FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Sears, Roebuck & Company
DOCKET NO.: 07-30101.001-C-3 through 07-30101.002-C-3
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Sears, Roebuck & Company, the appellant(s), by attorneys Patrick C. Doody and Corey Novick of The Law Offices of Patrick C. Doody in Chicago; the Cook County Board of Review by Cook county Assistant State's Attorney Ralph Proietti; and the intervenors, S.D. #215 by attorney Alan M. Mullins of Scariano, Himes and Petrarca in Chicago, Thornton Twp. H.S.D. #205 by attorney Michael J. Hernandez of Franczek Radelet P.C. in Chicago, the City of Calumet, and South Cook County Mosquito Abatement District by attorney Elizabeth Shine Hermes of Odelson & Sterk, Ltd. in Evergreen Park.

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
07-30101.001-C-3	30-19-100-102-0000	25,606	0	$25,606
07-30101.002-C-3	30-19-100-110-0000	1,216,712	2,919,060	$4,135,772

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two parcels of land improved with a part one-story and part two-story, single-tenant anchor department store of masonry construction attached to a regional shopping mall as well as a detached, stand-alone, auto service center. The land comprises 1,069,790 square feet of area. The retail store contains approximately 306,250 square feet building area. This store was constructed in 1966 with a second floor expansion in 1972. The auto service center contains a part one-story and part two-story building. The auto service center contains approximately 52,576 square feet of building area and was constructed in 1966. The entire property contains approximately 362,056 square feet of building area.

The appellant, through counsel, appeared before the Property Tax Appeal Board arguing that the fair market value of the subject is not accurately reflected in its assessed value. In support of this argument, the appellant submitted two complete summary appraisal reports. The first appraisal has a valuation date of January 1, 2005. The appellant presented the testimony of the appraisal's author, Joseph M. Ryan of LaSalle Appraisal Group, Inc., Chicago. The parties stipulated to Mr. Ryan's credentials and his expertise as an appraiser. Therefore, the PTAB accepted Mr. Ryan as an expert witness in the valuation.

Ryan testified he inspected the subject on several occasions, but for the current appraisal on January 17, 2006. Ryan testified that he allocated 28,082 square feet to the auto center because, although the improvement has a second floor, this area is used for storage. He opined that it was a "basement" on top of the building and did not include it in the gross leasable area.

The witness described the subject property and its environs. Ryan opined that the largest highlight of the retail overview was that the subject property dropped out as a top ten core market in the Chicago Metropolitan Statistical Area and was in 14th overall in 2004. He testified that the improvement is very large and in good condition for its age.

Ryan testified that the subject's highest and best use as vacant would be for commercial use and that continuation of its use as a department store and auto center is its highest and best use as improved.

To estimate a total market value for the subject's department store of $8,600,000 and the auto center of $1,400,000 as of January 1, 2005, Ryan employed two of the three approaches to value: the income capitalization approach and the sales comparison approach to value.

Under the income approach, for the department store, Ryan testified he analyzed eight comparables located in Illinois, Indiana, and Michigan. Ryan testified the comparables range in size from 79,247 to 297,000 square feet. The commencement dates on the leases range from 1997 to 2003, with lease terms ranging from five to 40 years. The rents range from $3.25 to $7.25 per square foot, triple net, with two comparables using rent based on 1% or 2.5% of sales. Ryan testified after consideration of the data and adjustments for age, condition, utility and location, he estimated that rent of $3.50 net per square foot for the department store.

In addition, Ryan testified he reviewed *Dollars & Cents of Shopping Centers, 2004* to estimate a lease for the subject at 2% to 3% of gross sales. He testified he also reviewed the actual sales of the subject and opined the sales of the subject were much lower than the regional data because of the large size of the subject as compared to typical department stores.

The appraisal estimated the potential gross income (PGI) of $1,069,926. Ryan testified he estimated vacancy and collection loss (V&C) of 10.0% to reflect the size, age and, that if vacant, this store would have a hard time leasing due to its size and age. The deduction of the V&C resulted in an effective gross income (EGI) of $962,933 for the subject. Ryan testified he allocated expenses at $.16 per square foot, or $48,911. The estimated expenses were deducted from the EGI resulting in a net operating income (NOI) of $914,022 for the subject.

To estimate the capitalization rate, Ryan testified he reviewed *Korpacz Investor Survey* for malls which had an estimate of 6.75% to 9.5%. He opined that the subject would be at the high end of the range due to the fact that there is a greater supply of buyers for malls than department stores. The appraisal also indicated the band of investment technique was also reviewed. Ryan testified he estimate a capitalization rate of 9.5%. The appraiser calculated an effective tax rate of 1.24%, which was added to establish a total capitalization rate of 10.74%. Dividing the NOI by the appraiser's total capitalization rate resulted in an indicated value for the subject department store of $8,510,000, rounded.

To estimate a value for the subject through the sales comparison approach, the appraisal first analyzed sales for the department store. Ryan testified he analyzed nine sales of similar properties located in the Midwest area. The properties are located in Illinois, Michigan and Ohio. The properties consist of department store buildings in regional malls. Ryan testified that he used sales within the Midwest because, after discussions with representatives in the department store field, there are three markets for department stores: the East Coast, the West Coast, and between the Appalachians and the Rocky Mountains. He opined it was easier to make adjustments between department stores because they have similar characteristics than different types of stores in closer proximity to the subject. Ryan stated it was easier to make one adjustment for location than multiple adjustments for the varying characteristics.

The comparables range in building size from 94,341 to 254,720 square feet of building area and in land size from 56,192 to 755,330 square feet. The comparables have land to building ratios ranging from 0.27:1 to 3.65:1 and range in age from five to 30 years old. The comparables sold from January 2000 to April 2005 for prices ranging from $2,750,000 to $10,215,000, or from $20.09 to $50.07 per square foot of building area, including land. Ryan described each sale. He testified that, although sales #3 and #4 were bankruptcy sales, he spoke to the parties involved with the sale and determined them to be at market.

Ryan testified, after adjustments, he arrived at an adjusted sale range of $25.00 to $35.00 per square foot of building area, including land and reconciled the subject department store at $30.00 per square foot of building area, including land which reflects an estimated market value for the department store of $9,170,000, rounded.

As to the auto center, Ryan testified he valued this improvement separately. He examined three sales of auto-related facilities. These properties range in size from 11,608 to 28,800 square feet of building area and sold between June 2002 and July 2004 for prices ranging from $625,000 to $1,385,000, or from $44.64 to $62.89 per square foot of building area, including land. After adjustments, Ryan testified he concluded a value for the auto center of $50.00 per square foot, including land. He applied this value to 28,082 square feet of leasable area to arrive at a total estimated value for the auto center of $1,400,000, rounded.

Ryan further testified that sale #9 under the department store comparables, assigned a value to their auto center of $1,000,000 because it was leased to a tire center for $100,000. He opined that this analysis adequately supported he estimate of value for the auto center.

When reconciling the two approaches to value, Ryan testified he accorded primary weight to the sales comparison approach to value as the subject is owner occupied and has no rental history. The appraiser testified he gave some weight to the income capitalization approach to value. As to the department store, Ryan testified he analyzed both approaches and concluded a final estimate of value at $8,600,000. The only approach utilized for the auto center was the sales comparison approach which concluded a final estimate of value at $1,400,000. These conclusions reflect a final indication of value of $10,000,000 for the subject property as of January 1, 2005.

Ryan testified that there was no significant change in value for the subject between January 1, 2005 and January 1, 2007.

Under cross examination by the intervenors, Ryan acknowledged that the department store comparables used under the sales comparison approach were all located outside Cook County and in a different state for several sales. He testified he has inspected all the sales comparables on multiple occasions and that he verified the sales with representatives of the buyer or seller of these properties.

Ryan testified he made downward adjustments to the department store sales comparables for a lack of an auto center, but then established a separate value for the auto center.

As to the rental comparables, Ryan testified he verified the information with a representative of the lease or leasor and that he inspected all the properties. He also acknowledged that these comparables are not located in the Chicago Metropolitan Area or Cook County.

Ryan acknowledged that one of the rental comparables was an asking price; that four of the comparables had commencement dates for the leases in 1997 or 1998; that they were all less than 100,000 square feet in building area; and two rents were based on percentage of sales.

Under cross-examination by the board of review, Ryan acknowledged that a second individual also worked on the appraisal report. He testified that Mr. Grogan's work was all done under his supervision.

Ryan testified he did not perform a cost approach to value within the appraisal because there were no local pad sites to use in valuing the land and due to the subject's age, condition, size and obsolescence. He further opined that buyers and sellers of department stores do not rely on the cost approach for their investment decisions.

As to the capitalization rate used in the income approach, Ryan testified he used a capitalization rate at the high end of the range for malls based on the Korpacz survey.

Ryan testified he valued the department store and the auto center separately because most of the department store sales and rentals lacked an auto center and opined it was clearer to value them separately.

As to the department store sales, Ryan testified he considered sales #1 through #7 to be superior to the subject and received an overall downward unit adjustment while comparables #8 and #9 were considered to be overall inferior and received an upward adjustment. He stated that he researched, CoStar Comps and had discussions with people within the department store industry to find department store sales within the defined market area. Ryan testified he as compiled data on department store sales going back to 1989. He stated that when he values a department store he uses his database of sales and does not re-verify the information if he has already done so. Ryan acknowledged that these department store sales were utilized in other department store appraisals he has conducted and further testified that other Sear Store appraisals have these exact same sales comparables within their appraisals.

Ryan acknowledged that when he appraised three other Sears stores with auto centers included he did not value each building separately. He did testify that, for one of those properties, the auto center is built into the store. When questioned regarding his opinion as to which of the Sears stores he has appraised has the highest value, Ryan testified the subject would have the highest value. He testified he did not apply the same unit value to any of these properties when appraising them.

On redirect, Ryan testified that the demographics of the sales comparables were equal to or superior to the subject. He also testified that he was not aware of any anchor department store sales in Cook County within the three years prior to the date of value.

The appellant also submitted a complete, self-contained appraisal of the subject with an effective date of January 1, 2005 prepared by Terrence P. McCormick with an estimated market value of $11,000,000. Mr. McCormick was called as the appellant's second witness. The parties stipulated as to Mr. McCormick qualifications as an expert in the field of property valuation and, therefore, was accepted as such by PTAB.

The appraisal reflects that a personal inspection of the subject property was undertaken on August 28, 2006. McCormick testified that he conducted a complete interior and exterior inspection of the property. McCormick further testified that there were no significant changes in the value of the property from 2005 to 2007. The appraisal identifies and fully describes the subject property's improvements.

McCormick testified that the subject property is located at the northeast section of River Oaks Mall. He stated the subject is one of four anchor stores in the mall with approximately 362,000 square feet of building area which includes the 35,000 square foot auto center. McCormick opined a condition of average for the department store and testified that the auto center has not been used since 2001 and would need to be renovated for further retail use. He testified the mall was built around the subject property as an "open air mall" which was enclosed in the 1970s.

The appraisal indicated that the highest and best use of the subject, as vacant, was for commercial development and that as improved, it highest and best use would be its current use as a department store and auto center. McCormick testified he estimated an effective age of 20 years for the subject with a remaining economic life of 10 years.

McCormick developed the three traditional approaches to value in estimating the subject’s market value. The cost approach indicated a value of $10,950,000, rounded, while the income approach indicated a value of $11,550,000, rounded. The sales comparison approach indicated a value of $11,000,000, rounded. The appraiser concluded a market value of $11,000,000 for the subject property as of January 1, 2005.

The initial step under the cost approach was to estimate the value of the site at $6,420,000, or $6.00 per square foot. In doing so, McCormick testified he considered five land sales.

Using the <u>Automated Marshall Valuation Service</u>, and a survey of local cost indexes, the appraiser estimated the reproduction cost new to be $30,119,977. In establishing a rate of depreciation, McCormick testified he analyzed six sales of properties included in the sales comparison approach. The appraisal indicates an annual rate of depreciation between 1.9% and 7.6%. McCormick established a range of total depreciation between 84% and 92.1%. He testified he estimated the subject property's depreciation at 85% which is an average annual rate of depreciation of 2.2% to arrive at the depreciated value of the improvements at $4,517,997. Adding the land value resulted in a final value estimate of $10,950,000, rounded, under the cost approach.

Under the income approach, the appraiser reviewed the leases of two department stores and four retail property comparables. McCormick testified he also examined industry data for percentage rents. He testified that the subject's retail sales have been declining since reaching its peak in 1995. McCormick stated he placed the most weight on the rental comparables and estimated the market rent to be $4.00 per square foot of building area. McCormick testified the subject property was owner occupied. This resulted in a potential net income (GPI) of $1,448,224. Vacancy and collection loss was estimated at 10% of GPI and reserves for replacement and management fees were estimated at 2% each. Therefore, the net effective net income (ENI) was estimated at $1,297,610.

In determining the appropriate capitalization (CAP) rate, McCormick testified he utilized the band of investment technique as well as analyzed the six sales used in the sales comparison approach. He testified these sales indicated an overall range from 10.6% to 13.3%. McCormick testified he applied an overall CAP rate of 11.25% to the ENI to estimate the market value for the subject under this approach at $11,550,000, rounded.

The final method developed was the sales comparison approach. McCormick testified that it was difficult to find sale comparables due to the limited number of transactions in the marketplace. He examined a total of six sales, two of which were department stores, two were warehouse showroom furniture stores, one was a home improvement center, and one was a smaller retail anchor store with shops. The properties range in building size from 46,000 to 188,000 square feet and sold from May 2002 to April 2005 for prices ranging from $1,374,500 to $9,200,000, or from $13.00 to $48.94 per square foot of building area, including land. The properties ranged in age from 12 to 32 years and in land to building ratio from 1.80:1 to 5.33:1. McCormick opined that one of the most difficult things about the subject is the combination of its age and size and that this combination has not been typically found in the market for the last 25 years. He testified he estimated a value for the subject property based on this unit of comparison of $32.00 per square foot of building area, including land. This yields a value for the subject property under the sales comparison approach of $11,000,000, rounded.

McCormick testified that he also established a unit of comparison based on price per square foot of building area, excluding land. A range of $4.78 to $27.34 per square foot of building area, excluding land was established and, McCormick testified, he estimated a unit value under the basis of comparison at $12.00 per square foot, excluding land. This yields a value for the subject excluding land at $4,344,672. Once the land is added, the value is $10,763,412. McCormick testified that he reconciled these two amounts to arrive at a value for the subject property under the sales comparison approach at $11,000,000, rounded.

In reconciling the various approaches, McCormick testified he gave the most weight to the sales comparison approach, secondary weight was given to the income approach and the least amount of consideration to the cost approach. After reconciliation, the appraisal estimated the value for the subject property as of January 1, 2005 to be $11,000,000.

Under cross-examination by the intervenors, McCormick testified he gathered the rental comparables data in the income approach from his files because he appraised the property or from a party to the transaction. He also testified he personally inspected these properties. McCormick did acknowledge that rental comparables #1, #4, and #5 are asking rental rates. For comparable #4, McCormick testified the lease was on a portion of the space. He confirmed that two of the rental comparables were department stores.

As to the sales comparables, McCormick testified he did a site inspection on all these properties and that he verified the sales information with a party to the transaction. He confirmed for the intervenors that sales #1, #3, #4 and #6 were not department stores and that, of the department stores, sale #1 was not within a regional mall. McCormick acknowledged that the sales were much smaller in size than the subject.

McCormick testified that extracting the land value in the sales comparison approach is a method taught in the advanced appraisal classes and that those appraisers who have taken the course are aware of the method.

McCormick was than cross-examined by the board of review. McCormick reiterated that even though he used the cost approach in valuing the subject property he finds this approach to be unreliable and gave it the least amount of consideration. He further testified he did not consider leaving the cost approach out of the appraisal because he did not find it difficult to do, but that if an appraiser does not do an approach, they would have to explain why they chose not to use it.

McCormick again described the property as an anchor-type department store in a super regional mall and testified that he has appraised approximately 50 of these types of properties. He testified that he has extracted the land value in the sales comparison approach for approximately half of these appraisals. He acknowledged that the land value extracted from each comparable sale is an estimate he determined based upon his estimate of land values. McCormick opined that location was an important factor in determining comparability for retail properties and that extracting the land value is based upon location. He testified that this does not create a double adjustment for location, but pulls out the land so that all that is compared is the building. He opined that there is still some influence on a positive or negative side based upon location.

As to the sales comparables, McCormick testified he first looked to find comparable anchor-type department stores, but that the market is relatively limited. He opined that the other comparables are as close as he could find to large retail sales that occurred based on the date of valuation. McCormick acknowledged that the sales he chose were all located in the south suburban Chicago market and opined that they were adequate for him to estimate the subject property. McCormick stated his parameters for starting his search of comparable properties included size and location in Illinois.

On redirect, McCormick testified he was not aware of any other fee simple anchor department store sales within the greater Chicagoland area that occurred prior to the date of value; he stated the other sales were not arm's length. He then opined that it is typical for rental rates to be lower than asking rates.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of $7,681,274 was disclosed. This assessment reflects a fair market value of $20,369,428 or $56.26 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 board included a copy of the property characteristic cards, a grid listing raw sales information on seven properties suggested as comparable to the subject. These properties range in size from 94,915 to 260,000 square feet of building area. They sold between April 2004 and July 2007 for prices ranging from $10,861,297 to $18,620,000 or from $69.76 to $133.94 per square foot of building area, including land. The second half of the grid also included assessment information on eight properties. These properties had assessed values that reflected market values from $43.62 to $101.18 per square foot.

Also included was a memo referencing the 2005 appeal and raw sales information on five properties suggested as comparable to the subject. These properties range in size from 109,441 to 193,000 square feet of building area. They sold between August 2003 and October 2004 for prices ranging from $5,750,000 to $10,500,000 or from $48.94 to $94.95 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 assessments.

In support of the intervenors' position, the intervenors submitted a complete, summary appraisal of the subject prepared by Joseph T. Thouvenell with PRS Consulting, Ltd. with an effective date of January 1, 2006 and an estimated market value of $14,000,000. Mr. Thouvenell was the intervenors' only witness in this appeal. The parties stipulated to Mr. Thouvenell's credentials and his expertise as an appraiser. Therefore, the PTAB accepted Mr. Thouvenell as an expert witness in the valuation.

Thouvenell testified to the typographical errors in the report and verbally made changes to correct those errors. He testified he performed an inspection of the subject on June 11, 2008. Thouvenell described the subject and its neighborhood characteristics. He opined that the highest and best use of the subject as improved would be its existing use. In addition, Thouvenell developed two of the traditional approaches to value in estimating the subject's market value.

Under the income approach, Thouvenell testified he searched for department stores in regional malls for comparables and examined four rental comparables. The appraisal estimated rent for the subject at $4.00 per square foot of building area for a potential gross income of $1,335,100.

The appraisal does not estimate any vacancy and collection, but lists expenses at 5% or $66,755 for a net operating income (NOI) of $1,268,345. Thouvenell testified he capitalized the NOI to arrive at a final value.

In determining the appropriate capitalization rate (CAP rate), Thouvenell testified he reviewed the extraction method, but only one comparable had this extracted rate and it was below market. He testified he then reviewed Korpacz Real Estate Survey, which had a range of about 9%. Thouvenell testified that he applied a band of investment analysis. He testified he concluded a CAP rate of 9%. NOI was then capitalized by this rate to reflect a market value estimate under the income approach of $14,100,000, rounded, for the subject.

The next method developed was the sales comparison approach. Under this approach, Thouvenell utilized four sale comparables. These buildings are described as two-story, department stores with two having auto centers. He testified one sold with the auto center and one sold without. Thouvenell described each sale. They range in size from 147,896 to 254,720 square feet of building area and sold from July 2001 to April 2006 for prices ranging from $4,200,000 to $9,000,000 or from $28.40 to $43.69 per square foot of building area, including land.

Thouvenell testified he made adjustments for various factors of comparison. He testified he considered the auto center as part of the whole when estimating his value because it adds contributory value to the property. Thouvenell determined a value for the subject of $42.00 per square foot of building area which yields an estimate of value for the subject under the sales comparison approach of $14,000,000, rounded.

In reconciling the various approaches, Thouvenell testified he gave most weight to the sales comparison approach. Thouvenell estimated a value for the subject property as of January 1, 2006 at $14,000,000.

Under cross-examination by the appellant, Thouvenell testified he utilized a square footage for the building and land given to him by the intervenors. Thouvenell opined that the subject property is not worth $21,000,000. He testified he saw the auto center as a one-story building. He believed it was physically a two-story, but that the second story is used for storage.

As to sale comparable #1, Thouvenell testified he did not make any adjustments because they were leased at the time of sale. He opined that because the rent was at market or below, he believed it to be the same as fee simple.

For sale #2, Thouvenell testified that he was unable to get any lease information for this sale and, because of this, was not able to make any adjustments. He testified he considered it fee simple because it was mostly vacant. Thouvenell also acknowledged this comparable was not a single-tenant building at the time of sale. He reiterated that the sales comparables included only the real estate and not any other business value.

Thouvenell opined the cost approach was not appropriate for the subject property because it was part of a larger development and the age and difficulty in determining depreciation.

Thouvenell acknowledged that the sales comparables are all smaller and newer than the subject. He acknowledged that the only department store properties that were selling were approximately 150,000 square feet in building size, but could not determine if that meant that was the preferred size. He was unaware of any anchor department store being built within Illinois that are 300,000 square feet in building size.

Thouvenell agreed that two of the sale comparables sold within the $20.00 per square foot range, one sold in the $30.00 per square foot range, and one sold in the $40.00 per square foot range. He testified that the subject's estimated value of $42.00 per square foot of building area was based on the fact that the sales in the $20.00 range occurred in 2001 and 2003 and there was appreciation in value through 2007. However, Thouvenell could not point to any department store sales to substantiate this claim.

As to the rental comparables, Thouvenell testified that comparable #1 is not located in a regional mall, but in a large neighborhood mall. He described the building as two-story and approximately one-third of the size of the subject.

Rental comparable #2, Thouvenell testified, is located within a lifestyle center and is about half the size of the subject. He opined that he did not take a vacancy and collection loss within the income approach because a department store property would have an A tenant on a long-term lease. He testified he applied the vacancy in the CAP rate by using a rate above what was determined by the band of investment method.

On cross-examination by the county, Thouvenell testified that if he increased or decreased his CAP rate by 1%, the value, under the income approach, would increase or decrease by almost $1,300,000.

On redirect, Thouvenell testified that the typographical errors within the appraisal did not have any effect on the determination of value for the subject.

In rebuttal, the appellant called Mr. Gary Battuello. At the beginning of the hearing, the parties stipulated to the qualification of the witnesses as experts in the field of appraisal practice. Therefore, the PTAB admitted Mr. Battuello as an expert in the field of property valuation.

Battuello testified he has read appraisals for and walked through the subject property as well as inspected the anchor stores in the neighborhood. He testified he performed a desk review of the valuation report prepared by Thouvenell of PRS Consulting, Ltd.

Battuello opined that the testimony of Thouvenell supplemented the appraisal report when he made corrections to the typographical errors, discussed further the CAP rate, and discussed the property rights adjustments for the JC Penney store in Bloomington (sales comparable #1).

After a desk review, Battuello testified, he concluded that using only the two approaches to value for the subject property was acceptable procedures due to the type of property and its age.

As to the rental comparables in the income approach, Battuello testified that the comparables are all much smaller and newer than the subject. He opined that size would be a factor for estimating a market rent. He also stated that comparable #1's lease included a significant amount of buildout, $6,000,000, and no adjustment was made to the face rental rate for that buildout. Battuello testified that comparable #2 at the lifestyle center was a build to suit lease the may not be indicative of an arm's length transaction.

Battuello opined it unusual to utilize no vacancy and collection loss in estimating a net operating income. He opined this was appropriate for a leased fee simple appraisal, but not for a fee simple appraisal. In addition, he asserts the appraisal used only a built-up rate which doesn't have market input, but that it was supplemented in Thouvenell's testimony with information on the market extraction method and *Korpacz*.

Battuello also opined that the income approach lacked an analysis of the retail sales volumes at the stores. He asserted this data was relied upon by buyers and sellers of anchor department stores.

As to the sales comparison approach, Battuello testified that the comparables were all smaller and newer than the subject. Battuello stated these sales averaged $34.00 per square foot of building area and opined that the subject should not have a conclusion of value greater than that since it is much larger and older than these comparables.

As to the adjustments made, Battuello testified that the appraisal indicates the elements of comparison or elements of disparity, but some of these elements are not included in the comparables' summaries. He asserts there is no adjustment to comparable #1 for the property rights. Battuello indicated Thouvenell's testimony explained why, but that the appraisal does not include this information. Battuello also testified that there was no adjustment made for size to this comparable even though the property is significantly smaller than the subject. Battuello testified there was no adjustment for size to any of the comparables and no adjustment for age for comparables #3 and #4.

Battuello concluded by opining that the appraisal was not reasonable and reliable.

On cross-examination by the county, Battuello testified he had provided testimony on desk reviews 30 to 40 times in the past.

On cross-examination by the intervenors, Battuello testified he has never preformed an appraisal on the subject property. He testified he as reviewed appraisals on the subject property prepared for previous triennial years. He acknowledged he felt those appraisals were insufficient in varying degrees. Battuello admitted an appraisal is just an opinion of value.

Battuello testified that he has appraised or reviewed an appraisal for two anchor department stores within Cook County that are as large as the subject with the exception of the subject. He agreed that it would not be unusual for an appraiser to use smaller buildings in the appraisal for the subject. Battuello opined that this data shows the subject property is overly large.

Battuello stated that because the subject is so large and to some extent older it is odd, based on the data set used in the appraisal, that the subject was valued on a price per square foot greater than the average demonstrated by those sales. He further opined that with the data set smaller and new, all other things being equal, the subject, being older and larger, should have a lower unit price.

As to vacancy and collection, Battuello testified that in all the appraisals of anchor department stores that he has authored, reviewed, or in some way came into contact with all fee simple assignments had some estimate of vacancy. He asserted that there would some amount, whether nominal or not, of vacancy for a fee simple assignment.

In response to questions by the PTAB, Battuello testified the subject property was located in a super-regional mall. He opined that the best comparables for the subject would be another enclosed regional or super-regional shopping center. He further testified that a freestanding, big box store, are far more flexible to a user and appeal to a broader number of people, therefore, he opined, they have a different position in the market than a regional or super-regional center. Battuello opined that a lifestyle center was a different type of property.

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. (*86 Ill.Admin.Code §1910.63(a))*. 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))*. Having considered the evidence presented, the PTAB concludes that the appellant has satisfied this burden and that a reduction is warranted.

In determining the fair market value of the subject property for tax year 2007, the PTAB examined the parties' three appraisal reports and testimony, the board of review's submission, and the appellant's rebuttal documentation and testimony. The PTAB finds that the appraisals submitted by all the parties estimate market values less than the market value reflected by the 2006 assessment. Moreover, the intervenors' witness, Thouvenell, testified that the subject did not have a market value of $21,000,000.

The PTAB finds the board of review's witness was not present or called as 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 reveiw no weight.

The PTAB finds that all the appraisers placed most weight on the sales comparison approach to value. Therefore, the PTAB gives this approach the most weight. Additionally, 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. <u>Chrysler Corp. v. Illinois Property Tax Appeal Board</u>, 69 Ill.App.3d 207 (2nd Dist. 1979); <u>Willow Hill Grain, Inc. v. Property Tax Appeal Board</u>, 187 Ill.App.3d 9 (5th Dist. 1989).

The PTAB gives diminished weight to Ryan's sales comparison approach for the auto center. Ryan failed to correctly describe the auto center's square footage. The appraisal assigns 28,082 square feet of building area to the auto center when the actual size is approximately 52,200 square feet of building area. He testified that he chose not to include the second story of the auto center in considering the size of the auto center because it is used as storage by the appellant. The PTAB finds that, although he appellant does not use this space, the second story exists and contributes value to the property. Because the Ryan appraisal does not include the additional second floor square footage, the comparables used in the Ryan appraisal were adjusted based on an inaccurate size for the subject.

The PTAB finds that the McCormick appraisal more accurately described the subject property as having a total of approximately 362,000 square feet of building area. However, the PTAB finds that not all the sales comparables utilized by McCormick are anchor department stores. The PTAB finds the testimony of Battuello persuasive in establishing that the best comparables for the subject would be anchor department stores. This is supported by Ryan's testimony that it is easier to make adjustments between department stores because they have similar characteristics.

In regards to Thouvenell's sales comparison approach, the PTAB finds the testimony of Battuello persuasive is stating that Thouvenell failed to make adequate downward adjustments to the sales comparables for the large size and older age of the subject property. Of Thouvenell's four sales comparables, only one comparable had an unadjusted unit sale price higher than the subject and the appraisal indicates no adjustments were made based on size or age. However, these properties are all significantly smaller and newer than the subject. In addition, two properties were leased at the time of purchase, but no adjustments were made based on this condition of sale.

The PTAB finds McCormick's adjustments to the comparable sales to arrive at a unit value per square foot of building area, excluding land, was not well supported.

The PTAB examined the raw sales data contained in the respective appraisals. In totality, the parties' experts submitted 19 suggested sales comparables for the department store and three suggested sales for the auto center. The PTAB gives diminished weight to the auto center sales submitted by Ryan as the adjustments were made for the subject auto center's inaccurate size as well as the fact that multiple department store sales included in the appraisals involve the sale of the auto center with the department store. In addition, Ryan's sale #5 and McCormick's sales #3, #4, and #6 were accorded little weight because these properties are not department stores.

The remaining sales were given significant weight by the PTAB and have a sales range of $20.09 to $50.07 per square foot of building area, including land. The subject property's 2007 assessed value equates to a market value of $61.03 per square foot of building area, including land. After considering all the evidence including the experts' testimony and submitted documentation as well as the adjustments necessary, the PTAB finds that the subject's 2007 assessment is not supported by the comparable sales contained in this record.

As a result of this analysis, the PTAB finds that the evidence and testimony has demonstrated that the subject property was overvalued and that a reduction in the subject's assessment 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: May 20, 2011

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

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

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

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

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