorizes the Property Tax Appeal Board to determine the correct assessment of "property which is the subject of an appeal." (35 ILCS 200/16-180) There is no dispute on the record that there is only one parcel under appeal in this matter. Moreover, there is no dispute on this record that portions of the improvements are located on the other two parcels which comprise the subject complex, however, the assessing officials placed all of the improvement assessment on the parcel currently on appeal. The evidence further reveals that the assessments on the other two parcels are *de minimus*. (See Footnote 1)

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

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

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

The evidence reveals that the Kankakee County Board of Review accepted the assessor's practice with regard to the subject property by placing the value of the industrial complex on primarily one parcel number (which is the subject of this appeal), rather than to assess the property in accordance with Sections 9-155, 9-160 and 9-180 as may be appropriate from time to time to reflect the value of each parcel and its respective improvements.² Despite the provisions of the Code, the Property Tax Appeal Board using its equitable jurisdiction will recognize this practice of the Kankakee County Board of Review and its assessing officials in assessing primarily the subject parcel with the value of the industrial complex despite the fact that

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

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

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

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

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

b. The appraisal evidence

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2nd Dist. 2000). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). Having considered the evidence presented, the Property Tax Appeal Board finds that the evidence indicates a reduction is warranted.

The appellant submitted an appraisal estimating the subject property had a market value of \$3,150,000, as of January 1, 2006. The Kankakee County Board of Review submitted two separate appraisals estimating the subject property had a market value of \$8,600,000 as of both January 1, 2006 and January 1, 2007. The parcel under appeal has an assessment of \$2,884,281 reflecting a market value of \$8,648,519 using the 2007 three-year median level of assessments for Kankakee County of 33.35%. Thus, the Board finds that the evidence provided by both parties demonstrates the subject's assessment is excessive.

One of the differences in the appraisals was with respect to the building area associated with the subject property. Moreover, although the size discrepancy was raised by the Hearing Officer at the hearing of this property concerning the 2006 assessment appeal, the parties did not stipulate regarding the total building size. Therefore, the Board will make a determination based on the best evidence in the record regarding the building size.

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

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

None of the sales analyzed by Salisbury involved ongoing leases at the time of sale whereas each of nine sales considered by Brorsen in his most recent appraisal report involved ongoing leases at the time of sale, five of which involved leases of 100% of the facility. It was unknown in the most recent Brorsen appraisal report if these were single user or multi-tenant buildings. The first appraisal involved four multi-tenant buildings, dissimilar to the subject's single user

configuration. The Board also finds using multi-tenant buildings in the original appraisal report runs counter to Brorsen's highest and best use determination of the subject as improved. The Board finds that the appraiser should have made an adjustment for sales which were leased. Additionally, Brorsen provided no specifics as to the lease terms, length of the lease, or any other details by which the Board could analyze these sales which involved ongoing leases.³ The Board also does not find credible Brorsen's opinion, as provided in his testimony in the 2006 appeal, that being leased does not have an impact on the sale. The Board finds Brorsen's opinion particularly suspect when, in this prior testimony, he next acknowledged that the property was purchased "as an investment." The subject is an owner occupied and built property for a specific purpose. The Board finds the sales considered by Salisbury, fee simple sales, to be more indicative of market value than sales of fully leased properties which were considered by Brorsen.

Furthermore, the one non-leased sale property, Sale #6, in Brorsen's appraisal as of January 1, 2006 was a dated sale from 2000 which Brorsen acknowledged would be inappropriate to rely upon. Examining the nine sales considered by Brorsen in his appraisal as of January 1, 2007, the Board finds that sales #2 and #5 from Joliet and Matteson were the best sales in terms of similar market, despite the need for downward adjustments due to the existing leases of 20% and 10%, respectively. These two properties sold for \$20.76 and \$23.20 per square foot of building area, including land.

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

Therefore, after reviewing the appraisals and considering the previous testimony provided by both appraisers, the Board finds

³ In the most recent appraisal report, Brorsen for comparables #1 #2, #5 and #6 revealed lease amounts ranging from \$1.25 to \$4.50 per square foot. (See addendum pages)

the subject property to have an estimated fair market value as of January 1, 2007 of \$10.00 per square foot of building area, including land, or \$3,960,000, rounded. Having concluded the subject parcel's assessment as established by the board of review is incorrect and since fair market value has been determined, the 2007 three-year median level of assessments for Kankakee County of 33.35% shall apply less the *de minimus* assessments of the two additional parcels that comprise the subject property.

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

Tracy A. Huff

Member

Mario Morris

Member

J. R.

Member

DISSENTING:

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

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

Date: August 22, 2014

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.