FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Target Corporation
DOCKET NO.: 07-24399.001-C-3 through 07-24399.002-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Target Corporation, the appellant(s), by attorney Huan Cassioppi Tran, of Flanagan/Bilton LLC in Chicago; the Cook County Board of Review by Cook County Assistant State's Attorney John Coyne; and the intervenors, the Eisenhower Library District, Norridge Park District, Norridge S.D. #80, Norwood Park Fire Department, and Ridgewood H.S.D. #234 by attorney Scott L. Ginsburg of Robbins Schwartz Nicholas Lifton Taylor 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
07-24399.001-C-3	12-13-416-011-0000	229,498	4,224,326	$4,453,824
07-24399.002-C-3	12-13-416-014-0000	138,944	1,056,082	$1,195,026

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two parcels of land totaling 155,134 square feet with a 12-year old, two-story, single-tenant retail, commercial building of concrete construction and parking garage attached to the adjacent shopping mall. The retail store contains approximately 174,877 square feet of building area while the parking structure contains 148,966 square feet.

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. The appraisal has a valuation date of January 1, 2007. The appellant presented the testimony of the appraisal's author, Joseph Thouvenell of Madison Appraisal, LLC. Mr. Thouvenell testified he is the chief appraiser for Madison

Appraisal and owns his own appraisal company. He testified he has been appraising property for 42 years, is an Illinois certified general real estate appraiser, and holds the MAI designation from the Appraisal Institute as well as CRE and FRICS designations. He testified he has appraised hundreds of retail and commercial properties. He stated he has been qualified as an expert previously in several courts and administrative agencies, including the Illinois Property Tax Appeal Board. Without objection, the PTAB accepted Mr. Thouvenell as an expert witness in property valuation.

Thouvenell testified he did not inspect the subject property, but that two staff appraisers inspected the interior and exterior of the subject. This inspection was done on November 26, 2007. Thouvenell testified he valued the subject as of January 1, 2007.

The witness briefly described the subject property and its environs and more thoroughly described the parking garage after questions by the Property Tax Appeal Board. Thouvenell testified the subject's zoning requires one parking place for every 300 square feet of building area over the first one thousand square feet. He opined this would require 579 parking spaces. Thouvenell testified that the configuration of the property and its parking structure affect the subject's value. He opined that parking at the subject's mall is horrendous because the site is not very large. He testified that Target has rooftop parking and there is access to the parking for the rest of the mall. Thouvenell was shown Appellant's Hearing Exhibit #2, a color, aerial photograph of the subject parcels. In red pen Thouvenell circled the area he testified was rooftop parking and in blue pen he circled the deck parking which is the parking garage.

Thouvenell opined the highest and best for the subject as vacant is commercial development and the highest and best use as improved is its existing use. He testified that, based on the inspection of the property, the subject has an effective age of 12 years.

Thouvenell developed the three traditional approaches to value in estimating the subject’s market value. The cost approach indicated a value of $12,400,000, rounded, while the income approach indicated a value of $12,800,000, rounded. The sales comparison approach indicated a value of $13,100,000, rounded. The appraiser concluded a market value of $13,000,000 for the subject property as of January 1, 2007.

The initial step under the cost approach was to estimate the value of the land at $14.00 per square foot or $2,170,000, rounded. In doing so, Thouvenell testified he considered five land sales of commercial properties that he opined were comparable to the subject. These properties sold from May 2004 to October 2005 for prices ranging from $8.00 to $18.15 per square foot.

Using the R.S. Means Square Foot Costs Manual, the appraiser estimated the replacement cost new to be $13,565,000 for the building and $4,600,000 for the portion of the parking structure included in the appraisal. In establishing a rate of depreciation, Thouvenell testified he used the age/life method and applied some external obsolescence for the building and used the age/life method for the parking garage to arrive at total depreciation of $5,748,765. Adding the depreciated value of the building of $7,816,235 and the depreciated value of the parking garage of $2,392,000 and the land value resulted in a final value estimate of $12,400,000, rounded, under the cost approach.

Under the income approach, Thouvenell testified he reviewed the rental rates of five rental comparables. These properties ranged in size from 2,880 to 93,729 and have lease rates of $4.13 to $13.25 per square foot of building area. Thouvenell described the rental comparables and acknowledged that the comparables were smaller than the subject. After adjustments, the appraiser estimated the market rent for the above grade space at $8.00 per square foot and the basement space at $4.00 per square foot of basement area. This resulted in a potential net income (GPI) of $1,276,044. Vacancy and collection loss and management fees were estimated at 10% of GPI resulting in a net income of $1,148,440.

In determining the appropriate capitalization (CAP) rate, Thouvenell testified he utilized the band of investment technique as well as analyzed the five sales used in the sales comparison approach. He testified these sales indicated an overall range from 10.2% to 11.5%. He described the band of investment method and estimated a range from that technique of $10.6%. Thouvenell testified he applied an overall CAP rate of 11% to the net income to estimate the market value for the improvement of $10,440,364. The depreciated value of the parking garage as arrived at in the cost approach was added to estimate a value for the subject under this approach at $12,800,000, rounded.

The final method developed was the sales comparison approach. Thouvenell testified he look at five comparable sales and described each sale. The properties range in building size from 42,900 to 188,000 square feet and sold from January 2004 to March 2006 for prices ranging from $2,800,000 to $9,200,000, or from $48.94 to $81.59 per square foot of building area, including land. The properties ranged in effective age from 10 to 35 years and in land to building ratio from 1.04:1 to 7.98:1.

Thouvenell opined these were the best sales available that came closest to showing a fee simple value. He testified he made qualitative adjustments based on pertinent factors such as land to building ratio, time, location, building age and size. He estimated a value for the subject under the sales comparison approach of $75.00 per square foot of building area, including land or $13,100,000, rounded.

In reconciling the various approaches, Thouvenell testified he gave the most emphasis to the sales comparison approach to estimate the value for the subject property as of January 1, 2007 to be $13,000,000. Thouvenell testified that the real estate market declined between 2007 and 2009.

Under cross examination by the intervenors, Thouvenell acknowledged that he did not inspect the property, but that Catherine Brochur did on November 26, 2007. He testified that she no longer works for Madison Appraisals and the last time he spoke to her was in 2008. He stated that Robert Cruz also worked on the appraisal. He testified that he consulted with the analysts and reviewed their work to ensure that the comparables were correct, that they performed the right analysis, and that their value conclusions made sense and related to the market.

Thouvenell testified the appraisal is a self-contained appraisal and opined that it met the Uniform Standards for Professional Appraisal Practice standards for a self-contained appraisal. He acknowledged the cover letter is not clear on the existence of the parking garage. Thouvenell testified that the parking garage can be used by all mall customers. He testified he did not review any documents in regards to the cost to construct the garage or consideration provided for the exchange between the users and owners of the parking garage. Thouvenell acknowledged that there was a portion of the property that he was unclear of as to whether it was valued or not and that the appraisal does not clarify what this property is.

Thouvenell testified that he concluded the replacement cost new of the parking garage to be 25% of the total replacement costs of the improvements and 19% of the total value arrived at under the cost approach. Thouvenell acknowledged that none of the rental comparables analyzed in the income approach have parking structures. He testified he added the depreciated value of the parking garage to arrive at the estimate of value for the subject under the income approach. In addition, Thouvenell testified that none of the comparables in the sales comparison approach have parking structures and that for this approach he did not add the depreciated value of the parking garage.

As to the cost approach, Thouvenell acknowledged that all the land sales were less than 100,000 square feet and sold prior to 2006. He acknowledged that he did not make any adjustments for time of sale or market conditions. He testified he did not include entrepreneurial profit in developing the replacement cost for the improvements. He acknowledged the rooftop parking surface is concrete and that he valued this at $425,000 which is slightly more than the cost for the sprinklers. Thouvenell opined that the subject contains approximately 330 parking spaces. He testified that he found adding the value of the parking garage appropriate in arriving at an estimate of value under the cost approach.

Thouvenell testified that the subject is located in a very desirable commercial area, but acknowledged that he concluded $2,439,165 in external obsolescence. He testified this was due to a potential loss and achievable income as a result of recessionary market conditions.

As to the sales comparables, Thouvenell testified these sales occurred between January 2004 and March 2006 and that the only adjustments for market conditions were positive adjustments.

After a review of an aerial map of the subject, Thouvenell could not testify as to whether the subject was completely rebuilt from the ground up or if there was a substantial remodel of the subject. He then acknowledged that the building was brand new in 2003.

As to the income approach, Thouvenell acknowledged that his rental comparables are all over 100,000 square feet smaller than the subject and four are older than the subject. He acknowledged that page 49 of the appraisal is the first page that the report indicates basement space of 30,743 square feet of building area and that the report does not indicate what the present use of the basement space is. In addition, Thouvenell did not know what the present use of the basement space was. He testified the report does not include any analysis of rental rates for basement spaces and that he just cut the $8.00 above grade rental rate for the subject in half for a rental rate of $4.00 per square foot of basement area for the below grade basement area.

Thouvenell acknowledged that the appraisal does not contain any analysis of the vacancy and collection or the management fee and allowance estimated for the subject property. Thouvenell acknowledged that in developing a capitalization rate based on the market extraction method that two of the sales were from 2004. He testified he added the depreciated value of the parking garage to the capitalized value of the improvement.

As to the sales comparison approach, Thouvenell acknowledged that the actual age of sale #1 was more than double the actual age of the subject and is smaller than the subject by 65,000 square feet of building area. He was shown *Intervenors' Hearing Exhibit #1*, a copy of the PTAX-203 Illinois Real Estate Transfer Declaration for sale #1. Thouvenell testified that sale #1 was not advertised for sale and was the fulfillment of an installment contract executed in 2003.

Thouvenell was then shown, *Intervenors' Hearing Exhibit #2*, a copy of the CoStar Comps printout listing characteristics and sales information for sale #2. This exhibit lists the property as containing 166,000 square feet of building area. Thouvenell acknowledged the appraisal lists this comparable as containing 188,000 square feet of building area. He testified this comparable was fully leased at the time of sale and that the appraisal does not indicate this property right.

As to sale #3, Thouvenell acknowledged this property was 54 years old which is 20 years less than the subject's effective age. He also testified that this property was less than one-third the size of the subject. This property contained multi-building, multi-tenant improvements at the time of sale. Thouvenell was shown *Intervenors' Hearing Exhibit #3*, a copy of the CoStar Comps printout listing characteristics and sales information for sale #3. He acknowledged that the report indicates this property was 100% leased at the time of sale and that the appraisal report does not address this property right. He admitted that no adjustments were made for the difference in property rights between this property and the subject. Thouvenell testified that a negative adjustment was made for land to building ratio because this comparable was determined to be superior.

As to sale #4, Thouvenell was shown *Intervenors' Hearing Exhibit #4*, copy of the CoStar Comps printout listing characteristics and sales information for sale #4. He acknowledged that this property contained six separate buildings of an auto dealership that combined comprise one-fourth the subject's improvement size. After reviewing *Intervenors' Hearing Exhibit #5*, a copy of the PTAX-203 Illinois Real Estate Transfer Declaration for sale #4, Thouvenell acknowledged that this property was not advertised for sale and that it was 100% leased at the time of sale. He also acknowledged this sale was transferred in lieu of foreclosure which is not detailed in the appraisal.

Thouvenell was shown *Intervenors' Hearing Exhibit #6*, a copy of the PTAX-203 Illinois Real Estate Transfer Declaration for sale #5. Thouvenell acknowledged the actual sale price for this property was $28,235,000 and that the $7,875,000 as listed in the appraisal was based on the transfer tax paid. Thouvenell was also shown *Intervenors' Hearing Exhibit #7, a* copy of the CoStar Comps printout listing characteristics and sales information for sale #5. He acknowledged that CoStar lists a different square footage size for the improvement on this property. Thouvenell testified this property was a multi-tenant building that was 100% leased at the time of sale.

Thouvenell testified he did not include the parking garage in the description of the subject property in the sales comparison approach. He testified he adjusted each sale comparable downward as a result of the superior land to building ratios of these comparables, but did not make any upward adjustments to these sales for the subject's parking garage. He acknowledged he did not include the parking garage anywhere within the sales comparison approach.

Under cross-examination by the board of review, Thouvenell discussed the inspection of the subject. He acknowledged that the parking garage had an actual age of four years, but that he estimated the effective age at 12 years. He opined that the subject's value depreciated by 50% because of the excessive use of the structure. He was unaware if the appellant received a fee from the mall or any other stores for their use of the parking garaged owned by the appellant.

On redirect, Thouvenell testified he added back the depreciated value of the parking garage in the cost approach. He opined that his value for the subject estimated under the sales comparison approach would not change even though the size of sale #2 was decreased based on the intervenors' exhibit.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $5,980,791 was disclosed. This assessment reflects a fair market value of $15,738,924 or $90.00 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 raw sales information on seven properties suggested as comparable to the subject. These properties range in size from 100,773 to 260,000 square feet of building area. They sold between April 2004 and May 2007 for prices ranging from $10,861,297 to $18,620,000 or from $69.76 to $120.07 per square foot of building area, including land.

At the hearing, the board of review did not call any witnesses and rested its case upon its written evidence submissions. As a result of its analysis, the board requested confirmation of the subject's assessment.

In support of the intervener's position, the intervenors submitted a summary appraisal of the subject prepared by Dale J. Kleszynski of Associated Property Counselors, Ltd. Kleszynski testified he is president of Associated Property Counselors, Ltd. and that he has been an appraiser for over 30 years. He testified he is a member of the Appraisal Institute (MAI) and holds the NRSI designation. Kleszynski testified to his leadership positions within appraising organizations and the appraisal courses he taught. He testified he has appraised hundreds of retail properties and two parking garages over the last two years. Kleszynski was accepted as an expert appraiser in retail and parking garage properties without objection from the parties.

The appraisal utilized the three traditional approaches to value to estimate the value of the subject property at $16,500,000 as of January 1, 2007.

Kleszynski testified he performed inspections of the subject several times with the first occurring in February 2010. Kleszynski described the subject property and its environs. Kleszynski opined that the subject's parking garage was a positive feature because it maximizes the square footage of the parking with only a limited amount of ground area.

Kleszynski testified that the subject’s highest and best use as vacant would be development consistent with the zoning and that the continuation of its existing use is its highest and best use as improved.

Under the cost approach, Kleszynski first valued the land. He described the land sales analyzed to estimate a land value for the subject. These five sales sold from December 2003 to May 2005 for prices ranging from $9.32 to $21.72 per square foot. He testified to the adjustments made to each sale and estimated a value for the land at $13.00 per square foot or $2,000,000, rounded.

Using the Marshall and Swift Cost Services for an average retail building, Kleszynski testified he applied adjustment factors and multipliers to arrive at an adjusted cost of $85.65 per square foot of building area. Kleszynski testified he applied a 15% entrepreneurial profit because the market would include this type of profit and that the percentage amount was based on interviews with builders and developers.

In establishing a rate of depreciation, Kleszynski opined that the subject had an effective age between five and 10 years and a building life in the range of 50 to 65 years. He opined that the structural components needed to use the roof as a parking garage would give the improvement a longer life. Kleszynski estimated physical deterioration between 15% and 25%. He testified he applied functional obsolescence of 5% because of the unused space where elevators are located and other such areas. He further testified he did not apply any economic obsolescence because there were no outside forces that were having a negative impact on the property. Kleszynski testified he also used the extraction method as a test against the 30% depreciation he was applying.

Kleszynski testified he valued the parking structure by computing the cost to construct from Marshall and Swift Cost Services using the component for parking garages to arrive at a value of $5,194,444. He testified he depreciated this value by 35% to account for wear and tear for a final estimate of value of $3,375,000. Adding all the components together, Kleszynski estimated a value for the subject under the cost approach of $16,000,000.

Under the income approach, Kleszynski testified he analyzed four rentals of large, box, retail stores. He described these four rental comparables. These properties range in rental size from 88,306 to 130,215 square feet of rentable area for rental rates from $7.02 to $11.00 per square foot of rentable area. Kleszynski testified that after a review of these properties compared to the subject he concluded a rent for the subject at $8.00 per square foot of building area for a rental income of $1,399,016. The appraisal also estimated tenant reimbursements at $1,048,517 for a total potential gross income of $2,447,533.

Kleszynski testified he estimated vacancy and collection loss (V&C) at 5% based on the fact the subject is owner occupied which resulted in an effective gross income (EGI) of $2,325,157 for the subject. Kleszynski testified he deducted both reimbursable and non-reimbursable expenses for a total deduction of $1,193,664.

The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $1,131,493 for the subject. Kleszynski testified to these expenses and how he arrived at them.

To estimate the capitalization rate, Kleszynski testified he reviewed *Korpacz* and various other appraisal sources which had estimates from 6.8% to 10%. He testified he also applied the band of investment method which estimated a rate of 8.70% which he applied to the subject property's NOI. He then added the depreciated value of the parking garage to arrive at a value for the subject under the income approach of $16,400,000, rounded.

Kleszynski testified he added the value of the parking garage in the income approach because the garage is an integral part of the operation of the subject. He testified he added the depreciated value estimated in the cost approach to the income approach to be consistent between the approaches.

To estimate a value for the subject through the sales comparison approach, Kleszynski testified to errors in his report in regards to sale #1 and made corrections to these errors. He testified that sale #1 has errors in the description of the property because the wrong property identification number was used. The appellant submitted corrected pages to the appraisal to reflect the correct information on this comparable. These pages were accepted by the PTAB without objection from the remaining parties. These corrections changed the characteristics of this comparable and, ultimately, the price paid per square foot of building area. Kleszynski testified that these corrections had the same adjustments as the incorrect data and did not have an impact on the subject's final value conclusion.

Kleszynski analyzed five sales. He described each property. The properties range in size from 66,795 to 120,000 square feet of building area and sold from January 2005 to June 2006 for prices ranging from $5,800,000 to $10,213,300 or from $65.00 to $152.91 per square foot of building area. He testified that sale #2 was leased at the time of sale.

After adjustments to the comparables for pertinent factors, the appraiser opined a value for the retail improvement under the sales comparison approach of $75.00 per square foot of building area or $13,115,775.

Kleszynski testified it is a struggle to value the garage. He testified the sales used, because they are suburban locations, have more land when compared to the subject and this needs to be taken into consideration. He further testified that the parking garage basically creates a land area that is based on four levels. Kleszynski testified the parking garage essentially increases the subject's footprint by five times. He testified he could have easily made no adjustment for land to building ratio because the parking garage for the subject accounts for the land. He testified he included the depreciated cost of the garage to account for the enormous cost associated with the construction of the garage for the convenience of the retail improvement. Therefore, the appraisal adds the depreciated value of the parking garage of $3,375,000 to arrive at a final value under the sales comparison approach of $16,500,000, rounded.

In reconciling the approaches to value, Kleszynski testified he selected the value in the sales comparison approach as the strongest indicator of market value. The appraisal gave greatest consideration to the sales comparison approach with supportive weight to the cost and income approaches to estimate a value for the subject of $16,500,000 as of January 1, 2007.

Under cross-examination by the appellant, Kleszynski testified he uses CoStar reports for gathering data. He testified that CoStar is not 100% accurate.

Kleszynski testified that the subject is multi-story to maximize floor space within an urban area. He presumed the basement was being used for storage. Kleszynski testified the appellant does not charge customers for the use of its parking garage. He acknowledged he used the basement square footage within the total square footage within the appraisal report.

In the cost approach, Kleszynski testified he used the average cost retail for a mall anchor to estimate the replacement cost new. He testified that the parking garage has an accelerated depreciation and a shorter life because it is exposed to the elements differently than the store. He acknowledged that a store needs parking in a convenient and usable fashion for a retail space to work appropriately.

Kleszynski acknowledged that the sales analyzed in the sales comparison approach all included parking. He testified that sale #3 has 1,155 and sale #4 has 475 parking spaces. He opined that all the sales had ample parking spaces.

As to the income approach, Kleszynski testified he did not include the parking garage within the expense items, but added the parking garage's depreciated value to the estimated value of the retail improvement as a separate line item. He testified he could not complete a market extraction method to arrive at a capitalization rate because the sales within the sales comparison approach were either owner users or the lease information was not available.

In redirect, Kleszynski testified he used the same rental rate for the above ground square footage as the below ground square footage because the tenant would be renting the entire building and because the building is multi-story, there needs to be a place for storage. He opined that the rental rate for a suburban location would not differ between the retail area and the back room space.

As to the parking garage, Kleszynski testified that the number of parking spaces for the comparable properties do not impact the analysis for the subject. He testified that the existence of the parking garage provides the subject property with an identical amount of utility when compared to the flat surface parking that exists in suburban locations.

In rebuttal, the appellant called Catherine Courteau. Ms. Courteau testified she is a senior manager with Target Corporation in the Property Tax Department. She testified that her job responsibilities include reviewing real property assessments, budgeting, and overseeing bill payments. She described her previous work in the real estate business. Ms. Courteau testified she is familiar with the subject property and involved in establishing new stores within the Midwest. She testified that Target has never built or renovated a store without parking and that Target would not operate a store without parking. She further testified that Target does not charge a parking fee for use of its parking.

On cross-examination by the board of review, Ms. Courteau testified she has no personal knowledge as to the subject's parking garage and has never seen the subject property. She testified that Target does not charge the other mall owners for use of the subject's parking garage by their customers.

On cross-examination by the intervenors, Ms. Courteau testified the subject was purchased in 2003 or 2004. She testified that Target needed to maintain a certain number of parking spaces in order to build the store. She testified she had no knowledge as to the construction of the parking structure or the costs to construct. She testified there are no agreements between the mall ownership and Target regarding the parking garage. She reviewed Appellant's Hearing Exhibit #2 and testified that the lower portion of this picture shows the mall owner's office and that portion is not owned by the appellant.

The intervenors called Mr. Eric Dost in rebuttal. Mr. Dost testified he was a review appraiser for three years at Wells Fargo Bank. The parties stipulated to Mr. Dost's qualifications and he was accepted as an expert appraisal review witness by the PTAB.

Dost was shown *Intervenors' Hearing Exhibit #8*, a copy of the appraisal review of the Thouvenell appraisal prepared for this appeal. He testified that he reviewed the appraisal for quality of data, completeness, accuracy and relevance of the data. He testified he inspected the subject. Dost testified that there is a portion of the subject that is located under another property identification number, 12-13-416-015-0000. He testified this parcel has the air rights above the top level of the parking garage and is not included in the appeal or the appraisal.

Dost opined that the Thouvenell appraisal does not adequately describe the mall the subject is located in. He then described the mall and opined it is one of the more successful retail centers in the area. He classified the mall as a Class A-plus mall. He opined that the appraisal is unclear as to whether the subject is owner occupied or leased. Dost testified although the appraisal claims to be a self-contained appraisal, it is actually a summary appraisal because it does not contain all the data analyses and the level of detail needed to be a self-contained appraisal. Dost was also critical of the description of the subject within the appraisal. He testified the appraisal did not fully describe the parking on the subject's roof or the building material used for the roof parking. He also testified the basement was not described within the appraisal's description of improvement portion and that only the income approach mentions the existence of the basement when calculating the lower rental rate for this portion of the building.

As to the cost approach, Dost opined that the land sales were not in the same size range and did not have similar uses as the subject. He testified that the actual construction costs would have been more useful than a cost manual. However, he did acknowledge that these manuals are commonly used. Dost also asserted the appraisal does not sufficiently describe how the costs were arrived at. He opined that the cost to construct the roof parking does not appear to be accurate to allow for a concrete parking on top. Dost opined that entrepreneurial profit should have been included. He opined that Thouvenell was incorrect in using 11% for external obsolescence. He testified that the capitalization rate as arrived at in the income approach should have been used in the analysis. Dost also disagreed with the effective age of the parking garage and opined that the actual age of three or four years should have been used to establish the depreciation rate for the parking garage.

In the income approach, Dost opined, the rental comparables used by Thouvenell were not comparable to the subject in size or use as a mall anchor store, discount department store or a department store. He asserted that rental #3 was significantly smaller than the subject. Dost asserts the appraisal does not contain any data to support the 10% vacancy and collection deduction.

As to the capitalization rate, Dost testified that the market extraction method used by Thouvenell has estimated data for the income and is not supported. He testified he found the actual income for one of the comparables and it was significantly higher than what Thouvenell estimated; this significantly higher income corresponds to a significantly lower capitalization rate. Dost testified the band of investment method used by Thouvenell was not supported by market data.

Dost opined that the parking garage is an integral part of the larger mall and agreed that the value of the garage should be added in the income approach to value. Overall, he opined the income approach was not credible.

In the sales comparison approach, Dost opines that sale #1 is significantly inferior to the subject. He testified he is unclear as to why sale #2 has a square footage discrepancy in Thouvenell's report because CoStar reports this property contains 188,000 square feet of building area. Dost opines that sale #3 is not comparable to the subject in any regard because the property is a multi-tenant storefront type property. Sale #4, Dost testified, was known as Auto World and is a six building auto dealership with a used car and service facilities. He testified CoStar indicates the sale was distressed and occurred as a result of bankruptcy. He testified the sale price for sale #5 in Thouvenell's report excluded the assumed mortgage of $20,000,000 for a total price of $28,235,000 or $152.10 per square foot of building area.

Dost opined that it was inappropriate for Thouvenell to exclude the parking garage in the sales comparison approach because the parking is an integral part of the mall and including it would be consistent within the appraisal. He testifed the adjustments did not appear to include the parking. He opined the sales comparison approach was poor quality and completely unreliable.

On cross-examination, Dost acknowledged the there is only one level of parking on the roof of the retail improvement. He then reviewed *Appellant's Hearing Exhibit #2* and marked the entrance areas for the rooftop parking.

Dost testified that an effective age is not necessarily an actual age. He opined that Thouvenell incorrectly listed the subject's effective age at 12 years based on the subject's actual age and his inspection of the property.

Dost acknowledged that the mall does not charge a fee for parking. He testified that the parking is necessary for a retail property to operate. Finally, Dost also acknowledged that CoStar and LoopNet reports are not always 100% accurate.

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.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.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, 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.Admin.Code 1910.65(c).

In determining the fair market value of the subject property, the PTAB examined the appellant's and intervenors' appraisal reports and testimony, the board of review's submission, and the appellant's and intervenors' rebuttal documentation and testimony.

The PTAB finds the board of review's witness was not present or called as a witness to testify about their qualifications, identify their work, testify about the contents of the evidence, the conclusions or be cross-examined by the appellant, intervenor and the Property Tax Appeal Board. Without the ability to observe the demeanor of this individual during the course of testimony, the Property Tax Appeal Board gives the evidence from the board of review no weight.

The PTAB then reviewed the two appraisals, the rebuttal documents, and all testimony to determine the best evidence of the subject's market value.

The PTAB finds that the cost and income approaches in the Kleszynski appraisal are inconsistent in that Kleszynski applies 15% entrepreneurial profit in the cost new because the market would support this inclusion. However, in the income approach, Kleszynski applies a 5% vacancy and collection rate not because the market supports this, but because the subject is owner occupied. These approaches were given less weight by the appraisals and will also be given less weight by the PTAB.

In the Thouvenell report, the PTAB finds Thouvenell did not support the cost to construct sufficiently and added economic obsolescence without fully supporting the credibility of these amounts. The PTAB finds Thouvenell did not support the rental rate of $4.00 for the subject's below grade square footage which created an unreliable potential gross income. The appraiser gave these approaches less weight and will also be given less weight by the PTAB.

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 (2^{nd} Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5^{th} Dist. 1989). Both appraisers testified that most weight was given to the sales comparison approach. Therefore, the PTAB will give this approach the most weight.

The PTAB finds the two appraisers used differing methods within the sales comparison approach to value the parking garage. In the appellant's appraisal, Thouvenell includes the parking garage as a value within each sale. The Kleszynski appraisal applies the depreciated value of the parking garage from the cost approach to the estimated value arrived at for the retail improvement.

Kleszynski acknowledged that the garage creates a large land area and essentially opined there is five times the footprint available for parking which is a critical issue for urban, retail locations. He further testified that the existence of the garage provides identical amount of utility when compared to a flat surface. He acknowledges he could have easily accounted for the parking garage in the land to building ratio and make adjustments to the comparables based on a larger land to building ratio for the subject. The PTAB finds he commingled the cost and sales comparison approaches when he added the depreciated value of the parking garage arrived at under the cost approach to the value of the retail improvement arrived at under the sales comparison approach.

The PTAB finds the appellant's methodology of including the value of the parking garage within the estimate of value based on the sales most credible under the sales comparison approach. However, the PTAB finds Thouvenell failed to adequately account for the parking garage square footage within the land to building ratio and make adjustments based on this larger land size. Therefore, the PTAB will adjust the subject's land to building ratio within the sales comparison approach to 1.74:1 to account for the garage, consider the raw sales data of both appraisals and make adjustments.

The PTAB finds Thouvenell's sales #2, #3, #4, and #5 were leased fee properties and sold with differing property rights than the subject. Thouvenell testified he did not make adjustments for this difference in property rights. Sale #1 was not advertised for sale and is the fulfillment of an installment contract from 2003. Therefore, the PTAB gives these Thouvenell's sale comparables diminished weight.

As to Kleszynski's sales comparables, the PTAB gives diminished weight to sale #2 as this property was leased at the time of sale. In addition, sale #3 lists the buyer and seller both as Walmart entities and appears to be related. Therefore, this sale is given diminished weight.

The remaining sales were given significant weight by the PTAB and have unadjusted sales prices ranging from $65.00 to $90.97 per square foot of building area, including land. The subject property's assessed value equates to a market value of $90.00 per square foot of building area, including land which is within the unadjusted range of comparables. After considering adjustments and the differences between the subject and the comparables, the PTAB finds that the subject property had a market value of $85.00 per square foot of building area or $14,865,395. Since market value has been determined, the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5A commercial property shall apply and a reduction is 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: August 23, 2013

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

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

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

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